AGENDA STAFF REPORT

Control: 26001927

MEETING DATE:	11/17/2026
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 Certificated Passenger Airline Lease

CEO CONCUR	COUNTY COUNSEL REVIEW	CLERK OF THE BOARD
Concur	Approve agreement to form	CONSENT CALENDAR 4/5 Vote

Budgeted: Yes	**Current Year Cost:** N/A	**Annual Cost:** N/A
Staffing Impact: No		**Sole Source:** No
Current Fiscal Year Revenue: See Financial Impact Section	**Funding Source:** N/A	**County Audit in Last 3 years:** No
Levine Act Review Completed? Yes		

Prior Board Action: 8/25/2026 #8, 10/14/2025 #S25E

RECOMMENDED ACTION(S):

1. Approve and execute the Certificated Passenger Airline Lease with Aerovías de México, S.A. de C.V. dba Aeroméxico for a term effective January 1, 2027, through December 31, 2030.

2. Authorize the Airport Director or designee to make minor modifications and amendments to the lease that do not materially alter the terms or financial obligations to the County or Orange, and perform all activities specified under the terms of the lease.

SUMMARY:

Approval of the Certificated Passenger Airline Lease between the County of Orange and Aerovías de México, S.A. de C.V., dba Aeroméxico, will allow a new entrant carrier from the commercial air carrier waiting list to initiate operations and operate at John Wayne Airport.

BACKGROUND INFORMATION:

On October 14, 2025, the Board of Supervisors (Board) approved the Amended and Restated Certificated Passenger Airline Leases, Amended and Restated Certificated Passenger Airline Operating License, Amended and Restated Commuter Airline Operating License, and Amended and Restated Cargo Leases

(Agreements) with an effective date of January 1, 2026, through December 31, 2030. The Agreements allow the various Commercial and Commuter Airlines, as well as the Cargo Carriers, to continue operations at John Wayne Airport (JWA).

On August 25, 2026, the Board authorized the Airport Director to allocate Class A and Class E Average Daily Departures (ADDs) and Seat Capacity to Qualified Commercial Passenger and Commercial Cargo Air Carriers and Passenger Capacity to Qualified Passenger Air Carriers for the 2027 Plan Year (January 1, 2027, through December 31, 2027). The 2027 Commercial Air Carrier and Commercial Cargo Capacity Allocation Plan included the allocation of one Class A ADD to Aerovías de México, S.A. de C.V., dba Aeroméxico (Aeroméxico) as a new entrant Air Carrier.

Based on the approved 2027 Allocation Plan, JWA recommends approval of the Certificated Passenger Airline Lease between the County of Orange and Aeroméxico to initiate operations and provide passenger service to Mexico. It is anticipated that Aeroméxico will utilize Gate 14 in Terminal C, one of the international gates connected to JWA's customs and immigration facilities used for international arrivals.

Compliance with CEQA: This proposed project is a necessarily included element of the project considered in Final EIR No. 617, certified by the Board of Supervisors on September 30, 2014, which adequately addressed the effects of the proposed project. No substantial changes have been made in the project, no substantial changes have occurred in the circumstances under which the project is being undertaken, and no new information of substantial importance to the project, which was not known or could not have been known when Final EIR No. 617 was certified, has become known; therefore, no further environmental review is required.

FINANCIAL IMPACT:
Revenue for this agreement is 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 $2.2 million, totaling approximately $8.5 million over the term of the Agreement.

The 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 – Certificated Passenger Airline Lease with Aerovías de México, S.A. de C.V. dba Aeroméxico

JOHN WAYNE AIRPORT
ORANGE COUNTY

CERTIFICATED PASSENGER AIRLINE LEASE

Dated _____

Between

County of Orange

and

Aerovías de México, S.A. de C.V. dba Aeroméxico

JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE

TABLE OF CONTENTS

Page

RECITALS 1
ARTICLE I - DEFINITIONS 2
SECTION 1.01 AAAC 2
SECTION 1.02 AAAC CHAIR 2
SECTION 1.03 ACCESS PLAN 2
SECTION 1.04 ADD 2
SECTION 1.05 AIRLINE RATES AND CHARGES 3
SECTION 1.06 AIRPORT 3
SECTION 1.07 AIRPORT DIRECTOR 3
SECTION 1.08 APRON AREA 3
SECTION 1.09 AUDITOR-CONTROLLER 3
SECTION 1.10 BOARD OF SUPERVISORS 3
SECTION 1.11 CBP 3
SECTION 1.12 CERTIFICATED MAXIMUM LANDING WEIGHT 3
SECTION 1.13 COMMON USE AREA 3
SECTION 1.14 COUNTY 4
SECTION 1.15 CUPPS 4
SECTION 1.16 CUSS 4
SECTION 1.17 DOT 4
SECTION 1.18 EMV 4
SECTION 1.19 ENVIRONMENTAL LAWS 4
SECTION 1.20 EXCLUSIVE USE AREA 5
SECTION 1.21 FAA 5
SECTION 1.22 GSE 5
SECTION 1.23 HAZARDOUS SUBSTANCES 5
SECTION 1.24 IAF 6
SECTION 1.25 NON-STORMWATER DISCHARGE 6
SECTION 1.26 PFC 6
SECTION 1.27 POLLUTANT 6
SECTION 1.28 RON 7
SECTION 1.29 STORMWATER 7
SECTION 1.30 TENANT DESIGN AND CONSTRUCTION GUIDELINES 7
SECTION 1.31 TERMINAL 7
SECTION 1.32 TSA 7
ARTICLE II – TERM OF LEASE 7
SECTION 2.01 TERM OF LEASE 7
SECTION 2.02 HOLDING OVER 7
SECTION 2.03 TERMINATION FOR CONVENIENCE 8
ARTICLE III – LEASED PREMISES 8
SECTION 3.01 LEASED PREMISES 8

JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE

TABLE OF CONTENTS

Page

SECTION 3.02 NATURE OF AIRLINE'S ESTATE 9
SECTION 3.03 INSTALLATION OF EQUIPMENT OUTSIDE THE LEASED PREMISES 9
ARTICLE IV - RENT, FEES AND CHARGES 9
SECTION 4.01 RENT, FEES AND CHARGES 9
SECTION 4.02 PAYMENT PROCEDURE 13
SECTION 4.03 CHARGE FOR LATE PAYMENT 14
SECTION 4.04 PASSENGER FACILITY CHARGE 14
SECTION 4.05 PROVISION AGAINST SET-OFFS 15
SECTION 4.06 SECURITY DEPOSIT 16
SECTION 4.07 NEW ENTRANT DEPOSIT 17
SECTION 4.08 MARKETING FUND FEE 17
ARTICLE V - USE, OPERATION, MAINTENANCE AND CONDITION OF PREMISES 18
SECTION 5.01 USE 18
SECTION 5.02 USE OF PUBLIC AIRPORT FACILITIES 19
SECTION 5.03 RULES AND REGULATIONS 19
SECTION 5.04 ACCESS PLAN LIMITATIONS ON USE 20
SECTION 5.05 OPERATIONAL REQUIREMENTS 21
SECTION 5.06 RECORDS AND ACCOUNTS 22
SECTION 5.07 MAINTENANCE AND OPERATION OF LEASED PREMISES AND EXCLUSIVE USE AREAS 25
SECTION 5.08 APRONS, GATE POSITIONS AND LOADING BRIDGES 26
SECTION 5.09 ASSIGNMENT OF GATE POSITIONS AND LOADING BRIDGES 26
SECTION 5.10 VEHICLES AND AUTOMOTIVE EQUIPMENT ON APRON 27
SECTION 5.11 AIRCRAFT PARKING 27
SECTION 6.05 NO MODIFICATIONS TO COUNTY'S EQUIPMENT 30
SECTION 5.12 PORTER SERVICES 28
ARTICLE VI - INFORMATION TECHNOLOGY AND COMMON USE EQUIPMENT 28
SECTION 6.01 COMMON USE EQUIPMENT 28
SECTION 6.02 COMMON USE EQUIPMENT STOCK 29
SECTION 6.03 RADIO FREQUENCY IDENTIFICATION BAG TAG STOCK 29
SECTION 6.04 COMMON USE SELF-SERVICE KIOSK (CUSS) EQUIPMENT 29
SECTION 6.06 NETWORK USAGE 30
SECTION 6.07 WIRELESS APPLICATIONS AND SIMILAR TECHNOLOGIES 32
SECTION 6.08 IN-LINE BAGGAGE HANDLING SYSTEM OBLIGATIONS, DUTIES, AND RESPONSIBILITIES 32
ARTICLE VII - ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION 33
SECTION 7.01 HAZARDOUS SUBSTANCES AND ENVIRONMENTAL COMPLIANCE 33
SECTION 7.02 SPILL RESPONSE PLAN 34

JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE

TABLE OF CONTENTS

Page

SECTION 7.03 STORMWATER CONTROL AND CONTAMINATION 35
SECTION 7.04 ENVIRONMENTAL STEWARDSHIP 36
SECTION 7.05 RESERVED 38
SECTION 7.06 ENVIRONMENTAL INDEMNIFICATION 38
SECTION 7.07 CONFLICT WITH ENVIRONMENTAL LAW PROVISIONS 39
SECTION 7.08 ANTI-IDLING POLICY 39
ARTICLE VIII – CONSTRUCTION AND IMPROVEMENTS 39
SECTION 8.01 CONSTRUCTION AND/OR ALTERATION BY THE COUNTY 39
SECTION 8.02 IMPROVEMENTS BY THE AIRLINE 40
SECTION 8.03 AIRLINE REIMBURSEMENT 41
SECTION 8.04 EXCLUSIVE REMEDY 42
SECTION 8.05 AIRLINE'S ASSURANCE OF CONSTRUCTION COMPLETION 42
SECTION 8.06 MECHANICS LIENS OR STOP-NOTICES 43
SECTION 8.07 RECORD DOCUMENTS, AS-BUILT DOCUMENTS, AND CONSTRUCTION COSTS 43
SECTION 8.08 DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS 45
SECTION 8.09 HEALTH AND SAFETY 45
ARTICLE IX - ACCOMMODATION 46
SECTION 9.01 JOINT USE REQUIREMENT 46
ARTICLE X - ASSIGNMENT AND SUBLEASE 47
SECTION 10.01 ASSIGNING, SUBLETTING, AND TRANSFERRING 47
SECTION 10.02 SUCCESSORS IN INTEREST 50
ARTICLE XI - TERMINATION AND DEFAULT 51
SECTION 11.01 TERMINATION OF PRIOR AGREEMENTS 51
SECTION 11.02 TERMINATION FOR DEFAULT 51
SECTION 11.03 CONDITION OF LEASED PREMISES UPON TERMINATION 52
SECTION 11.04 DISPOSITION OF ABANDONED PERSONAL PROPERTY 52
SECTION 11.05 THE COUNTY'S RIGHT TO RE-ENTER 52
ARTICLE XII - SECURITY 52
SECTION 12.01 AIRPORT SECURITY 52
ARTICLE XIII - INSURANCE AND INDEMNITY 55
SECTION 13.01 INSURANCE 55
SECTION 13.02 INDEMNITY 59
ARTICLE XIV - FEDERAL GRANT ASSURANCES AND REQUIREMENTS 60
SECTION 14.01 CIVIL RIGHTS AND NONDISCRIMINATION 60
SECTION 14.02 DEVELOPMENT/MAINTENANCE OF AIRPORT 63
SECTION 14.03 LEASE SUBORDINATE TO AGREEMENT WITH U.S.A. 63
SECTION 14.04 USE TO CONFORM WITH FEDERAL AVIATION REGULATIONS . 63

JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE

TABLE OF CONTENTS

Page

SECTION 14.05 FEDERAL LAW PREEMPTION 64
SECTION 14.06 NONEXCLUSIVE RIGHT 64
SECTION 14.07 WAR OR NATIONAL EMERGENCY 64
SECTION 14.08 RESERVED 64
SECTION 14.09 AMERICANS WITH DISABILITIES ACT 64
SECTION 14.10 BOARDING ASSISTANCE FOR AIRCRAFT 65
ARTICLE XV - MISCELLANEOUS PROVISIONS 65
SECTION 15.01 TIME 65
SECTION 15.02 LEASE ORGANIZATION 65
SECTION 15.03 AMENDMENTS 65
SECTION 15.04 SIGNS 65
SECTION 15.05 PERMITS AND LICENSES 66
SECTION 15.06 RESERVED 66
SECTION 15.07 TAXES AND ASSESSMENTS 66
SECTION 15.08 CIRCUMSTANCES WHICH EXCUSE PERFORMANCE 66
SECTION 15.09 PARTIAL INVALIDITY 67
SECTION 15.10 WAIVER OF RIGHTS 67
SECTION 15.11 RESERVATIONS TO THE COUNTY 67
SECTION 15.12 AUTHORITY OF THE AIRLINE 68
SECTION 15.13 PUBLIC RECORDS 68
SECTION 15.14 RELATIONSHIP OF PARTIES 68
SECTION 15.15 GOVERNING LAW AND VENUE 68
SECTION 15.16 ATTORNEY'S FEES 68
SECTION 15.17 EMERGENCY SERVICES 69
SECTION 15.18 NOTICES 69

JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE

LIST OF EXHIBITS

EXHIBIT A LEASED PREMISES DESCRIPTION – TERMINAL EXCLUSIVE USE AREA

EXHIBIT B FLOOR PLAN OF LEASED PREMISES – TERMINAL EXCLUSIVE USE AREA

EXHIBIT C MAP OF APRON AREA

EXHIBIT D MAP COMMON USE AREA

EXHIBIT E AIRLINE MAINTENANCE OBLIGATIONS

JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE

THIS CERTIFICATED PASSENGER AIRLINE 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 Aerovías de México, S.A. de C.V. dba Aeroméxico ("AIRLINE"), with COUNTY and AIRLINE 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 "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 AIRLINE is engaged in the business of commercial air transportation of persons, property, cargo, and mail as a scheduled air carrier and is certificated or otherwise authorized by the United States of America to engage in such business; and

WHEREAS, the AIRLINE desires to enter into an agreement addressing certain premises, facilities, rights, licenses, services, and privileges at the Airport; and

WHEREAS, as part of its ongoing effort to operate the Airport in a manner sensitive to the residents who live under the Airport's approach and departure corridors, the COUNTY has developed one of the most stringent access and noise abatement programs in the country. The Airport monitors all aircraft operations, both commercial and private, for compliance with the program. These noise abatement and access restrictions derive from the 1985 Settlement Agreement between the COUNTY, City of Newport Beach, and other parties and are implemented through ordinances, resolutions (including Resolutions No. 85-255, 85-256, 85-259, 85-1231, 85-1232, and 85-1233), regulations (including the Phase 2 Commercial Airline Access Plan and Regulation) and policies of the COUNTY, as they may be amended from time to time; and

WHEREAS, the 1985 Settlement Agreement has been periodically amended by its parties to, among other things, increase the authorized passenger levels at the Airport; and

WHEREAS, the amendments to the 1985 Settlement Agreement preserve and continue to implement important restrictions on the use of JWA, "grandfathered" under the AIRPORT NOISE AND CAPACITY ACT OF 1990 ("ANCA"), which reflect and accommodate historical policy decisions of the Board of Supervisors regarding the appropriate point of balance between the competing interests of the air transportation and aviation community and local residents living in the vicinity of the Airport. These policy decisions address, among other issues, nighttime operational restrictions and maximum permitted single-event noise levels; and

JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE

WHEREAS, the COUNTY and the AIRLINE mutually desire to enter into this LEASE, in order to provide air transportation services to the community and its visitors through December 31, 2030; and

WHEREAS, the COUNTY has the right to permit and grant the use of its property at the Airport to the AIRLINE for the operation of the AIRLINE's air transportation services; and

WHEREAS, the AIRLINE 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.

SECTION 1.01 AAAC

"AAAC" shall mean the JWA – Airport Airline Affairs Committee. The AAAC is composed of the airline properties representatives for the carriers serving JWA.

SECTION 1.02 AAAC CHAIR

"AAAC Chair" shall mean the Chairperson elected by the AAAC to act as the spokesperson for carriers serving JWA.

SECTION 1.03 ACCESS PLAN

"Access Plan" shall mean the Phase 2 Commercial Airline Access Plan and Regulation for John Wayne Airport, Orange County, as that plan existed when originally adopted and approved by the Orange County Board of Supervisors in 1990, as it has been amended by the Board of Supervisors from time to time, and as it may be amended by the Board of Supervisors at any time during the term of this LEASE.

SECTION 1.04 ADD

"ADD" shall mean Average Daily Departure, as defined in the Access Plan. Except as expressly provided in the Access Plan, all commercial air carrier departures at JWA are regulated departures and require an ADD allocation. ADD allocations are the exclusive property of the COUNTY.

SECTION 1.05 AIRLINE RATES AND CHARGES

"Airline Rates and Charges" shall mean all rates, fees, and charges payable to the COUNTY by the AIRLINE, as specified herein**.**

SECTION 1.06 AIRPORT

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

SECTION 1.07 AIRPORT DIRECTOR

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

SECTION 1.08 APRON AREA

"Apron Area" shall mean the land identified as Apron Area in Exhibit C attached hereto, and, except as otherwise provided herein, all facilities, equipment, and improvements now or hereafter located thereon.

SECTION 1.09 AUDITOR-CONTROLLER

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

SECTION 1.10 BOARD OF SUPERVISORS

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

SECTION 1.11 CBP

“CBP” shall mean Customs and Border Protection, U.S. Department of Homeland Security.

SECTION 1.12 CERTIFICATED MAXIMUM LANDING WEIGHT

"Certificated Maximum Landing Weight" shall mean the current maximum allowable gross landing weight of aircraft operated by the AIRLINE and certificated by the Federal Aviation Administration (FAA) for operation at the Airport.

SECTION 1.13 COMMON USE AREA

"Common Use Area" shall mean the nonexclusive use of space, in common with other airlines, located in the Terminal, as shown in Exhibit D.

SECTION 1.14 COUNTY

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

SECTION 1.15 CUPPS

"CUPPS" shall mean the Airport's Common Use Passenger Processing System.

SECTION 1.16 CUSS

"CUSS" shall mean Common Use Self Service.

SECTION 1.17 DOT

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

SECTION 1.18 EMV

"EMV" shall mean Europay, Mastercard, or Visa.

SECTION 1.19 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 1.20 EXCLUSIVE USE AREA

"Exclusive Use Area" shall mean the areas of the Terminal and on the Terminal Apron that the COUNTY has granted the AIRLINE the right to use on an exclusive-use basis, subject to the Joint Use Requirement, during the term of this LEASE. The AIRLINE's Exclusive Use Area is described in Exhibit A and shown in Exhibits B and C.

SECTION 1.21 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 AIRLINE or its business and the Airport.

SECTION 1.22 GSE

"GSE" shall mean Ground Service Equipment and include any auxiliary power unit, mobile stairs, aircraft support equipment, machinery, spare parts, or other equipment used or stored by any qualified air carrier or ground service provider in support of operations at JWA.

SECTION 1.23 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 1.24 IAF

"IAF" shall mean the International Arrival Facility and include the areas of the Terminal that house U.S. Customs and Border Protection and are for the use of arriving international passengers.

SECTION 1.25 NON-STORMWATER DISCHARGE

"Non-Stormwater Discharge" shall mean any discharge to storm sewer systems that is not entirely composed of Stormwater. "Non-Stormwater Discharge" includes "Unauthorized Non-Stormwater Discharges" and "Authorized Non-Stormwater Discharges" as defined by the California Environmental Protection Agency State Water Resources Control Board's National Pollutant Discharge Elimination System General Permit for Discharges of Stormwater Associated with Industrial Activities and Construction Activities.

SECTION 1.26 PFC

"PFC" shall mean federally approved Passenger Facility Charges or passenger facility fees, as authorized by 49 U.S.C. §40117 and regulated by 14 C.F.R. Part 158, as such statute and regulation currently exist or as they may be amended during the term of this LEASE.

SECTION 1.27 POLLUTANT

“Pollutant” means any chemical, compound, substance, liquid, solid or semi-solid substance, 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;

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 1.28 RON

"RON" shall mean the remain overnight positions where the AIRLINE's aircraft are required to park when they "remain overnight" at JWA.

SECTION 1.29 STORMWATER

"Stormwater" shall mean stormwater runoff, snowmelt runoff, and stormwater surface runoff and drainage.

SECTION 1.30 TENANT DESIGN AND CONSTRUCTION GUIDELINES

"Tenant Design and Construction Guidelines" shall mean the Tenant Criteria Manual, CAD Standards, BIM Standards Manual, and GIS Data Standard which can be found on the OCAIR.COM website.

SECTION 1.31 TERMINAL

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

SECTION 1.32 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 commence on January 1, 2027, and expire on December 31, 2030.

SECTION 2.02 HOLDING OVER

In the event the AIRLINE 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

a tenancy from month-to-month and shall be governed by the conditions and covenants contained in this 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 AIRLINE that certain property hereinafter referred to as "Leased Premises." Said premises shall be leased to the AIRLINE in "as-is" condition and shall consist of the following:

A. **Exclusive Use Area**. Exclusive use of the space, subject to the requirements set forth in Section 9.01 of this LEASE entitled "JOINT USE REQUIREMENT," located in the Terminal and on the Apron and Airfield, as described on Exhibit A and shown in Exhibits B and C, which exhibits are attached hereto and by reference made a part hereof and hereinafter referred to as "Exclusive Use Area."

B. **Common Use Area**. Nonexclusive use, in common with other airlines, of space located in the Terminal as shown on Exhibit D, which exhibit is attached hereto and by reference made a part hereof, and hereinafter referred to as "Common Use Areas." Common Use Areas include:

(1) Baggage Claim and Baggage Make-up Areas;

(2) Hold rooms (departure lounges);

(3) Airside Concourses;

(4) Landside Concourses;

(5) Loading Bridges

(6) Baggage and Passenger Screening Areas;

(7) Security Areas.

The use of these Common Use Areas shall be subject to the reasonable control and regulation of the Airport Director.

SECTION 3.02 NATURE OF AIRLINE'S ESTATE

The AIRLINE acknowledges and agrees:

A. That the COUNTY has granted to the AIRLINE a leasehold interest in the Leased Premises only.

B. That the COUNTY retains fee ownership for federal income tax purposes in and to the Leased Premises, as well as all other ownership burdens and benefits associated with such fee ownership.

C. That the AIRLINE 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 AIRLINE shall not install equipment of any kind outside the Leased Premises unless authorized in writing by the Airport Director and/or designee prior to installation.

ARTICLE IV - RENT, FEES AND CHARGES

SECTION 4.01 RENT, FEES AND CHARGES

The rents, 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 Airport Revenue Bonds, Series 1987, and the First Supplemental, Second Supplemental, Third Supplemental, 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 rents, fees, and charges to the AAAC prior to implementation.

A. The AIRLINE shall make payment of the following rents, fees, and charges, which shall be due and payable monthly in advance on the first day of each month with a 15-day grace period, and the AIRLINE agrees that the COUNTY will not invoice for such rents, fees, and charges:

(1) **Exclusive Use Areas**

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

Exclusive use terminal space consists of the airline ticket counter, airline ticket office, baggage service office, and operations/ramp office.

For the purpose of calculating terminal building rent, the AIRLINE's Exclusive Use Area(s) of the terminal building contains the square feet described in Exhibit A and shown in Exhibit B.

(b) Terminal Apron. Rent per square foot based on the latest schedule established by the COUNTY for exclusive use of terminal apron space used for GSE. For purposes of calculating terminal apron rent, the AIRLINE's Exclusive Use Area(s) of the apron contains the square feet shown on Exhibit C. Exhibit C may be modified at any time by Airport Director.

(c) Airport Tenant Improvement Amortization Schedule. The AIRLINE shall reimburse the COUNTY for tenant improvement by the COUNTY based on the amortization schedule established by the Airport Director.

(2) **Common Use Areas**

(a) Arrival Level. The COUNTY shall establish fees for shared use of baggage claim and baggage make-up areas. Said fees shall be established on the basis of allocating the Airport's total costs and expenses associated with the baggage claim and baggage make-up areas to the commercial airlines in the terminal accordingly: twenty percent (20%) of the costs to be shared evenly among the commercial airlines and eighty percent (80%) of the costs to be shared based on each commercial airline's percentage of total deplaned passengers at the Airport, including their commuter affiliates.

(b) Departure Level. The COUNTY shall establish fees for shared use of departure level common areas, including hold-rooms, airside concourses, baggage/passenger screening areas, and security areas. Said fees shall be established by allocating the Airport's total costs and expenses associated with departure level common areas accordingly: ten percent (10%) of the costs to be shared evenly among the commercial airlines in the terminal, forty-five percent (45%) of the costs to be shared based on each commercial airline's percentage of total enplaned passengers at the Airport, including their commuter affiliates, and forty-five percent (45%) of the costs to be shared based on each commercial airline's percentage of total aircraft departures.

The COUNTY may modify the rents, fees, and charges described in Paragraphs A and B of section 4.01. Said modification of rates and charges may not occur more often than every six (6) months. Modifications may include fee revisions, the establishment of new fee classifications, or such

other changes as needed to respond to the AIRLINE's use of the Airport. At the end of each modification period, the COUNTY shall establish monthly fees and issue credits for any overpayments by the AIRLINE or invoice the AIRLINE for any underpayments for the previous period.

In the event an obligation to pay fees begins or terminates on some day other than the first or last day of the month, the fees shall be prorated to reflect the actual period of use based on a thirty (30) day month. The fees for any partial calendar month during which this LEASE becomes effective will be payable on such effective date.

(c) IAF. Fees shall be established by the COUNTY for shared use of the IAF. Said fees shall be established based on the Airport's total costs and expenses associated with the IAF area. The IAF fees shall be allocated to commercial carriers operating international flights according to the carrier's ratio of international deplaned passengers and the fee schedule established by the COUNTY.

(d) CBP. Costs shall be passed through to commercial carriers operating international flights based on international deplaned passengers at JWA and the fee schedule established by the COUNTY.

(e) CUPPS. Fees shall be established by the COUNTY for the implementation, maintenance, support, services and supplies, and periodic upgrades of the Common Use Passenger Processing System (CUPPS). Said fees shall be established and allocated according to departure activities allocation methodology, as follows: ten percent (10%) of the costs to be shared evenly among the commercial airlines in the terminal, forty-five percent (45%) of the costs to be shared based on each commercial airline's percentage of total enplaned passengers at the Airport, including their commuter affiliates, and forty-five percent (45%) of the costs to be shared based on each commercial airline's percentage of total aircraft departures.

In the event of future CUPPS upgrade implementation due to technological requirements or regulatory compliance, the cost of CUPPS upgrade shall be amortized over three years, allocated according to departure activities allocation methodology, as follows: ten percent (10%) of the costs to be shared evenly among the commercial airlines in the terminal, forty-five percent (45%) of the costs to be shared based on each airlines percentage of total enplaned passengers at the Airport, including their commuter affiliates, and forty-five percent (45%) of the costs to be shared based on each commercial airline's percentage of total aircraft departures.

(1) The JWA CUPPS has EMV credit card capability. JWA will not activate this capability until the JWA AAAC agrees to its activation, in whole or in part, using a processing system acceptable to the affected airlines and JWA.

(2) In the event AIRLINE does not use JWA's installed EMV credit card chip processing system, the COUNTY will not be liable for fraudulent credit card transactions by AIRLINE customers, and AIRLINE shall indemnify the COUNTY pursuant to Section 13.02 of this LEASE for such transactions.

(3) **Additional Fees**

The COUNTY shall establish additional fees including, but not limited to, utility expenses, janitorial expenses, and annual security expenses resulting from any security measures implemented after September 11, 2001. Such fees shall be established annually by allocating the Airport's total cost accordingly: ten percent (10%) of the cost to be shared evenly among the commercial airlines in the terminal, forty-five percent (45%) of the cost to be shared based on each commercial airline's percentage of total enplaned passengers at the Airport, including their commuter affiliates, and forty-five percent (45%) of the costs to be shared based on each commercial airline's percentage of total aircraft departures.

B. The AIRLINE shall pay the following fees and charges payable monthly in arrears on or before the twentieth (20th) day of each month with no grace period. The AIRLINE agrees that the COUNTY will not invoice for the following fees and charges and may require the AIRLINE to submit future monthly reports electronically via JWA's portal and prescribed format. Airport will make reasonable efforts to develop an electronic format that allows AIRLINE to report requested information efficiently.

(1) Landing fees based on the latest schedule established by the COUNTY covering the operation of scheduled airlines and commercial operations at the Airport. Landing fees shall be expressed in terms of a rate per one thousand (1,000) pounds of maximum gross landing weight of aircraft certified by the FAA.

(2) Aircraft RON parking fees based on the latest schedule established by the COUNTY. Aircraft parking fees shall be expressed in dollars per night.

(3) Operations fees (gate use fees) based on the schedule established by the COUNTY. Operations fees shall be expressed in dollars per daily departure.

Upon thirty (30) days' written notice from the Airport Director, the COUNTY may modify the rents, fees, and charges described in Paragraphs A and B of 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 AIRLINE's use of the Airport, the need for the COUNTY to receive fair and equitable rents, 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 rents, fees, and charges, the AIRLINE 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 apply any underpayments or overpayments by the AIRLINE 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.

C. Based upon prior written agreement between the AIRLINE and the COUNTY, the AIRLINE may pay for facilities repairs or modifications that would normally be the responsibility of the COUNTY. Costs for such repairs or modifications shall be deducted from the AIRLINE rent by the COUNTY upon submittal to the COUNTY of invoices, receipts, statements, or other documentation acceptable to the COUNTY for said repairs or modifications. All invoices, receipts, statements, or other documentation shall include a detailed description of the nature of the work performed and the associated costs. Upon completion of all repairs or modifications, the AIRLINE shall submit to the COUNTY a written request for rent credit and all documentation for the repairs or modifications.

Notwithstanding anything in this LEASE to the contrary, all amounts payable by the AIRLINE 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).

The AIRLINE 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 Sections 4.01, 4.08, and 5.06 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 AIRLINE. 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 AIRLINE 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, deduction, or prior notice or demand. No payment by the AIRLINE 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 another form of payment (e.g., wire transfer) not prescribed or approved by the COUNTY shall be passed through to AIRLINE plus a twenty-five dollars ($25.00) processing fee.

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

SECTION 4.03 CHARGE FOR LATE PAYMENT

The AIRLINE 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.

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 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 AIRLINE 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 AIRLINE'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 AIRLINE'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 PASSENGER FACILITY CHARGE

The COUNTY expressly reserves the right to impose PFCs on airline passengers for the use of the Airport in accordance with 49 U.S.C. §40117 and applicable implementing regulations adopted by

the FAA, including 14 C.F.R. Part 158, as they may be amended from time to time (the "PFC Regulations").

The AIRLINE shall hold in trust for the COUNTY the net principal amount of all PFCs that are collected by the AIRLINE or its agents on behalf of the COUNTY. For the purposes of Section 4.04, net principal amount shall mean the total principal amount of all PFCs that are collected by the AIRLINE or its agents on behalf of the COUNTY, reduced by any amount that the AIRLINE is permitted to retain pursuant to 49 U.S.C. §40117 and the PFC Regulations. Monthly PFCs collected by the AIRLINE shall be remitted to the COUNTY no later than the last day of the following calendar month or, if that date falls on a weekend or holiday, the first business day thereafter. In addition, PFCs collected by the AIRLINE shall be remitted to the COUNTY at the address specified in Section 4.02, Part A, "Place of Payment and Filing" or at such other place as designated by the COUNTY.

Should the AIRLINE fail to remit the net principal amount of all PFCs to the COUNTY within five (5) days following the remittance date specified above, the AIRLINE shall be deemed to be in default pursuant to Article XI hereof. In addition, any late payment of PFCs shall be subject to late fees computed at the rate of one and one-half percent (1.5%) per month of the payment due and/or the highest rate allowable under applicable state law from the due date until paid in accordance with Section 4.03 of this LEASE.

Nothing contained herein shall be construed to supersede the rights and obligations provided in 14 C.F.R. Part 158 regarding PFCs. In the event that a conflict exists between such federal regulation and this agreement, the federal regulation shall govern.

Reporting and Auditing Requirement: Airlines are required to comply with Part 158 Subpart D Reporting, Recordkeeping and Audits of PFC accounts maintained by the collecting carriers, specifically refer to Part §158.65, §158.69 and §158.71. The PFC report must be filed by the last day of the month following the calendar quarter by the collecting carrier to the County/Airport. The collecting air carrier's quarterly report must state:

(i) The collecting air carrier and airport involved
(ii) The total PFC revenue collected
(iii) The total PFC revenue refunded to passengers
(iv) The collected revenue withheld for reimbursement of expenses under §158.53
(v) The dates and amounts of each remittance for the quarter

SECTION 4.05 PROVISION AGAINST SET-OFFS

It is the obligation of the AIRLINE to pay all 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 AIRLINE desires to contest the validity or amount of any such fees and charges, the AIRLINE shall first pay the same to the COUNTY and may then seek a refund in any appropriate forum.

JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE

SECTION 4.06 SECURITY DEPOSIT

The AIRLINE, 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 AIRLINE shall be adjusted to approximately three (3) times the estimated monthly rent, fees, and charges as determined by the Airport Director to guarantee the faithful performance by the AIRLINE of its obligations under this LEASE and the payment of all rents, 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. PFCs shall be excluded from the rents, fees, and charges used to determine the AIRLINE's Security Deposit.

The Security Deposit shall take one of the forms set out below and shall guarantee the AIRLINE'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 payment, and agreeing that said funds shall be trust funds securing AIRLINE'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 AIRLINE, including the payment of use fees as well as any and all other payments. Said bond shall be maintained at the cost of AIRLINE 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 AIRLINE 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 AIRLINE, its successors or assigns, or for payment of expenses incurred by the COUNTY as a result of the failure of the AIRLINE, its successors or assigns, to faithfully perform all terms, covenants, and conditions of this LEASE.

Should the AIRLINE elect to provide either a Letter of Credit or a Faithful Performance Bond to fulfill the Security Deposit requirements of this LEASE, said Letter of Credit or bond shall have the effect of releasing the 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 AIRLINE 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 XI of this LEASE.

The AIRLINE 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 AIRLINE or order, as applicable, after one hundred twenty (120) days have elapsed, or at an earlier time to be determined by the Airport Director, following the expiration date of the term of this LEASE, provided the AIRLINE has fully and faithfully performed each and every term, covenant, and condition of this LEASE.

SECTION 4.07 NEW ENTRANT DEPOSIT

A cash security deposit in the sum of FIVE HUNDRED THOUSAND DOLLARS ($500,000.00) shall be provided by a new entrant AIRLINE prior to the commencement of operations.

This deposit shall be returned to the new entrant AIRLINE after six (6) months of continuous operation.

SECTION 4.08 MARKETING FUND FEE

The COUNTY has established a marketing fund for the Airport to conduct sales promotions, Airport-wide advertising, and related activities intended to promote the Airport and its tenants. Commencing January 1 of each calendar year, AIRLINE shall be required to make an annual marketing fund payment in the amount of ten thousand dollars ($10,000.00). AIRLINE agrees to pay this amount on or before January 1 of each year. All monies received by the Airport for the marketing fund shall be used solely for the purpose of Airport tenants' promotions and directly related expenses. In the event any year of this LEASE contains less than 12 months, AIRLINE shall pay a pro-rata portion of the annual amount corresponding to the number of months remaining in that calendar year.

For example, if the LEASE commenced on November 1, AIRLINE would pay the monthly pro-rata portion ($833.33 per month) of the annual marketing fund amount for November and December (totaling $1,666.66). Then, commencing on January 1, AIRLINE would make the full annual marketing fund payment of $10,000.00. Should the LEASE expire on September 15, AIRLINE would pay a pro-rata portion of the annual amount for the months of January through September.

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

SECTION 5.01 USE

The AIRLINE's use of the Leased Premises and its operations shall be limited to conducting a scheduled commercial airline operation. Subject to the limitations set forth in this Section and Sections 5.03, 5.04, 5.05, and 9.01 in this LEASE, AIRLINE'S operations are subject to the following authorized uses:

A. Loading and unloading of passengers.

B. Loading and unloading of baggage.

C. Passenger processing operations.

D. Flight operations office.

E. The AIRLINE shall have the right to have its aircraft and other equipment serviced by suppliers of its choice. Such suppliers may provide materials and services, including, but not limited to, aviation fuel, ground vehicle fuel, lubricating oil, greases, parts, and all other materials and supplies and services required by AIRLINE in the conduct of its air transportation service.

F. Mail, freight, and cargo operations, but only when such activity is incidental to, and conducted in connection with, regularly scheduled commercial passenger operations. The AIRLINE shall not conduct any operations at the Airport with aircraft which are:

   1) Used at the Airport exclusively or primarily for mail, freight, or cargo services; or

   2) Which have been modified in any manner for the purpose or the primary effect of reducing the passenger carrying capacity and increasing the cargo or freight carrying capacity of the aircraft.

G. Air charter activities in compliance with Access Plan.

H. Commissary services for the AIRLINE's employees at the Airport and in-flight catering services in support of the AIRLINE's air operations at the Airport. This does not permit

the AIRLINE to conduct commissary or in-flight services for any other airline or other person at the Airport without first obtaining a separate license to allow commissary or in-flight services for other airlines.

I. Handling of other airlines' operations and ticketing pursuant to Section 9.01 in this LEASE.

J. Employee training incidental to the other uses permitted under this Section.

K. Areas identified on the attached "Exhibits A, B, and C" as the AIRLINE Ticket Counter, AIRLINE Ticket Office, Baggage Service Office, Ramp/Operations Office, and Apron Equipment Storage are strictly limited to their identified uses.

L. Other uses as authorized by the Airport Director.

SECTION 5.02 USE OF PUBLIC AIRPORT FACILITIES

The COUNTY grants the AIRLINE a license for the nonexclusive use of all public Airport facilities including, but not limited to, taxiways, runways, navigational aids, and facilities relating thereto for purposes of landings, takeoffs, and taxiing of the AIRLINE's aircraft. All such use shall be in accordance with the laws of the United States of America, State of California, and the rules and regulations promulgated by their authority with reference to aviation and air navigation, and in accordance with all reasonable and applicable rules, regulations, and ordinances of the COUNTY now in force or hereafter prescribed or promulgated by ordinance or by law, including the Access Plan. The use of these areas shall be subject to the control and regulation of the Airport Director.

This license for non-exclusive use is subject to all rights reserved by the COUNTY to license, permit, authorize, regulate, and relocate concessionaires and other Airport tenants, including but not limited to booths, counters, offices, lockers, and wall space.

SECTION 5.03 RULES AND REGULATIONS

The COUNTY may adopt and enforce “Airport Rules and Regulations” that the AIRLINE 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 AIRLINE’s rights under this LEASE. Except in the case of emergency, the COUNTY shall give the AIRLINE written notice and opportunity to comment on any proposed changes or additions to the Airport Rules and Regulations that could impact the AIRLINE'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 AIRLINE.

The AIRLINE's operations under this LEASE shall comply with all Airport Rules and Regulations and 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 AIRLINE 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 AIRLINE's violation of any governmental rules, environmental laws, regulations or standards as now or may hereafter be promulgated or enacted, related to AIRLINE'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 AIRLINE, its employees, subtenants, agents or suppliers related to AIRLINE's operation under this LEASE.

The COUNTY shall not be liable to the AIRLINE 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 AIRLINE 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 AIRLINE'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.

SECTION 5.04 ACCESS PLAN LIMITATIONS ON USE

The AIRLINE agrees that:

A. Notwithstanding any provision in this LEASE to the contrary, the AIRLINE shall conduct all of its operations and activities at the Airport in strict conformity with the Access Plan and each of its regulations and limitations on the AIRLINE's activities and operations at the Airport.

B. The ADD allocations and other operating privileges made to the AIRLINE under the Access Plan are privileges that may be revoked or modified by the COUNTY at any time during the term of this LEASE, and that such privileges do not constitute property rights of the AIRLINE.

C. The ADD allocations and other operating privileges made to the AIRLINE under the Access Plan are not transferable, assignable, or delegable by the AIRLINE to any other person or entity by operation of law or otherwise, and that such allocations and other operating privileges may not be pledged, hypothecated or encumbered by the AIRLINE at any time for any purpose.

D. The remedies specified in the Access Plan for any Access Plan violation by the AIRLINE are not the exclusive remedies of the COUNTY but shall constitute additional nonexclusive remedies that the COUNTY may enforce separately or cumulatively with other remedies under the enforcement provisions of this LEASE.

E. The AIRLINE shall not at any time, or for any reason, make any assertion to any court, administrative agency, administrative tribunal, or other similar forum that is in any respect inconsistent with the terms and provisions of this Section, except that nothing in this Section shall prevent the AIRLINE from making any argument or asserting any position to the COUNTY, as applicable, in connection with any action by the COUNTY to revoke or modify allocations of operating privileges or any amendments to the Access Plan.

F. All provisions of Section 5.01 and Article XI in this LEASE are subject to the terms, provisions, and limitations of this Section.

SECTION 5.05 OPERATIONAL REQUIREMENTS

The AIRLINE agrees to abide by the following operational conditions and requirements:

A. **Flight Operations and Reallocations**. The number of allocated ADDs, including "regularly scheduled," "charter," "maintenance, and "cargo," shall not exceed the number of departures authorized and allocated to the AIRLINE under the Access Plan. In addition to any and all remedies available to the COUNTY under this LEASE and all provisions of the Access Plan, the COUNTY may reallocate ADDs or other operating privileges granted to the AIRLINE under the provisions of the Access Plan. The AIRLINE shall not operate at JWA unless it conducts its operations with ADDs, allocated seat capacity, or other Authorized Departures directly and formally allocated to the AIRLINE by action of the Board of Supervisors; the AIRLINE conducts all of its operations with aircraft that have been certified for operation at the Airport consistent with Access Plan requirements; and, the AIRLINE has met all other applicable COUNTY requirements.

B. **Hours of Operation**. Except as expressly authorized, the AIRLINE's aircraft shall not depart from the Airport between the hours of 10:00 p.m. and 7:00 a.m. (8:00 a.m. on Sundays) and shall not arrive at the Airport between the hours of 11:00 p.m. and 7:00 a.m. (8:00 a.m. Sundays), as measured at any JWA noise monitoring station. All times shown are Pacific Time.

The AIRLINE acknowledges that the COUNTY may, by regulation, permit some operations by general aviation (nonscheduled, noncommercial) users of the Airport during the nighttime hours with certain specific aircraft types that have noise characteristics similar to the noise characteristics of aircraft that can operate as "Class E" aircraft, as that term is defined in the Access Plan. The AIRLINE does now, or may during the term of this LEASE, operate Class E aircraft at the Airport; nevertheless, the AIRLINE agrees that

the limitations on hours of operations contained in this Section shall be applicable to all of its operations at the Airport, including its Class E operations.

The AIRLINE further acknowledges that there is a rational basis for the COUNTY to distinguish between general aviation operations and regularly scheduled operations by Class E (or noise equivalent) aircraft during the nighttime hours and that this distinction does not constitute unlawful or unjustly discriminatory action by the COUNTY in its operation and management of the Airport. The COUNTY agrees that this provision is, and during the term of this LEASE shall be, included in all leases, operating agreements, or other service operating agreements between the COUNTY and any person conducting regularly scheduled commercial operations at the Airport.

C. **Aircraft Types**. The AIRLINE agrees that it will not operate any aircraft at the Airport unless and until that aircraft type has been certified and qualified for operation by the COUNTY in accordance with the provisions and procedures of the Access Plan. The AIRLINE further agrees that it will abide by all aircraft-type restrictions and limitations contained in the Access Plan, as amended, or as it may hereafter be amended, and any other restrictions on aircraft types which may hereafter be adopted by the Board of Supervisors of the County of Orange.

D. **Gate Management.** AIRLINE agrees to utilize gate management software, access/equipment provided by Airport, to upload and maintain current daily arrival and departure information for aircraft operations to jetbridge/hardstand gates and RONs utilized by AIRLINE. Airport will make reasonable efforts to develop gate management software that allows for efficient uploading and maintaining of current daily arrival and departure information by AIRLINE.

E. **Noninterference**. The AIRLINE shall cooperate with and not interfere with the COUNTY's and other airlines' use of and operations at the Airport. The AIRLINE shall not place any ropes, barricades, and/or stanchions on the public or Common Use Area without prior written approval of the Airport Director.

F. **Disposal of Refuse from International Operations**. Airlines operating international service shall contract with a CBP-approved vendor for the disposal of refuse from arriving international flights.

SECTION 5.06 RECORDS AND ACCOUNTS

A. **Records**. The AIRLINE shall at all times keep true and complete records of all transactions in the operation of all business activities, of whatever nature, conducted in pursuance of the rights granted by this LEASE. The AIRLINE shall maintain such records for a period of five (5) years beyond the expiration or earlier termination of this LEASE.

B. **Reports**. The AIRLINE shall provide to the Auditor-Controller and the Airport Director at the end of each calendar month, on forms to be supplied by the COUNTY, statistical information respecting the AIRLINE's operations at the Airport, including, but not limited to, the total number of all aircraft operations conducted by the AIRLINE; the total combined certificated gross landing weight of all such aircraft operations; the total number of enplaned, deplaned and through passengers; the total number of pounds of airmail, cargo and express mail enplaned and deplaned; and the total number of aircraft stored daily and monthly at the Airport. Such reports shall be submitted to the Airport Director no later than fifteen (15) calendar days following the last day of each month. The AIRLINE must attest that the list is an accurate representation of the AIRLINE's activity for the month.

The AIRLINE shall also provide to the Airport Director, for each day, a copy of the AIRLINE's flight dispatch logs or a listing made from such logs, certified as correct by a responsible station manager or dispatcher, showing the type of equipment used for each flight and the actual takeoff and landing times, and not gate times. Said copy of logs or listing shall be made available for each day's activities by noon (12:00 p.m., Pacific Time) of the following day.

C. **Audits**. All the AIRLINE's records and supporting source documents related to rates and fees in this LEASE or business operations conducted within or from the Leased Premises shall be kept and made available to the COUNTY at one location within the geographical limits of the COUNTY or shall be made available at offices in the COUNTY within ten (10) working days after written notice to produce said records and source documents. The COUNTY shall, through its duly authorized agents or representatives, have the right to examine and audit said records and supporting source documents at any and all reasonable times, as set out herein, for the purpose of determining the accuracy thereof and of the monthly statements to the COUNTY.

The COUNTY, upon request of the AIRLINE, may authorize the above-referenced records and supporting source documents to be kept in a single location outside the limits of the COUNTY provided the AIRLINE shall agree to pay all expenses including, but not limited to transportation, food and lodging necessary for the COUNTY to send a representative to audit said records. Said right shall not, unless determined necessary by the COUNTY, be exercised by the COUNTY more than once each accounting year.

The full cost of said audit, as determined by the COUNTY, shall be borne by the AIRLINE if either or both of the following conditions exist:

(1) The audit reveals an underpayment of more than two percent (2%) between the rents and fees due as reported and paid by the AIRLINE in accordance with this LEASE and the rent due as determined by said audit; and/or

(2) The AIRLINE has failed to maintain true and complete records and supporting source documents in accordance with paragraph A above. The adequacy of records shall be determined at the sole discretion of the COUNTY.

Otherwise, the COUNTY shall bear the cost of said audit, excluding the aforementioned expenses related to an audit of documents kept outside the limits of the COUNTY. The cost of said audit, if due from the AIRLINE, shall be included as rent for the first month following invoice to the AIRLINE.

Upon the request of the COUNTY, the AIRLINE shall promptly provide necessary data to enable the COUNTY to fully comply with the requirements of the State of California or the United States of America for information or reports directly relating to this LEASE and to the AIRLINE's use of the Leased Premises.

D. **Failure to Maintain Adequate Records**. In addition to any other remedies available to the COUNTY under this LEASE, at law or in equity, in the event that the AIRLINE fails to maintain and keep records and accounts from business operations conducted on or from the Leased Premises and/or source documents relating thereto, or to make the same available to the COUNTY for examination and audit as required by this LEASE, the COUNTY, at the COUNTY's option, may:

(1) Perform such examinations, audits, and/or investigations itself or through agents or employees as the COUNTY and/or its auditors may deem appropriate to confirm the amount of rents, fees, and charges payable by the AIRLINE under this LEASE; and any and all costs and/or expenses incurred by the COUNTY in connection therewith shall be promptly reimbursed to the COUNTY by the AIRLINE upon demand.

(2) Require that the AIRLINE pay rents and fees based on the COUNTY's best good faith estimate of the AIRLINE's activities from business operations conducted on or from the Leased Premises and Airport; and any such determination made by the COUNTY shall be conclusive and binding upon the AIRLINE.

Costs payable by the AIRLINE pursuant to this Section shall include reimbursement to the COUNTY of the services provided at such rates as the COUNTY may, from time to time, in good faith, establish for such services. In the case of services provided by the COUNTY's employees, such rates shall be sufficient to reimburse the COUNTY for employees' salaries, including employee taxes and benefits, and the COUNTY's overhead; or, at the COUNTY's option, may be at the rate for such services that would be charged by a qualified third party or parties, approved by the COUNTY, if engaged by the COUNTY to perform such services. Said costs payable by the AIRLINE shall be included as rent for the first month following invoice to the AIRLINE.

JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE

SECTION 5.07 MAINTENANCE AND OPERATION OF LEASED PREMISES AND EXCLUSIVE USE AREAS

The AIRLINE agrees to maintain Exclusive Use Areas in a safe, clean, sanitary condition and in compliance with all applicable laws. The AIRLINE shall be responsible for making all necessary repairs required to maintain the Exclusive Use Areas and improvements in good condition. All repairs and improvements made by the AIRLINE to the Exclusive Use Areas shall be in compliance with all current federal, state, local laws, regulations, ordinances, and building codes, and all Airport regulations (collectively, "Codes") adopted consistent with Section 5.03. The Codes encompass all fire, life, and structural safety aspects and apply to the construction, alteration, moving, demolition, repair, and use of the Exclusive Use Areas. Any additions, alterations, repairs, and changes of use or occupancy in the Exclusive Use Areas 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 AIRLINE are shown on Exhibit E, which exhibit is attached hereto and by reference made a part hereof.

The AIRLINE 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.

The AIRLINE 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 AIRLINE'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 AIRLINE's Leased Premises.

The AIRLINE 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.

If the AIRLINE fails to maintain or make repairs or replacements as required herein, the Airport Director shall notify or attempt to notify the AIRLINE in writing of said failure. Should the AIRLINE fail to correct the failure within the time specified in the notice, the Airport Director may make the necessary correction or cause it to be made, and the cost thereof, including but not limited to the cost of labor, materials, and equipment shall be charged to the AIRLINE. Thereafter, an administrative fee equal to fifteen percent (15%) of the sum of such items shall be paid by the AIRLINE within ten (10) days of receipt of a statement of said cost from the Airport Director. The Airport Director may, at his or her option, choose other remedies available herein or as provided by law.

If the AIRLINE fails to maintain or make repairs or replacements, including removal of all its GSE and/or any AIRLINE materials at its loading and unloading operations at the end of its approved hours of operation as required herein, the Airport Director may make the necessary correction or cause it to be made, and the cost thereof, including but not limited to the cost of labor, materials, and equipment shall be charged to the AIRLINE. Thereafter, an administrative fee equal to fifteen percent (15%) of the sum of such items shall be paid by the AIRLINE within ten (10) days of receipt of a statement of said cost from the Airport Director. The Airport Director may, at his or her option, choose other remedies available herein or as provided by law.

The AIRLINE expressly waives any and all claims against the COUNTY for compensation for any and all loss or damage to the AIRLINE'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 5.08 APRONS, GATE POSITIONS AND LOADING BRIDGES

The COUNTY will provide a means of access for aircraft between the terminal complex and the taxiway and runway system of the Airport, apron, airplane gate positions, and aircraft loading bridges in the area immediately adjacent to the passenger terminal building. No special possessory, exclusive, or vested right whatsoever, save and except the use in common with other airlines and other aircraft owners, shall vest in the AIRLINE by reason of the proximity of such facilities to the AIRLINE's gate loading positions.

The AIRLINE shall maintain, at its sole expense, apron, aircraft gate positions, and aircraft loading bridges in a neat, clean, and orderly condition, free from litter, debris, refuse, petroleum products, or grease that may result from activities of its passengers, employees, agents, or suppliers. AIRLINE shall promptly remove all oil and grease spillage attributable to AIRLINE’s aircraft or equipment.

If the AIRLINE fails to perform its obligations in such regard, to perform such as maintenance, cleaning, or repair as the COUNTY reasonably deems necessary, the Airport Director shall notify or attempt to notify the AIRLINE in writing of said failure. Should the AIRLINE fail to correct the failure within the time specified in the notice, the Airport Director may make the necessary correction or cause it to be made, and the cost thereof, including but not limited to the cost of labor, materials, and equipment shall be charged to the AIRLINE. Thereafter, an administrative fee equal to fifteen percent (15%) of the sum of such items shall be paid by the AIRLINE within ten (10) days of receipt of a statement of said cost from the Airport Director. The Airport Director may, at his or her option, choose other remedies available herein or as provided by law.

SECTION 5.09 ASSIGNMENT OF GATE POSITIONS AND LOADING BRIDGES

All assignment of gate positions (*i.e.*, aircraft loading bridges and aircraft hardstand positions) shall be made in accordance with rules, regulations, and directives provided in the Access Plan

and made at the complete discretion of the Airport Director, as he/she may determine is appropriate. The Airport Director, in making gate assignment (*i.e.*, loading bridge and hardstand) positions to the airlines, may take into account the needs and requirements of the airlines, as well as the requirements of other Airport users, for use of gate positions adjacent to the passenger terminal building, and other factors that the Airport Director determines are appropriate. Without liability, cost, or obligation to the COUNTY, gate assignment positions and aircraft loading bridge and hardstand positions may be changed from time to time as determined necessary by the Airport Director. The Airport Director may consider passenger activity, number of aircraft operations,

type of aircraft used, scheduling needs, and any other factors they may deem appropriate when assigning gate positions, loading bridges, and hardstand positions.

SECTION 5.10 VEHICLES AND AUTOMOTIVE EQUIPMENT ON APRON

The COUNTY reserves the right to regulate, by the adoption of an ordinance, rules, or other means, adopted consistent with Section 5.03, the use of vehicles and automotive equipment upon, over, and across the apron and around the passenger terminal building. Vehicles and equipment used upon, over, and across the apron and around the passenger terminal building should be in good working order and free of leaks. In the event of an emergency not specifically provided for in said rules and regulations, the Airport Director shall have the power to take charge of the direction of such vehicle and automotive traffic in the area affected and regulate the same until the cause of such emergency has been removed. The existence of an emergency other than an aircraft emergency, shall be determined by the Airport Director.

SECTION 5.11 AIRCRAFT PARKING

The AIRLINE shall make arrangements with the Airport Director for each aircraft parking space that may be made available to the AIRLINE subject to Section 3.01 in this LEASE.

If, in the judgment of the Airport Director, it becomes necessary to move the AIRLINE's aircraft in order to ensure public safety, improve ramp area efficiency or otherwise, then the AIRLINE shall immediately move said aircraft to the location designated by the Airport Director.

Should any aircraft owned or operated by the AIRLINE, through accident or for any other reason, become disabled or be abandoned in any area which could interfere with the continuous, normal operations of any of the landing and field facilities at the Airport, the AIRLINE shall:

A. Immediately remove said aircraft to such location as shall be designated by the Airport Director, unless such aircraft is required to remain in place pending investigation by the appropriate regulatory agency or agencies of the federal government; and

B. In the event of any accident where federal investigation in place is required, immediately upon receiving clearance to do so from the appropriate federal agency, remove said aircraft and any wreckage or debris resulting therefrom to the area(s) designated by said federal

agency authorizing such removal; otherwise, such aircraft wreckage and debris shall be immediately removed from the Airport or stored at a location approved by the Airport Director.

Should the AIRLINE fail to remove said aircraft, or should aircraft owned or operated by the AIRLINE be abandoned at the Airport, the COUNTY shall have the right to remove such aircraft by any means the Airport Director deems necessary under the circumstances, and the AIRLINE shall keep and hold the COUNTY harmless from any and all costs, loss, liability, damage or expense incurred by the COUNTY or claimed by anyone by reason of removal of said aircraft, injury to persons or property or damages to such aircraft caused by such removal as well as moving and storage costs therefor. The AIRLINE agrees that the designation of any aircraft parking positions anywhere on the Airport, if any, made for the AIRLINE's use is presently regulated by the Access Plan and that nothing in this Section obligates the COUNTY to provide, make available, or consent to any aircraft parking spaces for the AIRLINE's use. The AIRLINE agrees that it may not independently make arrangements for aircraft parking space at the Airport without express written consent of the Airport Director, which may be withheld in their sole discretion.

SECTION 5.12 PORTER SERVICES

The AIRLINE may provide directly or indirectly adequate porter (skycap) and/or assistance service for the convenience of its passengers in areas designated by the Airport Director. Porter services include baggage check-in services, wheelchair services, and ticket screening services. The AIRLINE shall provide the Airport Director a plan that enumerates the salient features of its porter services arrangements and a copy of its agreement if service is provided by other than the AIRLINE’s employees. All podiums utilized for porter service shall be approved in writing by the Airport Director. The size, shape, and color shall be coordinated with and must be identical to all other airlines' podiums. The AIRLINE's plan shall also provide the details of any podiums and their proposed locations necessary to provide porter services.

ARTICLE VI - INFORMATION TECHNOLOGY AND COMMON USE EQUIPMENT

SECTION 6.01 COMMON USE EQUIPMENT

The COUNTY agrees to supply and maintain all equipment for the CUPPS/CUSS, which shall be situated in areas such as, but not limited to ticket counters, ticket lobbies, skycap, and gate podiums. The COUNTY makes no express warranty as to the operability of the equipment, and the sole extent of liability of the COUNTY with respect to the equipment shall be limited to repair and/or replacement of malfunctioning equipment. The COUNTY will respond as expeditiously and as reasonably as possible to technical difficulties with the equipment after the AIRLINE has notified the COUNTY of such difficulties through the COUNTY’s service desk number. The AIRLINE shall ensure the same responsiveness and assistance to the COUNTY staff to identify and resolve the AIRLINE and/or AIRLINE-vendor issues relating to the AIRLINE's applications that run in conjunction with CUPPS. The AIRLINE will work cooperatively with the COUNTY for the implementation of other new technologies to improve

the efficiency of the Airport, including but not limited gate assignment, scheduling and implementation of any software updates.

SECTION 6.02 COMMON USE EQUIPMENT STOCK

The AIRLINE may be asked to supply its own ticket (kiosk) stock in the use of the CUPPS at Common Use Area positions from time to time as it pertains to Radio Frequency Identification (RFID) or specialty stock not provided by the COUNTY. In the event that multiple airlines share kiosk space, all airlines will be required to remove their own stock and allow the other airlines to use the COUNTY-supplied stock, as further outlined herein. When utilizing the COUNTY Common Use Area, the AIRLINE may use either its own stock or the COUNTY's common stock. If the AIRLINE elects to use its own stock, it shall be responsible for removing all stock from the COUNTY's equipment at the end of the usage period. AIRLINE stock shall be subject to approval by the COUNTY. In the event that the COUNTY deems the AIRLINE stock to be injurious to CUPPS, the AIRLINE will immediately cease usage of the offending stock upon such notice by the COUNTY.

SECTION 6.03 RADIO FREQUENCY IDENTIFICATION BAG TAG STOCK

The COUNTY will not supply RFID bag tag stock for use in as part of the Baggage Handling System unless RFID becomes standard common-use stock at all locations within the Airport. AIRLINE shall be required to meet the IATA / ATA standards for the twenty-one-inch (21") bag tag (or as the standard may be amended by IATA / ATA) prior to the start-up of operations at the Airport. In the event that RFID is deployed Airport-wide, the AIRLINE shall provide to the COUNTY the necessary Baggage Service Messages (BSMs) that will be required to facilitate the AIRLINE's baggage through the Baggage Handling System that utilizes RFID technology to track and route baggage to the appropriate baggage carrousel. The COUNTY makes no express warranty as to the operability of the technology and/or baggage handling system equipment, and the sole extent of liability of the COUNTY with respect to the technology and/or baggage handling system equipment shall be limited to repair and/or replacement of malfunctioning equipment. The COUNTY will respond as expeditiously and as reasonably possible to technical difficulties with the BHS equipment after the AIRLINE has notified the COUNTY of such difficulties through the COUNTY's designated central help desk number. The AIRLINE shall ensure the same responsiveness and assistance to the COUNTY staff to identify and resolve the AIRLINE and/or AIRLINE-vendor issues relating to the AIRLINE's applications that run in conjunction with the RFID, BHS, and BSMs systems. The AIRLINE will not be allowed to use its own bag tag stock, unless specifically permitted to do so in writing by the COUNTY, which must at the time meet any and all standards that may be set forth by the COUNTY for such stock. The COUNTY reserves the right to sell and collect applicable advertising revenues that may be generated from the reverse side of any the COUNTY-supplied bag tag stock.

SECTION 6.04 COMMON USE SELF-SERVICE KIOSK (CUSS) EQUIPMENT

The AIRLINE will not install, deploy, or otherwise engage in the use of any proprietary self-service check-in kiosks and/or device, applications, and/or technologies on its Leased Premises, or any portion of the Airport with the expectation to screen any checked bags at the Airport without prior approval from the Airport Director. At the request of the Airport Director, the AIRLINE will work with the COUNTY and other related parties in the development of a Common Use Self Service (CUSS) compliant kiosk application, or other similar applications, and/or devices as may be required to have the AIRLINE operational on all CUSS kiosks at the Airport. The COUNTY reserves the right to establish the locations for implementation of such CUSS kiosks to meet the needs of its customers and the Air Transportation Companies, as well as the operational needs of the Airport. The COUNTY agrees to supply and maintain, with its personnel and at its expense, all common-use self-service kiosk equipment, which shall be situated at designated ticket counters, at various areas of the terminal lobby and customer service areas, and other such locations, and using such passenger processing models as determined by the Airport Director to be most beneficial to meet the operational needs of the Airport. The COUNTY will supply all of the boarding pass stock necessary for the use of the CUSS equipment. The COUNTY makes no express warranty as to the operability of the equipment, and the sole extent of liability of the COUNTY with respect to the equipment shall be limited to repair and/or replacement of malfunctioning equipment. The COUNTY will respond as expeditiously and as reasonably as possible to technical difficulties with the Common Use Equipment after the AIRLINE has notified the COUNTY of such difficulties through the COUNTY's designated central help desk number. The AIRLINE shall ensure the same responsiveness and assistance to the COUNTY staff to identify and resolve the AIRLINE and/or AIRLINE's vendor issues relating to the AIRLINE's applications that run in conjunction with the CUSS systems. The AIRLINE will work cooperatively with the COUNTY for the implementation of other new technologies to improve the efficiency of the Airport.

SECTION 6.05 NO MODIFICATIONS TO COUNTY'S EQUIPMENT

The AIRLINE shall not install at any gate hold room, gate counter, skycap, ticket counter, or kiosk, any AIRLINE-owned or proprietary computer equipment, kiosks, phones, other electronic equipment, or similar equipment without the prior express written permission of Airport Director. The AIRLINE shall not make any modification to the COUNTY's Common Use Equipment, including but not limited to modifying the keyboards, adding adhesive or other markings, or otherwise modifying the equipment physically and/or electronically. Any such modifications and/or damage that is willfully or negligently caused by the AIRLINE shall be remedied by the AIRLINE, to the sole satisfaction of the COUNTY, at the sole cost of the AIRLINE. In the event that the damage is repaired by the COUNTY, the AIRLINE will reimburse the COUNTY for both the fully allocated cost of time and materials pertaining to the repairs plus fifteen percent (15%) administrative fees.

SECTION 6.06 NETWORK USAGE

The AIRLINE will not install any proprietary cabling and/or similar infrastructure at the Airport without prior written approval of the COUNTY. As such, AIRLINE shall make use of the

COUNTY's data communications backbone at the Airport for its communications needs to connect separate operating locations within the Airport campus (i.e., ticketing, baggage service, operations, maintenance, etc.). The AIRLINE shall be fully integrated into the COUNTY's infrastructure backbone prior to startup of operations and thereafter shall be responsible for removing all proprietary cabling and/or other similar infrastructure back to point of origin, at the AIRLINE's sole cost. Where authorized, at the discretion of the Airport Director, any and all data communication cabling installed by the AIRLINE shall be in accordance with the Airport's Tenant Design and Construction Guidelines and, upon installation, shall become the property of the COUNTY. Such improvements shall not be subject to any reimbursement or useful life clauses under Section 8.01 of this LEASE. The COUNTY may impose reasonable fees to AIRLINE for the use of such network, including but not limited to, any fees for unusual and/or excessive or non-standard usage, as reasonably determined by Airport Director.

A. The AIRLINE will assign a representative(s), hereinafter "Authorized Network Representative," to work with the COUNTY to determine user access and network connectivity information. The AIRLINE shall be solely responsible for ensuring that Authorized Network Representatives are not security risks and, upon the COUNTY's request, provide the COUNTY with any information reasonably necessary for the COUNTY to evaluate any security event or incident relating to any Authorized Network Representative or use of the COUNTY's network.

B. The AIRLINE shall be solely responsible for the selection, implementation, and maintenance of security procedures and policies that are sufficient to ensure that (i) the AIRLINE's use of the COUNTY's network is secure and is used only for authorized purposes stated herein, and (ii) the AIRLINE's business information and data are protected against improper access, use, loss, disclosure, alteration, or destruction. The AIRLINE agrees that it will not abuse or misuse the Network Connection, any of the components thereof, or any of the capabilities provided thereby. Unless otherwise explicitly provided herein, in no event shall the AIRLINE use the Network Connection as its internet service provider.

(1) The AIRLINE shall notify the COUNTY's Information Systems as soon as possible upon the discovery of any security breach or potential security breach that may affect the AIRLINE or the COUNTY's confidential information or the security of the Network or any Network Connection.

(2) The AIRLINE shall ensure adequate security protection for the COUNTY from any third-party connections established on the AIRLINE's network. Adequate security protection means (i) protection to preserve confidentiality, integrity, and availability of the Network and information of the COUNTY and (ii) protection from malicious codes and/or unauthorized intrusions.

(3) The AIRLINE and the COUNTY shall be responsible for maintaining the highest industry standards for security best practices on computing devices that

could affect the availability and health of the Network connection, the Network, systems, applications, or data of the AIRLINE and the COUNTY, respectively, specifically including, but not limited to, use of up-to-date antivirus protection, anti-SPAM, and establishment and use of a timely security patch management process.

SECTION 6.07 WIRELESS APPLICATIONS AND SIMILAR TECHNOLOGIES

The AIRLINE acknowledges that the COUNTY provides wireless capabilities for the AIRLINE's operational use in accordance with applicable Federal Communications Commission (FCC) regulations, rulings, and/or guidelines. The AIRLINE agrees that it will not install, deploy, or otherwise engage in the use of any transmitting wireless device, applications, and/or technologies in its Exclusive Use Areas, any portion of the Airport, or within the airport system (regardless of any Exclusive Use, Preferential Use, Common Use, and/or Joint Use assignments) without having first obtained the express written permission of the Airport Director. Such wireless applications shall only be for the AIRLINE's operational use. Use by any others or for the benefit of any other parties is specifically prohibited. At the request of the Airport Director, the AIRLINE will cease operation of a particular device due to interference with another transmitting device that is deemed necessary for operational and/or life-safety purposes.

SECTION 6.08 IN-LINE BAGGAGE HANDLING SYSTEM OBLIGATIONS, DUTIES, AND RESPONSIBILITIES

A. The AIRLINE will have use of the In-Line Baggage Handling Systems (BHS) in a location as designated by the Director to meet the operational needs of the Airport. The AIRLINE will be responsible to verify that it has certified CUTE, CUSS, and Baggage Service Messages (BSM) applications to operate the BHS and RFID, where applicable, prior to the start-up of service at the Airport. The AIRLINE will actively work with the COUNTY staff and the AIRLINE's system provider(s) to expedite all information systems and/or technologies work that may be required to ensure such applications are properly certified by the COUNTY and its system provider(s), if applicable. The COUNTY shall have the right to charge the AIRLINE for any expenses incurred by the COUNTY, including staffing to manage passenger lines and/or additional maintenance staff if the AIRLINE fails to adhere to BHS system procedures and/or properly staff the baggage make-up areas to meet the demand and such failure results in an operational impact to the Airport and/or the BHS equipment.

B. Following the COUNTY's BHS training, provided by the COUNTY to the AIRLINE, the AIRLINE will be solely responsible for the proper operations, training, and supervision of its staff for its portion of the operational responsibilities of the BHS system. The AIRLINE shall ensure that it maintains staffing levels during all operational hours, including irregular operations, that are sufficient to retrieve baggage from the baggage make-up carrousels and/or piers in order to prevent the inefficient use of the in-line baggage handling system in a fully automated mode and to prevent the system from initiating a "die-back" situation,

which may require the COUNTY to intercede manually and/or cause additional staffing by the COUNTY, its contractors, or TSA staff to initiate baggage screening mitigation procedures as a result of baggage stacking up on the make-up carrousels and/or piers. The AIRLINE shall not initiate any procedures or work rules that, as determined by the Director, will negatively impact the in-line BHS without the prior written approval of the COUNTY and without concurrence from TSA. The COUNTY reserves the right to recover any costs from the AIRLINE that may result from the AIRLINE's failure to comply with this Section of the LEASE.

C. The AIRLINE will designate a representative as a Ground Security Coordinator ("GSC") to handle issues that may arise from time to time with the BHS. The GSC will be the point of contact with the TSA and the COUNTY for all issues concerning checked passenger baggage and/or BHS performance. The GSC must be available during the AIRLINE's operational hours.

D. The AIRLINE acknowledges that all oversized checked baggage must be delivered to a designated oversized area for screening.

E. The AIRLINE acknowledges it may have a more stringent screening requirement for checked passenger baggage than that of TSA. As such, the AIRLINE will be responsible for providing these additional screening services and associated staffing to meet such requirements, including, but not limited to, X-Ray screening, and any additional training for additional services, and/or any additional services at no additional cost to the COUNTY. The AIRLINE must provide evidence of proper training for such additional measures to the Director upon request. The COUNTY may, at its sole discretion, provide and maintain the X-ray screening device.

F. The AIRLINE shall be responsible for ordering, pick-up and maintaining an appropriate level of any and all consumables related to the Common Use Equipment and/or BHS, including, but not limited to, RFID embedded bag tag stock, boarding pass stock, toner cartridges for laser printers, or other similar items, in accordance with policies and procedures established by the COUNTY in the event AIRLINE uses propriety consumables.

ARTICLE VII - ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION

SECTION 7.01 HAZARDOUS SUBSTANCES AND ENVIRONMENTAL COMPLIANCE

The AIRLINE agrees that it shall abide with all applicable Hazardous Substances laws, rules and regulations, relating to Hazardous Substances including, but not limited to, 49 C.F.R. Parts 171 *et seq*. The AIRLINE shall not cause any Hazardous Substances to be brought upon, kept, used, stored, generated, treated, managed or disposed of in, on or about or transferred to or from the Airport, except to the extent that such Hazardous Substances are (i) necessary for or useful to the AIRLINE's business and (ii) used, kept and stored in a manner that complies with all applicable

Environmental Laws, the Airport Rules and Regulations, and all other applicable laws.

The AIRLINE shall comply with all applicable Environmental Laws and shall not engage in any activity on or about the Airport that violates any applicable Environmental Law. In conducting its operations and maintenance on the Airport under this LEASE, the AIRLINE shall comply with such regulations regarding the storage, distribution, processing, handling and/or disposal, including the Stormwater discharge requirements, of Hazardous Substances 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.

The AIRLINE shall at its own expense take all investigatory and/or remedial action required or ordered by any governmental agency having jurisdiction or any applicable Environmental Law for clean-up and removal of any contamination involving any Hazardous Substances caused by the AIRLINE. In conducting a clean-up of a Hazardous Substance release under this LEASE, the AIRLINE shall comply with applicable Environmental Laws. Hazardous waste generated by the AIRLINE or its contractors shall be disposed properly and under the AIRLINE's EPA ID number.

The AIRLINE shall not allow or cause the entry of any Hazardous Substances under its control into the Airport Stormwater drainage system unless authorized by applicable Environmental Law and the Airport's Stormwater Discharge Permit. The AIRLINE shall not allow or cause the entry of any Unauthorized Non Stormwater Discharge that is under its control into the Stormwater drainage system of the Airport or into the Stormwater drainage system of any of its surrounding communities, unless such substances are first properly treated by equipment installed with the approval of the COUNTY for that purpose, and the AIRLINE complies with recommendations made by the state and/or federal Environmental Protection Agency and the Airport's Stormwater Discharge Permit requirements. The AIRLINE shall bear all costs and any other expenses related to the prohibited entry of such oil, fuel or other Hazardous Substances into said drainage systems prohibited by any applicable Environmental Law.

The AIRLINE shall provide all notices required pursuant to the SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986, CAL. HEALTH & SAF. CODE § 25249 *et seq*. The AIRLINE shall provide prompt written notice to the COUNTY within three (3) days of receipt of all written notices of violation of any applicable Environmental Law received by the AIRLINE.

SECTION 7.02 SPILL RESPONSE PLAN

Airlines and fueling companies are required to provide (separately or collectively) a Local Spill Response Action Plan to address specific spill response management. Airlines are encouraged to coordinate response efforts between the airlines and fueling contractors. At a minimum, the plan should address the following:

a) Response team organization, members, and responsibilities;
b) Spill response procedures (including notifications);

c) Personnel training;
d) Personal protective equipment; and
e) Spill kit inventory and management

The AIRLINE shall immediately notify the Airport Director and the 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. The AIRLINE is responsible to mitigate such spills and perform any remediation necessary to satisfy the applicable federal, state, or local oversight agencies. If the COUNTY personnel, equipment, or third party services are needed to support mitigation, the COUNTY will be reimbursed by the AIRLINE for labor, equipment, and third party costs for all services provided. In addition to reimbursing the COUNTY for the costs of all services provided by third parties to mitigate such spills, the AIRLINE shall pay to County administrative costs in the amount of one thousand dollars ($1,000) per incident. Said costs shall be paid by the AIRLINE within fifteen (15) days of receipt of an invoice for costs from the COUNTY.

To the fullest extent authorized by law, the AIRLINE shall be liable to the COUNTY for any and all claims, demands, damages, fines or penalties of any nature whatsoever which may be imposed upon the COUNTY due to the AIRLINE's violation of any governmental rules, environmental laws, regulations or standards as now or may hereafter be promulgated or enacted, related to AIRLINE’s operation under this LEASE, including, but not limited to, the payment of any fines or penalties arising from any breach of security, fire, emergency, accident, or spill or release of fuel, lubricants, solvents, sewage, Hazardous Substances, Non-Stormwater Discharge, or from any other violations caused directly or indirectly by the act, omission, negligence, abuse or carelessness on the part of the AIRLINE, its employees, subtenants, agents or suppliers related to AIRLINE’s operation under this LEASE.

SECTION 7.03 STORMWATER CONTROL AND CONTAMINATION

Federal regulations for Stormwater discharges were issued by the U.S. Environmental Protection Agency (U.S. EPA) (40 CFR Parts 122, 123, and 124). The U.S. EPA, through the NPDES permitting program, regulates discharges of potentially contaminated wastewater and Stormwater into waters of the United States. California has been delegated NPDES general permitting authority by the U.S. EPA. California's State Water Board has issued NPDES permits to regulate municipal, industrial, and construction Stormwater discharges under the NPDES permitting program.

Section 402(p) of the Clean Water Act (CWA) requires NPDES permits for Stormwater discharges from municipal separate storm sewer systems (MS4s). The County of Orange is the principal permittee for Orange County's MS4 Permit Order No. R8-2009-0030 (or currently effective permit) No. CAS 618030 (MS4 Permit). As a facility owned and operated by the County of Orange, the Airport implements requirements in the MS4 permit and is responsible for discharges

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into the system. One of the MS4 Permit requirements is to establish the legal authority to control discharges. The County's Water Quality Ordinance (OCCO Title 4, Division 13, Sections 4-13-10 et. seq.) regulates non-stormwater discharges into the MS4 to reduce the discharge of pollutants into the waters of the State. The CWA and the resulting MS4 permit require the County to take steps to reduce pollutants leaving its systems to the maximum extent practicable. The MS4 permit requires the County to develop and implement a Local Implementation Plan (LIP) describing the programs and procedures required by the MS4 permit. The Airport will enforce these Stormwater requirements on municipal areas of the Airport

AIRLINE shall not have prohibited discharge to the MS4 system or on-site storm drains. Some non-stormwater discharges (i.e., fire sprinkler tests) require additional permits with the Regional Water Quality Control Board (RWQCB). AIRLINE is responsible for obtaining and implementing monitoring requirements associated with any non-stormwater discharge permits. AIRLINE shall notify COUNTY prior to any non-stormwater discharge.

In the furtherance of these regulations and Section 402 of the Clean Water Act (CWA), the State of California has adopted a General Permit for discharges of Stormwater associated with industrial activities: "State Water Resources Control Board (State Water Board) Water Quality Order No. 2014-0057-DWQ, NPDES General Permit No. CAS 000001 (Industrial General Permit or IGP)." JWA has applied for and received coverage to discharge Stormwater and authorized non-stormwater discharges pursuant to the general permit for industrial activities and is subject to the permit's requirements, conditions, and penalties. The permit requires the development and implementation of an effective Industrial Stormwater Pollution Prevention Plan (SWPPP) and Monitoring Implementation Plan (MIP). This plan is developed by COUNTY and covers AIRLINE. The airside portion of JWA where industrial activities take place is covered by the IGP. Industrial activities include maintenance, fueling, equipment cleaning, storage areas, and material handling activities. AIRLINE shall comply with applicable Stormwater discharge requirements and Best Management Practices for industrial facilities described in the SWPPP. COUNTY will provide the required annual training for AIRLINE as part of the SWPPP training requirements. AIRLINE shall have all personnel working within the airside portion of John Wayne Airport to attend annual training or AIRLINE shall provide annual training to personnel using JWA-approved training materials.

SECTION 7.04 ENVIRONMENTAL STEWARDSHIP

AIRLINE shall support the COUNTY's Environmental Compliance and Stewardship program through participation in various efforts or implementation of Airport plans. COUNTY shall provide AIRLINE advance notice of any proposed changes to the following plans that may affect AIRLINE operations:

A. Air Quality Improvement Plan (AQIP) and Memorandum of Understanding (MOU) with the South Coast Air Quality Management District
B. Climate Action Plan.
C. Waste Management Plan.

D. Stormwater Pollution Prevention Plan.
E. Green Concessions Program.

AIRLINE shall implement and support the following environmental policies and provide reports and documents as required:

A. Adopt and adhere to the following GSE requirement: GSE associated with commercial operations shall achieve fleet average oxides of nitrogen (NOx) emission factor of 1.7 grams per brake horsepower per hour (g/bhp-hr)upon lease initiation through 2030 and 0.9 g/bhp-hr by January 1, 2031, respectively, as calculated in accordance with the Airport's AQIP and MOU with SCAQMD. Within 30 days of lease execution the AIRLINE shall develop and provide to JWA a GSE improvement plan to demonstrate how the GSE requirement will be met. Annually AIRLINE shall provide GSE data as required by the MOU by March 30.
B. AIRLINE has been provided a copy of the COUNTY's Environmentally Preferable Purchasing Policy (2022) and shall consider developing a similar policy that addresses the AIRLINE's procurement of goods and services as applicable.
C. AIRLINE shall affirm its commitment to Environmental Sustainability at the Airport. The Policy commitment shall be submitted to the JWA within 30 days of LEASE execution.
D. Upon request, AIRLINE shall provide reports necessary for environmental compliance, regulatory requirements and Airport mitigation measure obligations including but not limited to GSE data, fuel usage, spills, and business emergency plans.

Conservation: All AIRLINE facilities and improvements shall meet the Airport's Tenant Design and Construction 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 AIRLINE 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.
G. Use paperless receipt technology when possible.

Waste Minimization and Diversion: AIRLINE 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, AIRLINE shall cooperate with COUNTY to reduce and divert waste from landfills. AIRLINE

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.

SECTION 7.05 RESERVED

SECTION 7.06 ENVIRONMENTAL INDEMNIFICATION

To the fullest extent authorized by law, the AIRLINE shall indemnify, defend, and hold the COUNTY, its officers, and employees harmless from and against any and all applicable Environmental Law claims, judgments, damages, penalties, fines, costs, liabilities, losses, orders, and lawsuits arising out of any actions or inaction by the AIRLINE, the AIRLINE's operations at the Airport or any action arising from and which involve the AIRLINE's officers, agents, subcontractors, and employees, including the cost of defense arising therefrom, including but not limited to the following:

(1) The AIRLINE's placing, disposing, allowing or releasing of Hazardous Substances upon or within the Airport including any such claims, demands, liabilities and/or obligations related to the AIRLINE's release of Hazardous Substances on the Airport since the time the AIRLINE first occupied the Airport.

(2) The AIRLINE's release of Hazardous Substances upon or within the Airport.

(3) The AIRLINE's violation of any applicable Environmental Law, except that the AIRLINE's obligations under this paragraph shall not extend to known and pre-existing conditions that are, as of the date of this LEASE, the subject of investigation and remediation by the COUNTY or others, or remediation conditions that arise from operations of third parties that are not affiliated with the AIRLINE that take place off of the Airport. For purposes of this provision, a party shall be deemed to be affiliated with the AIRLINE if it is an employee, officer, director, agent, subtenant, contractor or subcontractor of the AIRLINE or if it is controlled by or under common control with the AIRLINE.

(4) The AIRLINE's causing or allowing any discharge into the Airport Drainage System that is prohibited by Section 7.01 of this LEASE.

This indemnification includes, without limitation, reasonable attorney's fees/costs and other costs incurred by the COUNTY in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental entity because of any Hazardous Substances being present in the soil or groundwater under the Airport. However, the AIRLINE'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 the COUNTY or its agents, servants or independent contractors who are directly responsible to the COUNTY.

In the event the indemnitees described hereinabove are named as defendants or respondents in any lawsuit or administrative proceeding, the AIRLINE shall, at the request of the COUNTY, represent the indemnitee with qualified counsel approved in writing by the COUNTY.

In the event that a monetary judgment is awarded against the COUNTY and the AIRLINE because of the concurrent negligence of the COUNTY and the AIRLINE 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 AIRLINE 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/costs in any action to enforce the terms of this LEASE.

The rights and obligations set forth in this indemnification shall survive the termination of this LEASE.

SECTION 7.07 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 7.08 ANTI-IDLING POLICY

Within six months of LEASE execution, AIRLINE 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. AIRLINE’s policy shall also include all sublicensee and third-party vehicles that enter Airport property at the direction of the AIRLINE.

ARTICLE VIII – CONSTRUCTION AND IMPROVEMENTS

SECTION 8.01 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 AIRLINE's Exclusive Use Area. The COUNTY shall provide the AIRLINE advance notice of such action and shall make every reasonable effort to provide the AIRLINE alternative space that is reasonably comparable to the AIRLINE's operations at the same rates and charges that the AIRLINE would have paid for the

space being surrendered. In the event no alternative space is available, the AIRLINE shall surrender its space promptly to the COUNTY, provided that the AIRLINE shall be reimbursed for the reasonable cost of any such reassignment, reallocation, or relocation and the cost of the AIRLINE's unamortized investment, if any, as documented by the AIRLINE to the satisfaction of the COUNTY and mutually agreed to by the Airport Director and AIRLINE. All of such costs, as well as the COUNTY's cost of providing the alternative space aforementioned, shall be included in the cost of the particular project requiring such reassignment, reallocation or relocation.

SECTION 8.02 IMPROVEMENTS BY THE AIRLINE

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

A. **Consent Required From the COUNTY**. No structures, improvements, or facilities shall be constructed, erected, altered, removed, or made within the Leased Premises without prior written consent of the COUNTY, which consent may be withheld or conditioned in the COUNTY's discretion. Minor repairs, replacement, and maintenance proposed for the Leased Premises, the cost of which does not exceed one hundred seventy-five thousand dollars ($175,000) annually, shall be approved by the Airport Director. All other structures, improvements, facilities, repairs, replacement, removal, and maintenance items shall be approved by the Board of Supervisors.

B. **Compliance with Plans and Construction Standards**. All improvements constructed by the AIRLINE within the Leased Premises shall be constructed in strict compliance with detailed plans and specifications approved by the Airport Director. All construction shall be conducted in a good and workmanlike manner and shall conform to applicable building codes, rules, regulations, and the Airport's architectural standards as contained in reference document "John Wayne Airport, Architect and Engineer Guide," 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 the COUNTY and the appropriate governmental entity inspecting such work. The AIRLINE shall be responsible for filing Form 7460 for any construction and/or height of construction equipment with the FAA if required.

All improvements constructed by the AIRLINE, including the plans and specifications therefor, shall conform in all respects to the applicable statutes, ordinances, building codes, rules, and regulations of the COUNTY and such other governmental authority as may have jurisdiction. The Airport Director's approval shall not constitute a representation or warranty as to such conformity, which shall remain the AIRLINE's responsibility. The AIRLINE, at its own cost and expense, shall procure all permits necessary for such construction.

C. **Insurance Requirements**. The AIRLINE shall obtain aviation commercial general liability insurance during construction. If the construction is done by an independent contractor, insurance shall be procured by the contractor in the name of the AIRLINE and the COUNTY. All insurance shall be within the limits and coverages acceptable to the COUNTY's Risk Management Services.

D. **Noninterference**. The AIRLINE warrants that it or its contractor shall in no 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 AIRLINE 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 AIRLINE or its contractor.

E. **Trailers and Modular Structures**. All improvements constructed by the AIRLINE 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 modular buildings or trailers during construction. Upon completion of construction, all trailers or modulars must be immediately removed from the Leased Premises.

F. **The AIRLINE's Cost and Expense**. All renovation or construction by the AIRLINE pursuant to this Section shall be at the AIRLINE's sole cost and expense. The AIRLINE shall keep its existing or future Exclusive Use Area, 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 AIRLINE shall have the right to contest any and all liens filed against its existing or future Exclusive Use Area. The AIRLINE further agrees that the COUNTY shall have the right to post notices of non-responsibility as provided by Sections 3094 and 3129 of the California Civil Code.

G. **Ownership of Improvements**. All improvements and facilities, exclusive of trade fixtures, constructed or placed within the Leased Premises by the AIRLINE 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 AIRLINE, at the AIRLINE's cost, to remove any or all improvements located within the Leased Premises at the expiration or termination hereof.

SECTION 8.03 AIRLINE 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 AIRLINE's Leased Premises from this LEASE or terminates the LEASE for convenience pursuant to Section 2.03, the COUNTY shall reimburse the AIRLINE 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 AIRLINE's actual leasehold improvement construction costs submitted in accordance with Section 8.07 in this LEASE.

B = Number of full months remaining in the term of the LEASE.

C = Number of full months between the date the AIRLINE 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 AIRLINE shall submit to the COUNTY within sixty (60) days of completion of construction of any leasehold improvement 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 8.07 of this LEASE. The AIRLINE acknowledges and agrees if the AIRLINE fails to submit notifications and supporting documentation for any such leasehold improvements in a timely manner, the AIRLINE waives its right to compensation for such improvements.

SECTION 8.04 EXCLUSIVE REMEDY

The compensation provided pursuant to Section 8.03 in this LEASE shall be the AIRLINE'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 AIRLINE 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 AIRLINE's rights under this LEASE, nor shall the AIRLINE, 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 8.05 AIRLINE'S ASSURANCE OF CONSTRUCTION COMPLETION

Prior to commencement of construction of approved facilities, the AIRLINE shall furnish to the COUNTY evidence that assures the COUNTY that sufficient monies will be available to the AIRLINE 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.

C. Any combination of the above.

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 AIRLINE of all terms, conditions, covenants, and agreements relating to the construction of improvements within the Leased Premises.

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 8.06 MECHANICS LIENS OR STOP-NOTICES

The AIRLINE 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 AIRLINE, and from the cost of defending against such claims, including attorneys' fees and costs.

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

A. Record a valid Release of Lien; or

B. Procure and record a bond in accordance with Section 8424 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 AIRLINE fail to accomplish either of the two (2) 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 8.07 RECORD DOCUMENTS, AS-BUILT DOCUMENTS, AND CONSTRUCTION COSTS

Within sixty (60) days following completion of any improvement within the Leased Premises, the AIRLINE shall furnish the Airport Director a complete package of “As-Built Documents” and "Record Documents," 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.

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:

1. 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 AIRLINE 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 AIRLINE shall furnish the Airport Director with an itemized statement of the actual, direct construction costs of such improvement. The construction 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. Construction 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 statement of cost shall be sworn to and signed by the AIRLINE or its responsible agent under penalty of perjury. The AIRLINE must obtain the Airport Director's approval of acceptance of the "As-Built Documents" and "Record Documents" and the form and content of the itemized statement.

SECTION 8.08 DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS

The AIRLINE shall be responsible for any damage caused by the AIRLINE, or the AIRLINE'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 AIRLINE 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 AIRLINE. 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 AIRLINE 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 AIRLINE-owned or constructed buildings, facilities, or improvements located within the Leased Premises or in the event the AIRLINE-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 AIRLINE 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 AIRLINE'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 AIRLINE waives and releases its rights under California Civil Code Sections 1932(2) and 1933(4).

SECTION 8.09 HEALTH AND SAFETY

The AIRLINE shall comply with all applicable California Occupational Safety & Health Administration (Cal/OSHA) requirements and all federal, state, or local safety orders. The AIRLINE 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 AIRLINE 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 AIRLINE shall convene safety meetings at regularly scheduled times as described in its Safety Plan and as required by Cal/OSHA. The AIRLINE and/or AIRLINE's contractor shall submit, prior to the start of any tenant improvements, the AIRLINE or AIRLINE's contractor required Cal/OSHA Safety Plan for approval by the Airport.

The AIRLINE shall submit to the COUNTY an annual report detailing the status of all permits required and issued to the AIRLINE 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 IX - ACCOMMODATION

SECTION 9.01 JOINT USE REQUIREMENT

The AIRLINE and/or other airlines may be provided the opportunity by the COUNTY to initiate or expand service at the Airport and may have a need or requirement for certain types of Airport space and facilities. Such initiation or expansion of service may be reasonably implemented by the Airport Director based upon provisions of the Access Plan.

The AIRLINE agrees to make every reasonable effort to offer to any airline initiating service at the Airport the opportunity to share use of its Exclusive Use Area. In determining whether the use of another incoming airline initiating service at the Airport is reasonable and possible, the AIRLINE will have the right to consider the compatibility of the proposed operations of those with whom the AIRLINE has subleases or handling arrangements, the AIRLINE's existing and future flight schedules, the need for labor cooperation, the adverse competitive impacts resulting from the presence of the other aircraft operator on the AIRLINE's Exclusive Use Area and the availability of other such space at the Airport. Should the AIRLINE deny another airline initiating service at the Airport the opportunity to use the AIRLINE's Exclusive Use Area, the COUNTY may review the AIRLINE's space usage, and should it reasonably determine, considering all the factors noted herein (including the AIRLINE's reasons for such refusal), that the AIRLINE unreasonably refused usage by such other airline, it may require the AIRLINE to permit the other airline to use the AIRLINE's Exclusive Use Area, subject to the initiating airline executing an agreement with the AIRLINE acceptable to the COUNTY that complies with the material terms and conditions of this LEASE, including the indemnification and insurance provisions.

The AIRLINE shall, by separate agreement with such certificated and/or commuter airline as the COUNTY may designate, or by other arrangement as provided by the Airport Director, provide space and/or services within Leased Premises to accommodate said airlines' operation. Any said agreement for joint use shall be subject to the Airport Director's approval and subject to the terms and conditions of this LEASE, including the indemnification and insurance provisions.

The AIRLINE agrees that in the event it subleases its Leased Premises to another airline, any sublease rental rate shall be calculated on a per-square-foot basis.

Sublease per square foot rental rates for sublet space shall reflect a reasonable pro-rata allocation of the AIRLINE's actual and direct costs related to said space and shall be based upon the following factors:

A. The square foot per annum rental rate currently paid by the AIRLINE to the COUNTY for space to be sublet; and

B. A reasonable square foot charge to compensate the AIRLINE for the pro-rata costs per square foot applicable to the AIRLINE improvement costs, maintenance costs, and a reasonable administrative fee.

The annual sublease rental rate shall not exceed two (2) times the square foot per annum rental rate currently paid by the AIRLINE to the COUNTY unless the AIRLINE can demonstrate to the satisfaction of the Airport Director that its costs for the subleased premises, exclusive of the administrative fee, justify a higher rate.

ARTICLE X - ASSIGNMENT AND SUBLEASE

SECTION 10.01 ASSIGNING, SUBLETTING, AND TRANSFERRING

The provisions of this Section are subject and subordinate to the limitations of Section 5.04 of this LEASE.

A. **Transfers**. The AIRLINE shall not transfer, assign, sublet, or hypothecate (hereinafter referred to as "Transfer") any interest of the AIRLINE in the Leased Premises without the prior written approval of the COUNTY. The AIRLINE shall give the COUNTY thirty (30) days' prior written notice of all proposed Transfers. The AIRLINE 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 AIRLINE is a corporation, an unincorporated association, or a partnership, Transfers include the acquisition by any person other than the AIRLINE 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 AIRLINE 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 11.02.

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 AIRLINE, 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 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 AIRLINE as a condition of this LEASE has not been completed to the satisfaction of the COUNTY.

(7) The AIRLINE 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 AIRLINE 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. **Affiliate Transactions**. The COUNTY has adopted in the Access Plan policies and regulations regarding transactions and aircraft operations at the Airport involving affiliations of commercial airlines operating, or desiring to operate, at the Airport ("the affiliate policy"). The AIRLINE acknowledges that the COUNTY considers the affiliate policy to be an important and significant policy in support of the COUNTY's regulation of the Airport.

The AIRLINE acknowledges that there is a rational basis for this policy under the operational and historical circumstances affecting the Airport, that under such circumstances, this policy maintains appropriate equity between the rights and privileges of competing commercial operators using the Airport, and that the affiliate policy does not constitute unlawful or unjustly discriminatory action by the COUNTY in its operation and management of the Airport. The AIRLINE agrees to comply fully and completely with the affiliate policy and all related regulations that appear in the Access Plan and/or this LEASE.

Any affiliate transaction described and defined in the Access Plan, and any affiliate transaction between the AIRLINE and any other person who then has a written agreement with the COUNTY to conduct regularly scheduled air service operations at the Airport, shall constitute a Transfer within the meaning of Paragraph A, above. In the event an affiliate transaction involving the AIRLINE is initiated, then not later than the time when the affiliate transaction is publicly announced:

(1) The AIRLINE shall notify the Airport Director of the fact of the initiation of the affiliate transaction.

(2) If the affiliate transaction is initiated by the AIRLINE, the AIRLINE shall promptly provide to the Airport Director copies of all agreements, or written offers or proposals, made with respect to the transaction and copies of all documents filed with federal authorities with respect to the transaction. If the affiliate transaction is initiated by some other person in respect of the AIRLINE, the AIRLINE shall promptly and continuously provide such documentation or other information regarding the transaction as may be available to the AIRLINE.

(3) In addition to all other obligations of the AIRLINE, if the affiliate transaction involves the AIRLINE and any other person who then has a written agreement with the COUNTY to conduct regularly scheduled air service operations at the Airport, the AIRLINE shall promptly arrange to negotiate with the Airport Director regarding the terms and conditions upon which the Director would recommend consent by the Board of Supervisors to a Transfer of this LEASE, or Transfer of the written agreement(s) between the other person or entity involved in the affiliate transaction and the COUNTY.

Notwithstanding any other provision of this LEASE, the LEASE may be terminated by the COUNTY on thirty (30) days' notice to the AIRLINE without further obligation of the COUNTY, and without any liability of the COUNTY to the AIRLINE whatsoever, if:

(4) The AIRLINE fails to comply with Paragraph C of this Section; or if

(5) The Airport Director fails to make a favorable recommendation to the Board of Supervisors regarding the Transfer within sixty (60) days after initiation and public announcement of the affiliate transaction, which contains terms and conditions agreed to by the AIRLINE and its affiliate(s); or if

(6) The Board of Supervisors fails to consent to the Transfer on terms and conditions which have been accepted by the AIRLINE within thirty (30) days after receipt of the recommendations of the Airport Director.

D. **Bankruptcy Transaction**. If the AIRLINE 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

(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.

E. **Non-Transferable Privileges.** Aircraft operations and ADDs authorized by Section 5.05 in this LEASE and the Access Plan are not property interests of the AIRLINE and are non-transferable in any form, and as such, are not subject to sale, assignment, hypothecation, and transfer by the AIRLINE under the terms of this Section. Any such attempted hypothecation, assignment, encumbrance, sale, or other such attempted transfer of operations, privileges, or ADDs is in violation of the public policy of the COUNTY and shall be void and shall constitute a breach and default of this LEASE.

SECTION 10.02 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.

JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE

ARTICLE XI - TERMINATION AND DEFAULT

SECTION 11.01 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 commercial air transportation and all related activities of the AIRLINE at the Airport.

SECTION 11.02 TERMINATION FOR DEFAULT

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

A. Payment of rents, fees, charges and PFCs;

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 AIRLINE 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 AIRLINE;

D. The voluntary vacation or abandonment by the AIRLINE of the conduct of air transportation business at the Airport;

E. The violation by the AIRLINE of any of the terms of any insurance policy referred to in the LEASE;

F. If the AIRLINE is found by the FAA, TSA, or other government regulatory or successor agency to have violated specified safety standards in the conduct of the AIRLINE's business;

G. The violation or breach of any provision of the Access Plan;

H. The violation of any written directions of the Airport Director;

I. The appointment of a receiver to take possession of all or substantially all, the assets of the AIRLINE located at the Leased Premises or of the AIRLINE's leasehold interest in the Leased Premises.

Where applicable, and unless otherwise stated in this LEASE, or by written notice, the AIRLINE 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 11.03 CONDITION OF LEASED PREMISES UPON TERMINATION

Except as otherwise agreed to herein, upon termination of this LEASE, the AIRLINE shall redeliver possession of said Leased Premises to the COUNTY in substantially the same condition that existed immediately prior to the AIRLINE's entry thereon, reasonable wear and tear, flood, earthquakes, war and any act of war, excepted. References to the termination of the LEASE in this LEASE shall include termination by reason of expiration.

SECTION 11.04 DISPOSITION OF ABANDONED PERSONAL PROPERTY

If the AIRLINE abandons or quits the Leased Premises or is dispossessed thereof by process of law or otherwise, title to any personal property belonging to the AIRLINE 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 AIRLINE or to any person claiming under the AIRLINE 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 AIRLINE possession of the Leased Premises during the fifteen (15) days after termination, expiration, or abandonment of the LEASE.

SECTION 11.05 THE COUNTY'S RIGHT TO RE-ENTER

The AIRLINE agrees to yield and peaceably deliver possession of the Leased Premises to the COUNTY on the date of termination of this LEASE, whatsoever the reason for such termination.

Upon giving written notice of termination to the AIRLINE, 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 AIRLINE under the LEASE terms and shall not constitute an acceptance or surrender.

The AIRLINE 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 XII - SECURITY

SECTION 12.01 AIRPORT SECURITY

The AIRLINE shall comply with all current and applicable Airport, FAA, TSA, CBP, security-related rules, regulations, plans, and procedures. The AIRLINE is responsible for fines imposed

by any regulatory agency as a result of the AIRLINE's failure to comply with applicable rules, regulations, orders, plans, and procedures regarding airport security.

The AIRLINE employees, subtenants/contractors shall be required to obtain airport security clearance in order to perform work under this LEASE. The AIRLINE 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 AIRLINE employees and subtenants/contractors, and respond to scheduled and unscheduled audits at the request of the Airport. The AIRLINE 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 AIRLINE 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 AIRLINE must attend all mandatory security-related exercises, and monthly security consortium meetings hosted by the Airport.

A. **Local Security**. The AIRLINE 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 under the AIRLINE's constant surveillance. The AIRLINE 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 AIRLINE shall exercise control over any person or vehicle escorted by the AIRLINE 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 AIRLINE 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 AIRLINE may be required to provide assistance to TSA in its 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 AIRLINE shall promptly pay any penalties for which the AIRLINE is responsible. These penalties include, but are not limited to, civil penalties or fines assessed against the Airport or the AIRLINE 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 AIRLINE 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 AIRLINE shall pay the applicable fees. Upon successful completion of the background checks, the AIRLINE'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 AIRLINE 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 AIRLINE 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 AIRLINE's designated personnel must successfully complete the Airport ID/Security Credential acquisition process unless other arrangements have been approved by the Airport. The AIRLINE 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 their responsibilities regarding the privilege of access to restricted areas of the Airport.

The AIRLINE and all AIRLINE 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 an appropriately credentialed Airport 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. AIRLINE 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 AIRLINE 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 AIRLINE or AIRLINE 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 AIRLINE'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 AIRLINE personnel or contractor, 2) Airport ID badge expiration, or 3) upon termination of the LEASE, the AIRLINE shall be liable to the Airport 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 AIRLINE's Security Deposit may be applied to cover the cost of the fine.

ARTICLE XIII - INSURANCE AND INDEMNITY

SECTION 13.01 INSURANCE

The AIRLINE agrees to carry all required insurance at the AIRLINE's expense and to provide 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. AIRLINE shall keep such insurance coverage current, provide Certificate of Insurance, and endorsements to the COUNTY during the entire term of this LEASE.

The AIRLINE agrees that the AIRLINE shall not operate on the Airport 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 AIRLINE, 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 AIRLINE also agrees that upon cancellation, termination, or expiration of the AIRLINE's insurance, the COUNTY may take whatever steps are necessary to interrupt any operation from or on the Airport Premises until such time as the Airport Director reinstates the LEASE.

If the AIRLINE 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 AIRLINE 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 AIRLINE, said material breach shall permit the COUNTY to take whatever steps necessary to interrupt any operation from or on the Airport Premises, and to prevent any persons, including, but not limited to, members of the general public, and the AIRLINE'S employees and agents, from entering the Premises until such time as Airport Director

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

All contractors performing work on behalf of the AIRLINE pursuant to this LEASE shall obtain insurance subject to the same terms and conditions as set forth herein for the AIRLINE; excluding General Aviation Liability. All contractors performing work on behalf of the AIRLINE pursuant to this LEASE shall obtain insurance subject to the following required minimum limits: Commercial General Liability $1,000,000 per occurrence with a $2,000,000 aggregate; Commercial Auto Liability $1,000,000 combined single limit each accident for non-air operations area (AOA); and, $5,000,000 combined single limit each accident for air operations area. Pollution Liability will be required when hazardous materials or waste are involved with limits commensurate with the exposure. The AIRLINE shall not allow contractors or subcontractors to work if contractors have less than the level of coverage required by the COUNTY from the AIRLINE under this LEASE. It is the obligation of the AIRLINE 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 Airport Premises. Such proof of insurance must be maintained by the AIRLINE 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. The COUNTY reserves the right to require current audited financial reports from the AIRLINE. If the AIRLINE is self-insured, AIRLINE will indemnify and defend the COUNTY for any and all claims resulting or arising from AIRLINE's use of the Airport Premises, services or other performance in accordance with the indemnity provision states in this LEASE.

If the AIRLINE fails to maintain insurance acceptable to the COUNTY for the full term of this LEASE, the COUNTY may terminate this LEASE.

Qualified Insurer

JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE

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 the AIRLINE shall provide the minimum limits and coverage as set forth below:

Coverages	**Minimum Limits**
Aviation Commercial General Liability (Including but not limited to General Liability, Passenger Legal Liability, War/Extended Perils Liability, Personal Injury, Contractual Liability, Premises, Products and Completed Operations, Ground Hangarkeepers and liability for vehicles and mobile equipment operated on restricted airport premises.)	$250,000,000 per occurrence $250,000,000 aggregate
Workers' Compensation	Statutory
Employers' Liability Insurance	$1,000,000 per accident or disease
Pollution Liability Insurance	$1,000,000 per claims made or per occurrence
Commercial Property Insurance on an "All Risk" or "Special Causes of Loss" basis covering all contents and any tenant improvements including Business Interruption/Loss of Rents with a 12-month limit.	100% of the Replacement Cost Value and no coinsurance provision

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

Required Endorsements

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

1. An Additional Insured endorsement naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds.

2. A primary and non-contributing endorsement evidencing that the AIRLINE's insurance is primary, and any insurance or self-insurance maintained by County of Orange shall be excess and non-contributing.

The Pollution Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

1. An Additional Insured endorsement naming the County of Orange, its elected and appointed officials, officers, employees and agents as Additional Insureds.

2. A primary and non-contributing endorsement evidencing that the AIRLINE's insurance is primary, and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

Pollution Liability insurance must include coverage for bodily injury and property damage, including coverage for loss of use and/or diminution in property value, and for clean-up costs arising out of, pertaining to, or in any way related to the actual or alleged discharge, dispersal, seepage, migration, release or escape of contaminants or pollutants resulting from any services or work performed by, or behalf of, AIRLINE, including the transportation of hazardous waste, hazardous materials, or contaminants.

If AIRLINE's Pollution Liability policy is a claims-made policy, AIRLINE shall agree to the following:

1. The retroactive date must be shown and must be before the date of the contract or the beginning of the LEASE.

2. Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after expiration or earlier termination of LEASE.

3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the contract services, AIRLINE must purchase an extended reporting period for a minimum of three (3) years after expiration of earlier termination of the LEASE.

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.**

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

The Commercial Property policy shall contain a Loss Payee endorsement naming the County of Orange as respects the COUNTY's financial interest when applicable.

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

AIRLINE 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 Contract

The COUNTY expressly retains the right to require AIRLINE 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 the County of Orange Risk Manager as appropriate to adequately protect the COUNTY.

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

The procuring of such required policy or policies of insurance shall not be construed to limit the AIRLINE'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 13.02 INDEMNITY

The AIRLINE agrees to indemnify, defend with counsel approved in writing by the COUNTY, and hold the COUNTY, its elected and appointed officials, officers, employees, agents and those special districts and agencies which the COUNTY'S Board of Supervisors acts as the governing Board ("COUNTY INDEMNITEES") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by the AIRLINE pursuant to this LEASE. If judgment is entered against the AIRLINE and the COUNTY by a court of competent jurisdiction because of the concurrent active negligence of the COUNTY or the COUNTY INDEMNITEES, the AIRLINE and the COUNTY agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE

ARTICLE XIV - FEDERAL GRANT ASSURANCES AND REQUIREMENTS

SECTION 14.01 CIVIL RIGHTS AND NONDISCRIMINATION

A. In all its activities within the scope of its airport program, AIRLINE 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 AIRLINE transfers its obligation to another, the transferee is obligated in the same manner as AIRLINE.

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

1) **Compliance with Regulations:** AIRLINE 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:** AIRLINE, 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 AIRLINE 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 by AIRLINE 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 AIRLINE of the AIRLINE's obligations under this LEASE and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4) **Information and Reports:** AIRLINE 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, AIRLINE 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 AIRLINE'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 AIRLINE complies, and/or

b. cancelling, terminating, or suspending the LEASE, in whole or in part.

6) **Incorporation of Provisions:** The AIRLINE 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 AIRLINE 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 AIRLINE becomes involved in, or is threatened with litigation by a subtenant, subcontractor, or supplier because of such direction, the AIRLINE may request the COUNTY to enter into any litigation to protect the interests of the COUNTY. In addition, the AIRLINE may request the United States to enter into litigation to protect the interests of the United States.

C. AIRLINE, 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 Leased Premises for a purpose for which an FAA activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, AIRLINE 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 the 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) AIRLINE 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. AIRLINE 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. AIRLINE, 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);

3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

4) Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);

5) The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);

6) Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

7) The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, 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 14.02 DEVELOPMENT/MAINTENANCE OF AIRPORT

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

The COUNTY reserves the right, but shall not be obligated to the AIRLINE, 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 AIRLINE in this regard.

SECTION 14.03 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 14.04 USE TO CONFORM WITH FEDERAL AVIATION REGULATIONS

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

The AIRLINE 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 14.05 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 AIRLINE in this LEASE, or any local authorities, shall not apply to the AIRLINE 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 14.06 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 14.07 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 14.08 RESERVED

SECTION 14.09 AMERICANS WITH DISABILITIES ACT

The AIRLINE 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 AIRLINE’s furnishings, trade fixtures, and equipment; (b) removing physical barriers; (c) providing auxiliary aids and services for use of the AIRLINE’s furnishings, trade fixtures and equipment, where necessary or required; and (d) modifying its policies, practices and procedures to comply with the ADA. The AIRLINE 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 AIRLINE 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 AIRLINE’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 AIRLINE agrees to indemnify, defend, and hold the COUNTY harmless from and

against any and all costs incurred by the COUNTY with respect to the AIRLINE's failure to comply with the ADA.

SECTION 14.10 BOARDING ASSISTANCE FOR AIRCRAFT

In accordance with 49 C.F.R. § 27.72, the AIRLINE shall ensure the provision of boarding equipment for passengers with mobility impairment, including, but not limited to, aircraft boarding chairs used to transfer passengers from their wheelchair or other apparatus to their seat in the aircraft cabin. The AIRLINE shall provide all related passenger assistance with this equipment. The equipment shall be provided and maintained in accordance with 49 C.F.R. § 27.72 and the applicable FAA Advisory Circulars, including AC 150/5220-21C.

The COUNTY owns and maintains ramps for utilization by the AIRLINE on the Airport apron in the event a ramp is needed for boarding or deplaning of the aircraft. The AIRLINE shall promptly notify the COUNTY if COUNTY-owned ramps require maintenance. If the AIRLINE owns and operates additional ramps, the AIRLINE shall maintain those ramps in proper working condition. The AIRLINE shall provide assistance to passengers with mobility impairment when ramps are used for boarding or deplaning of the aircraft.

ARTICLE XV - MISCELLANEOUS PROVISIONS

SECTION 15.01 TIME

Time is of the essence in this LEASE.

SECTION 15.02 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 15.03 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 15.04 SIGNS

The AIRLINE agrees not to construct, maintain, or allow any sign upon the Leased Premises except as approved by the COUNTY. The AIRLINE shall submit for approval all new signage to be placed in the ticketing lobby, including baggage sizers, and pylon signs. 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 AIRLINE.

The AIRLINE will not place any promotional signs or advertising materials in any location within the Leased Premises or 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 AIRLINE 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 AIRLINE may resubmit a request to COUNTY to extend past ninety (90) days.

The AIRLINE shall keep all ticket counter space used by the AIRLINE and any associated ticket lifts and podiums free of all signs, advertising materials, credit card application dispensing units, posters, and banners. The COUNTY may, without notice, remove any unauthorized signs or advertising materials, and may store them at the AIRLINE's expense; the COUNTY may dispose of items if they are not promptly claimed by the AIRLINE after notice from the COUNTY.

SECTION 15.05 PERMITS AND LICENSES

The AIRLINE 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 AIRLINE'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 15.06 RESERVED

SECTION 15.07 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 AIRLINE, and the AIRLINE shall cause said taxes and assessments to be paid promptly.

SECTION 15.08 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 AIRLINE from the prompt payment of any rental

or other charge required of the AIRLINE except as may be expressly provided elsewhere in this LEASE.

SECTION 15.09 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 15.10 WAIVER OF RIGHTS

The failure of the COUNTY or the AIRLINE 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 AIRLINE 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 15.11 RESERVATIONS TO THE COUNTY

The Leased Premises are accepted "AS IS," and the AIRLINE is subject to any and all existing easements and encumbrances. The COUNTY reserves the right to install, lay, construct, maintain, repair, and operate sanitary sewers, drains, Stormwater sewers, pipelines, manholes and connections; water, oil and gas pipelines; telephone and telegraph power lines; and the appliances and appurtenances necessary or convenient in connection therewith, in, over, upon, through, across, under and along the Leased Premises or any part thereof; and to enter the Leased Premises for any and all such purposes. The COUNTY also reserves the right to grant franchises, easements, rights of way, and permits in, over, upon, through, across, under, and along any and all portions of the Leased Premises. No right reserved by the COUNTY in this Section shall be so exercised as to interfere unreasonably with the AIRLINE's operations hereunder or to impair the security of any secured creditor of the AIRLINE.

The COUNTY agrees that rights granted to third parties by reason of this Section shall contain provisions that the surface of the land shall be restored as nearly as practicable to its original condition upon the completion of any construction. The COUNTY further agrees that should the exercise of these rights temporarily interfere with the use of any or all of the Leased Premises by the AIRLINE.\, the AIRLINE shall only be entitled to a reduction in the rent payable to the COUNTY during the period of interference, which shall be reduced in proportion to the interference with the AIRLINE's use of the Leased Premises. The AIRLINE shall not be entitled to any other form of compensation.

SECTION 15.12 AUTHORITY OF THE AIRLINE

If the AIRLINE 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 15.13 PUBLIC RECORDS

The AIRLINE understands that written information submitted to and/or obtained by the COUNTY from the AIRLINE 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 15.14 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 AIRLINE in the conduct of the AIRLINE's business or otherwise or a joint venturer with the AIRLINE; 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.

SECTION 15.15 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 15.16 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 15.17 EMERGENCY SERVICES

The Airport Director has the right to request that the AIRLINE'S employees aid in and use AIRLINE's inventory of goods in an emergency to assist in maintaining the welfare of persons at or near the Airport. The AIRLINE 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 15.18 NOTICES

All notices pursuant to this LEASE shall be addressed to either Party as set forth below and shall be sent through the United States mail, 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 AIRLINE 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
John Wayne Airport
3160 Airway Avenue
Costa Mesa, CA 92626
Attention: Airport Director

To: AIRLINE
Aerovías de México, S.A. de C.V.
Paseo de la Reforma No. 243, Piso 25
Col. Cuauhtémoc, C.P. 06500
Mexico City, Mexico
Attention: Legal Department

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.

[Signatures continue on following page]

JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE

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

AIRLINE: Aerovías de México, S.A. de C.V. dba Aeroméxico

By: _____ DocuSigned by: B50C22285A3F46D... /29/2026

By: _____ Héctor Sánchez/29/2026 3658388475214D1...

APPROVED AS TO FORM:
County Counsel

By: ___ DocuSigned by: Mark Sanchez 5EE66EC8DA7B48F... _____

APPROVED AS TO AUDIT AND ACCOUNTING:
Auditor-Controller

By: ___ Signed by: Krystal Day 8DBD6A05BAC0408... _____

RECOMMENDED FOR APPROVAL:
John Wayne Airport

By: ___ Signed 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
CERTIFICATED PASSENGER AIRLINE LEASE

EXHIBIT A
LEASED PREMISES DESCRIPTION

Project Management Number: PM 1121-0300-0103

Airline: Aerovías de México, S.A. de C.V. dba Aeroméxico

The Leased Premises referred to in this Lease shall mean all the premises shown on a floor plan marked "Exhibit B," attached hereto and made a part hereof, being those certain Exclusive Use Areas designated as follows:

> Airline Ticket Office, and Airline Ticket Counter, containing 428 square feet and 333 square feet, respectively, located on the Terminal C concourse of the Departure Level.

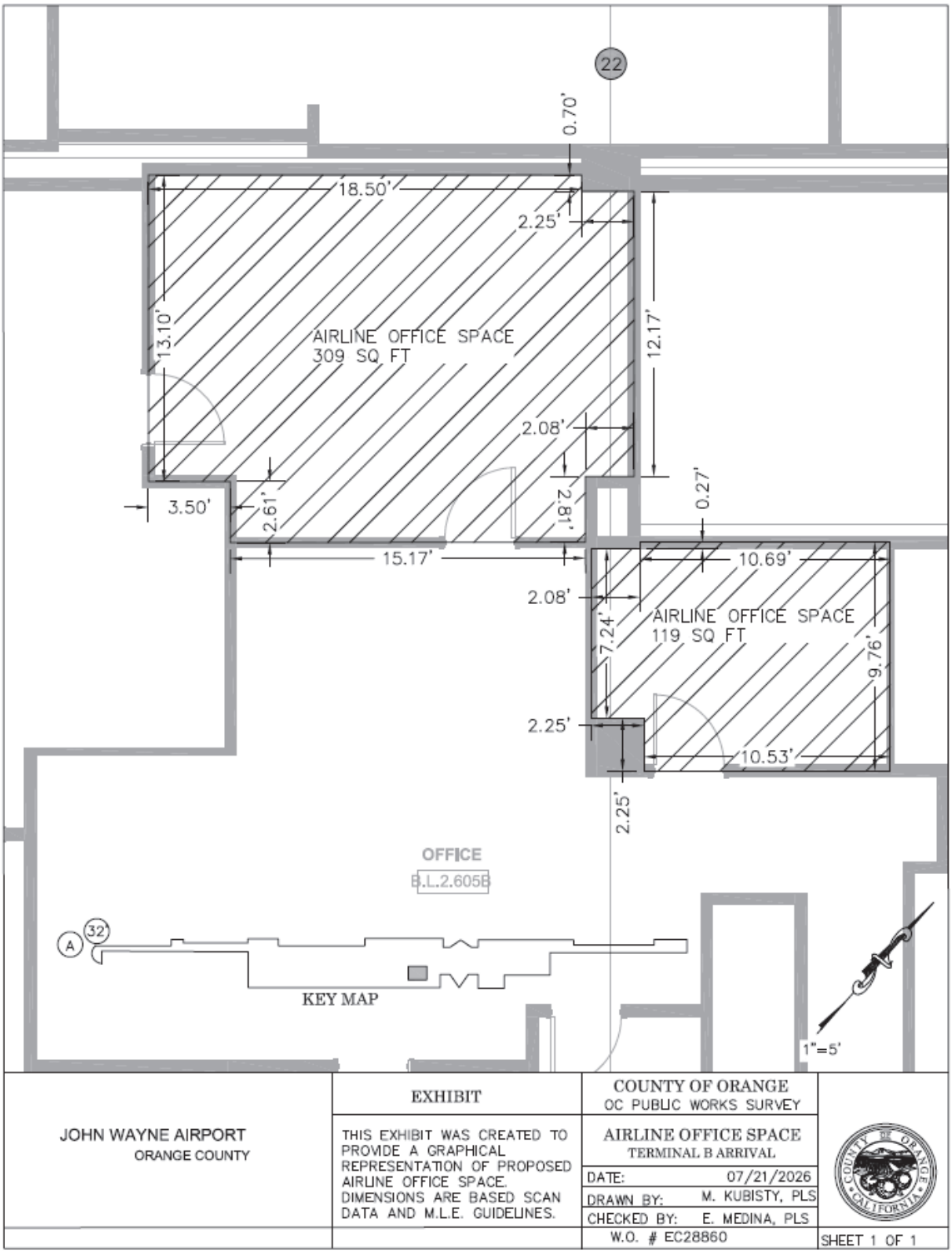
Said Exclusive Use Areas shall also include the premises shown on a map marked "Exhibit C," attached hereto and made a part hereof, being Apron Area. Said "Exhibit C" may be revised at any time by Airport Director.

The Leased Premises shall also include the premises shown on a map marked "Exhibit D," being those certain Common Use Areas designated as Baggage Claim/Baggage Make-up Areas, Holdrooms, Airside Concourses, Security Areas, and Loading Bridges,

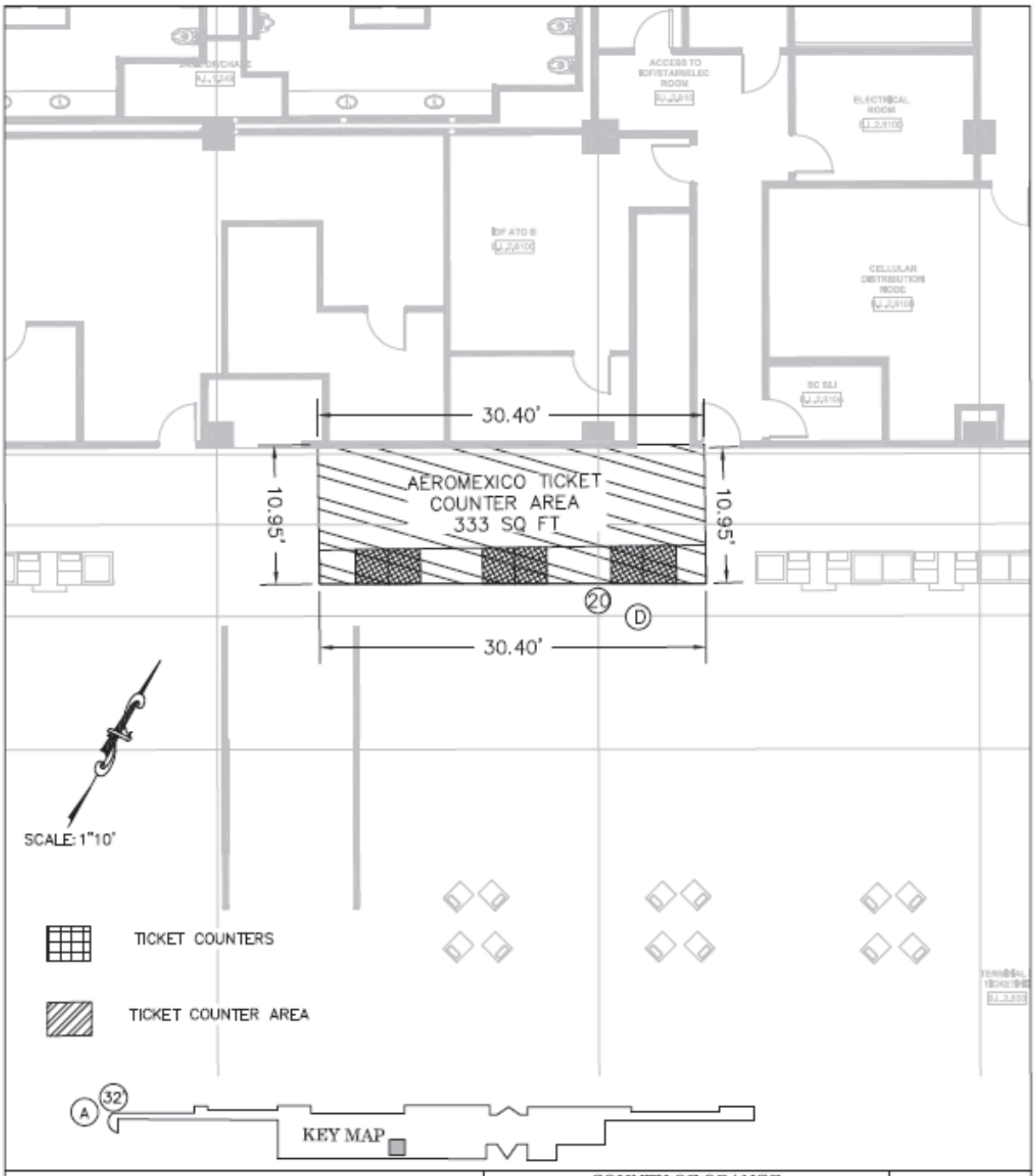
Said Exclusive Use and Common Use Areas are situated at the Thomas F. Riley Terminal Building, John Wayne Airport, 18601 Airport Way, in the City of Santa Ana, County of Orange, State of California, and located on Lots 132 and 135 of Block 7 of the Irvine Subdivision, per map recorded in Book 1, Page 88 of Miscellaneous Maps in the Office of the County Recorder of Orange County, together with the right of ingress and egress thereto.

JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE

EXHIBIT B
FLOOR PLAN OF LEASED PREMISES – EXCLUSIVE TERMINAL USE AREA



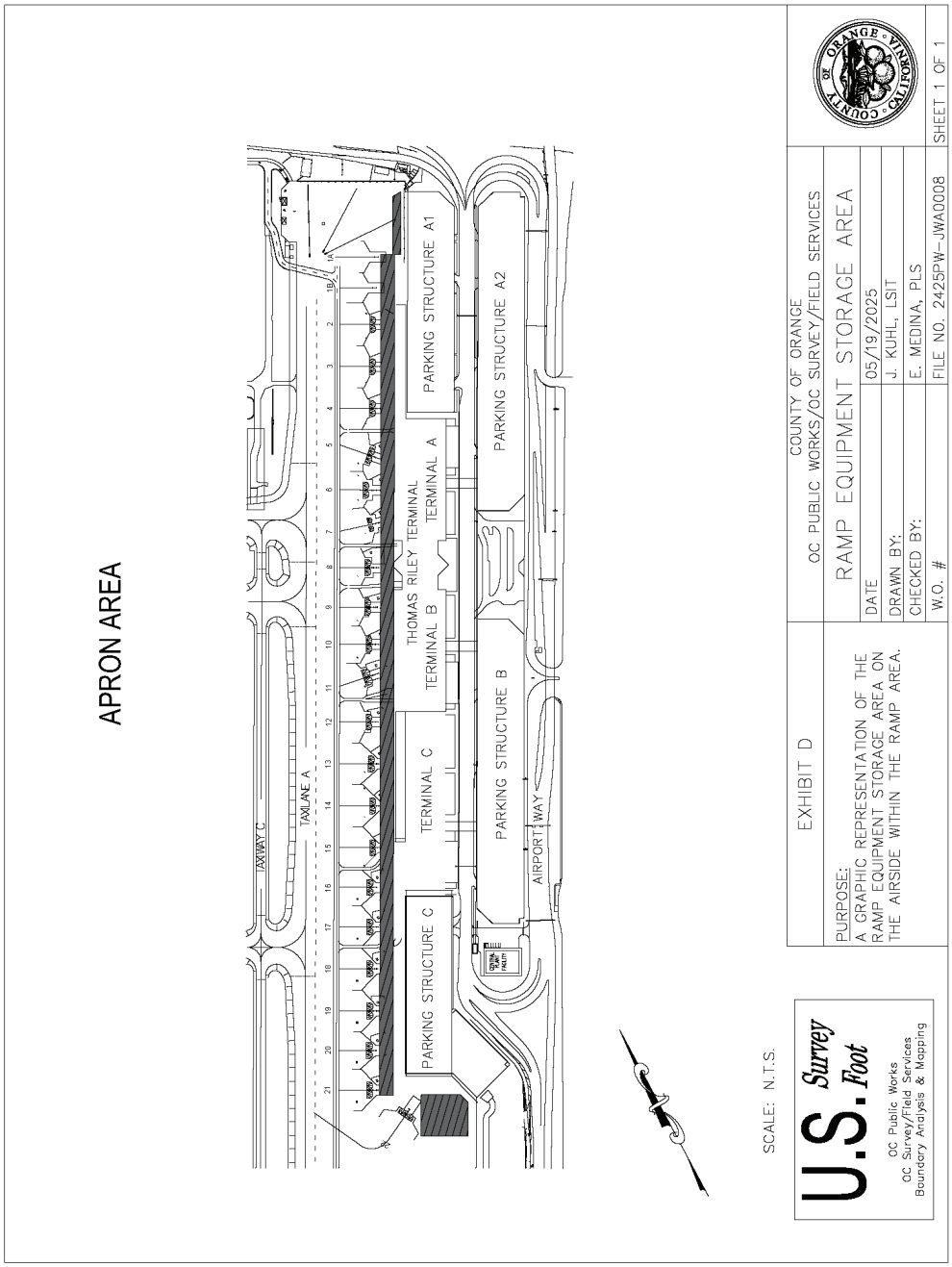
JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE



		COUNTY OF ORANGE		
JOHN WAYNE AIRPORT ORANGE COUNTY	EXHIBIT	OC PUBLIC WORKS/OC SURVEY/FIELD SERVICES		
	THIS EXHIBIT WAS CREATED TO PROVIDE A GRAPHICAL REPRESENTATION OF CURRENT LEASE AREA CONFIGURATIONS. DIMENSIONS ARE BASED ON SCAN DATA AND M.L.E. GUIDELINES.	AEROMEXICO TICKET COUNTER AREA (6)		
		DATE	08/12/26	
		DRAWN BY:	M. KUBISTY, PLS	
		CHECKED BY:	E. MEDINA, PLS	
		W.O. # EC28860	FILE NO.	SHEET 1 OF 1

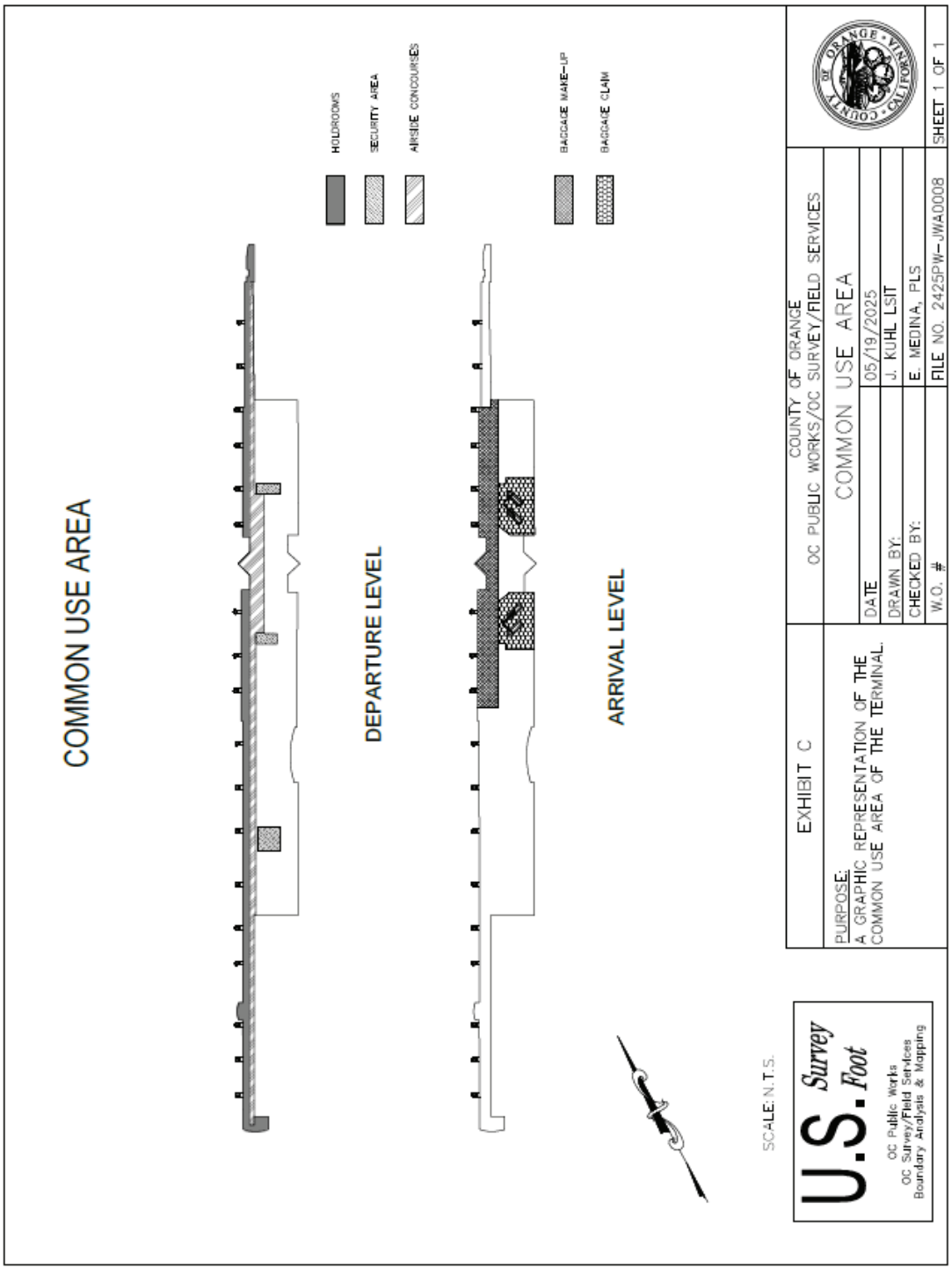
JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE

EXHIBIT C
APRON AREA



JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE

EXHIBIT D
COMMON USE AREA



JOHN WAYNE AIRPORT
CERTIFICATED PASSENGER AIRLINE LEASE

EXHIBIT E
JOHN WAYNE AIRPORT
SUMMARY OF OPERATION AND MAINTENANCE RESPONSIBILITIES

	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 = Airline
C = County

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

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

In the event the Airline 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.