



VENDING CONCESSION AGREEMENT

**ST. JOHN'S INTERNATIONAL AIRPORT AUTHORITY
VENDING CONCESSION AGREEMENT
TERM SHEET**

TENANT INFORMATION

1. Legal Name(s): _____
2. Contact Name: _____
Contact Phone: _____
Address: _____

Fax Number: _____
E-mail Address: _____

BASIC TERMS

3. Term: 5 Years
4. Date of Commencement: June 1, 2018
5. Rent: _____ % of Annual Gross Revenue
6. Purpose: The operation of a vending (beverage and snack) concession, using automatic vending machines only.

PARTS OF LEASE

- Schedule "A" – Rules and Regulations
- Schedule "B" – Tenant's Operational Proposal

RETAIL CONCESSION LEASE

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THIS LEASE made as of the ____ day of _____, 201_.

BETWEEN:

ST. JOHN'S INTERNATIONAL AIRPORT AUTHORITY
(hereinafter called the "Landlord")

OF THE FIRST PART

- and -

THE TENANT, as set out in item number 1 of the Term Sheet
(as defined below)

OF THE SECOND PART

WITNESSES that the Landlord, in consideration of the rents, covenants, provisos and conditions hereinafter reserved and contained, has demised and leased, and, by this Lease, demises and leases to the Tenant the Premises (as defined below) for the Term (as defined below) commencing on the Date of Construction Occupancy (as defined below) comprising an area as noted on the Term Sheet (as defined below).

AND THE PARTIES AGREE AS FOLLOWS:

ARTICLE 1 - DEFINITIONS

1.01 Definitions

In this Lease, capitalized terms shall have the meanings ascribed to them as follows:

- (a) **"Additional Rent"** has the meaning ascribed to it in Section 4.09 of this Lease.
- (b) **"Airport"** means the St. John's International Airport including all lands and buildings, which constitute the St. John's International Airport.
- (c) **"Air Terminal Building"** means the existing and new expansion area of the air terminal building.
- (d) **"Comparable Outlet"** means those other retail outlets of a like nature, owned or operated by the Tenant or its competitors in St. John's.
- (e) **"Date of Commencement"** means the earlier of the following dates:
 - (i) the Opening Date; or
 - (ii) the date on which the Tenant opens the Premises or any part of the Premises for business.
- (f) **"Federal Crown"** means Her Majesty the Queen in Right of Canada.

- (g) **"Force Majeure"** has the meaning ascribed to it in Section 14.20.
- (h) **"Goods and Services"** means goods, wares, merchandise, items of commerce and services which by the terms of this Lease, the Tenant is permitted to sell or supply at or from the Premises.
- (i) **"Gross Revenue"** means, without duplication, the aggregate of the total amount of the actual selling price of all goods sold and services supplied from business conducted on, at, or from the Premises and from any other location in the Air Terminal Building by the Tenant and all franchisees and transferees and all departments or divisions of the Tenant's business operations on the Premises and any other third party conducting business relating to the retail Concession on or from the Premises, whether or not such sales are made or such services are performed at the Premises and filled elsewhere, in the same manner and with the same effect as if such sales or services had been made or performed on the Premises. Without limiting the generality of the foregoing, Gross Revenue includes:
 - (i) all amounts received for the sale, barter, renting or leasing of Goods and Services in, on, at or from the Premises;
 - (ii) all amounts received for services performed in, on, at or from the Premises;
 - (iii) the commission earned by the Tenant from sales from all mechanical, vending and other machines or devices in, on, at or from the Premises;
 - (iv) any recovered costs relating to the Lease,

in each case whether such sales, services, or other receipts are evidenced by cheque, cash, credit, charge account, exchange or otherwise and whether such sales are made by means of mechanical or other vending devices in the Premises. There shall be no deduction allowed for bank charges or uncollected or uncollectable credit accounts or charges made by collection agencies and no allowances shall be made for bad debts. In addition, each charge or sale made on installment or credit shall be treated as a sale for the full selling price in the month during which such charge or sale is made, irrespective of the time when the Tenant receives payment (whether full or partial) therefor.

Notwithstanding the above, Gross Revenue does not include, or there shall be deducted from Gross Revenue, as the case may be, without duplication:

- (i) the amount of the Federal "Goods and Services Tax" and Provincial "Sales Tax" collected from customers;
- (ii) any transfers of Goods and Services between the Tenant's Retail Concession or other operations whether on or off the Airport and returns of Goods and Services to the Tenant's suppliers or manufacturers, as long as any such transfers or returns are carried out for convenience only and not for the purpose of reducing Gross Revenue;
- (iii) all sales of the Tenant's Trade Fixtures, machinery or equipment normally used in the conduct of the Tenant's business in the Premises so long as such Trade Fixtures, machinery or equipment have become redundant or have been replaced by the Tenant with replacement items;

- (j) **"Interest Rate"** has the meaning ascribed to it in Section 4.03.
- (k) **"Land Use Plan"** means any land use plan approved from time to time by the Landlord dealing with the development, construction, use and occupation of the Airport or the Premises and the operation of business thereon and includes, without limitation, any design or use criteria approved by the Landlord dealing with the design and use of the Airport.
- (l) **"Landlord"** means St. John's International Airport Authority.
- (m) **"Lease"** means this agreement together with all schedules and attachments and all amendments made hereto by written agreement between the Landlord and the Tenant.
- (n) **"Maximum Insurance Deductible"** means
 - (i) Twenty Five Thousand Dollars (\$25,000) for flood insurance;
 - (ii) Fifty Thousand Dollars (\$50,000) for quake insurance;
 - (iii) Two Thousand Five Hundred (\$2,500.00) Dollars for all other types of insurance
- (o) **"Minimum Insurance Amount"** means Five Million (\$5,000,000.00) Dollars.
- (p) **"Minimum Insurance Coverage"** means:
 - (i) owners' and contractors' protective;
 - (ii) products and completed operations;
 - (iii) bodily injury;
 - (iv) personal injury;
 - (v) blanket contractual liability;
 - (vi) occurrence property damage;
 - (vii) legal defense costs in excess of policy limits;
 - (viii) cross liability and severability of interest;
 - (ix) independent contractors; and
 - (x) tenant's legal liability on an "All Risks" basis.
- (q) **"Opening Date"** has the meaning ascribed to it in Subsection 4.2 of the Term Sheet.
- (r) **"Other Agreement"** means any agreement, other than this Lease, entered into between the Landlord and the Tenant.
- (s) **"Percentage Rent"** means the Percentage of Annual Gross Revenue set out in item 5 of the Term Sheet;
- (t) **"Permitted Product Line"** means the Goods and Services of the Tenant which are permitted to be sold in accordance with Section 13.04.

- (u) **"Premises"** means the right and privilege to occupy the space indicated on the drawing attached as Schedule "D".
- (v) **"RFEI"** means the Landlord's Request for Expressions of Interest for the Vending Concessions.
- (w) **"Rent"** has the meaning ascribed to it in Subsection 4.01(a).
- (x) **"Rental Year"** means a period of time for the purposes of notice, reporting, calculation of rent and other matters pursuant to this Lease, the first Rental Year commencing on the Date of Commencement and ending on the last day of December immediately following. Each Rental Year thereafter shall consist of consecutive periods of Twelve (12) calendar months, except for the last Rental Year of the Term which shall terminate on the expiration or earlier termination of this Lease.
- (y) **"Replacement Cost"** means the cost of repairing, replacing or reinstating any item of property with new materials of like kind and quality on the same or a similar site without deduction for physical, accounting or any other depreciation and includes, without limitation, the full coverage for loss resulting from the enforcement of by-laws as if the by-law or statute pursuant to which the by-law was passed are applicable to the Landlord.
- (z) **"Security Interest"** has the meaning ascribed to it in Section 11.04.
- (aa) **"Service Quality Courses"** has the meaning ascribed to such term in Section 13.02(b).
- (bb) **"Tenant"** or other words relative thereto, or of like import, shall mean and include, irrespective of gender or number, the party or parties designated or described in item number 1 of the Term Sheet and their or any of their executors, administrators, successors or permitted assigns.
- (cc) **"Tenant's Operational Proposal"** means the Tenant's proposal to operate the Retail Concession provided to the Landlord pursuant to the RFEI and attached to the Lease as Schedule "B".
- (dd) **"Term"** has the meaning ascribed to it in Section 3.01.
- (ee) **"Term Sheet"** means the term sheet to which this Lease is attached.
- (ff) **"Trade Fixtures"** means the unattached or attached and easily removable chattels, equipment, furnishings, exclusive of Leasehold Improvements, and personal property installed during the Term in, on the Premises, for the sole purpose of enabling the Tenant to carry on its business in the Premises, including, any signs or other property identifying the Tenant or identifying others which the Tenant is entitled to identify. For greater certainty, "Trade Fixtures" shall not include any inventory of the Tenant.
- (gg) **"Vending Concession"** means the retail operations of the Tenant conducted on or from the Premises as contemplated by this Lease.

ARTICLE 2 - PURPOSE

2.01 Use of Premises

The Premises shall be used for the purposes set out as item number 6 on the Term Sheet and for no other purpose or purposes whatsoever, unless otherwise specified herein. No material changes may be made to the use of the Premises without the prior written approval of the Landlord. The Premises shall not be used or occupied for any purpose which is incompatible with the management, operation and maintenance of the Airport and any purposes other than a permitted use as set out in the Land Use Plan.

2.02 Compliance with Laws, Policies, Rules, Etc.

- (a) The Tenant shall strictly comply with all, and shall not permit nor suffer any person to breach any, applicable:
 - (i) federal and provincial legislation and regulations;
 - (ii) municipal bylaws;
 - (iii) NAV CANADA policies, guidelines, standards, and rules;
 - (iv) the Landlord's policies, guidelines, standards, and rules;
 - (v) local police, health, and fire regulations and bylaws; and
 - (vi) any other governing body's policies, guidelines, standards, and rules.
- (b) Without limiting the generality of Subsection (a) above, the Tenant shall strictly comply with:
 - (i) *Occupational Health and Safety Act* (Newfoundland) and regulations thereunder;
 - (ii) *Workplace Health, Safety and Compensation Act* (Newfoundland) and regulations thereunder;
 - (iii) *Transportation of Dangerous Goods Act/ Dangerous Goods Transportation Act* (Canada and Newfoundland); and
 - (iv) Workplace Hazardous Materials Information System (WHMIS).
- (c) The Tenant shall deliver forthwith to the Landlord a copy of any written notice of non-compliance by the Tenant with any applicable law received by the Tenant. In addition, the Tenant shall deliver forthwith to the Landlord a copy of any written notice of non-compliance by the Tenant with anything contemplated in Subsections (a) and (b) above received by the Tenant.
- (d) The Tenant shall promptly commence to remedy such non-compliance forthwith upon receipt of notice and thereafter with due diligence continuously prosecute the remedying of the non-compliance to completion within a reasonable period of time.

2.03 Airport Security

The Tenant acknowledges that the security obligations of the Landlord and the Tenant are established and governed by the *Aeronautics Act*, R.S.C. 1985, c. A-2, any regulations promulgated thereunder, and the Canadian Aviation Security Regulations. The Tenant shall comply with such Act and Regulations and with the Landlord's security measures as provided in the rules and regulations established by the Landlord from time to time, including, but not limited to, those relating to restricted area passes, personnel identification systems and security clearance procedures, and shall pay to the Landlord, on demand, all charges levied by the Landlord for those security measures. The Tenant shall comply with all requirements for security screening of employees and goods as established by applicable government agencies, including, without limitation, the Canadian Border Services Agency ("CBSA") and Canadian Air Transportation Security Authority ("CATSA"), as may be amended and replace from time to time. Tenants shall be responsible for any associated costs with compliance with such requirements.

2.04 "As Is" Condition

The Tenant acknowledges that it has or will have inspected and is familiar with the physical attributes and the condition of the Premises as at the Date of Commencement, including the construction and services provided by the Landlord, and that neither the Landlord nor any person for whom the Landlord might be responsible in law has made any representations or warranties of any kind relating to the physical condition of the Premises, utilities, services or the development of the whole or any part of the Premises except those expressly set out in this Lease, including in the Airport Tenant Design Manual. The Tenant accepts the Premises in an "as is" condition, Additional Rights of the Landlord.

2.05 Reasonable Use

The Tenant shall not, during the currency of this Lease, do, suffer nor permit to be done any act or thing which may impair, damage or injure the Airport or any part thereof and shall, at the expense of the Tenant, repair and renew in a good, sufficient and workmanlike manner all portions of the Airport which may at any time by the Tenant its employees, invitees, permitted subtenants, permitted licensees and others over whom the Tenant can reasonably be expected to exercise control, be damaged (ordinary wear and tear on the Premises only excepted) and in the event of the failure on the part of the Tenant to so repair and renew, the Tenant shall indemnify and save harmless the Landlord from all damages, costs and expenses suffered or incurred by the Landlord by reason of such impairment, damage or injury to the extent the Tenant is liable for the same in law, such payment to be made forthwith upon receipt of appropriate accounts therefor.

2.06 Nuisance

- (a) The Tenant shall not do or omit, or permit to be done or omitted, anything which could damage the Airport or injure or impede the business or operations of the Landlord or of other tenants on the Airport or which might result in any nuisance in or about the Premises or the Airport, whether to the Landlord, any tenant of the Landlord or any other party, as determined by the Landlord, acting reasonably. The Tenant shall keep the Premises free of debris and anything of a dangerous, noxious or offensive nature or which would create a

fire hazard (through undue load on electrical circuits or otherwise) or undue vibration, heat or noise.

- (b) In any of the foregoing events, the Tenant shall forthwith remedy the same and if such thing or condition shall not be so remedied within the period set out in Section 11.01, the Landlord may correct such situation at the expense of the Tenant and the Tenant shall pay such expense, together with an administration fee of fifteen percent (15%) of such expense to the Landlord, on demand, as Additional Rent.

2.07 Compliance with the Landlord's Regulations, Directives, Rules and Policies

- (a) The Tenant shall abide by and comply with all regulations and directives regarding traffic control, airport security, sanitation and all other regulations and directives relative to the management and operation of the Airport.
- (b) The Tenant shall abide by and comply with all the Landlord's policies and other amendments and changes therein as may hereafter be made by the Landlord and notified to the Tenant in writing.
- (c) The Tenant shall observe and cause its employees, invitees, permitted subtenants, permitted licensees and others over whom the Tenant can reasonably be expected to exercise control, to observe the rules and regulations attached hereto as Schedule "A", and such further and other reasonable rules, regulations, amendments and changes therein as may hereafter be made by the Landlord and notified to the Tenant in writing.

ARTICLE 3 – TERM

3.01 Length of Term

The term of the Lease is the length of time as set out in item number 3 of the Term Sheet (the "**Term**").

3.02 Cancellation

This Lease may be terminated at any time:

- (a) By the Landlord by thirty (30) days notice in writing signed on behalf of the President and CEO, or his representative.

OR

By the Tenant by thirty (30) days notice in writing.

3.03 Overholding Tenancy

It is hereby agreed by and between the parties hereto that if the Tenant shall hold over after the expiration of the Term hereby granted, the new tenancy thereby created shall be a tenancy from month to month, and the Tenant shall be subject to the covenants and conditions herein contained so far as the same are applicable to a tenancy from month to month and shall continue to pay Rent on a month to month basis, as may be designated by the Landlord, which Rent shall not be less than that being paid by the Tenant immediately prior to the expiration or termination of the Term.

3.04 Surrender of Premises

At the expiration or sooner determination of the Term of this Lease, the Tenant shall peaceably surrender and yield to the Landlord, in a condition satisfactory to the Landlord, subject to ordinary wear and tear, the Premises. The Tenant shall thereupon forthwith, if so directed and to the extent directed by the Landlord at any time, remove from the Premises all chattels, goods, supplies, articles, equipment, materials, effects, Trade Fixtures or things and shall also, to the satisfaction of the Landlord, repair all and every damage and injury occasioned to the Premises by reason of such removal or in the performance thereof, but the Tenant shall not, by reason of any action taken or things performed or required under this clause, be entitled to any compensation whatsoever.

ARTICLE 4 - RENT

4.01 Rent

- (a) Starting on the Date of Commencement, for each Rental Year of the Lease, the Tenant shall pay to the Landlord annual rent ("**Rent**") equal to the greater of the Percentage Rent set out in item number 5 of the Term Sheet for such Rental Year of the annual Gross Revenue of the Tenant for such Rental Year.
- (b) The monthly installment of Rent shall be paid in arrears on the fifteenth (15th) day of every month throughout the Term after the preceding month and delivery of the Statement set out in Subsection 4.05(b).
- (c) The Tenant shall pay rent to the Landlord without prior demand at the following:

St. John's International Airport Authority
100 World Parkway
St. John's NL A1A 5T2

Attention: Accounts Receivable

or to any other address the Landlord may direct by written notice to the Tenant.

4.02 Payment of Rent

All payments by the Tenant to the Landlord of whatsoever nature required or contemplated by this Lease shall be:

- (a) paid to the Landlord by the Tenant in lawful currency of Canada;
- (b) made when due hereunder, without prior demand therefor and without any set-off, compensation or deduction whatsoever, at the office of the Landlord at the Airport or such other place as the Landlord may designate from time to time in writing to the Tenant;
- (c) applied towards amounts then outstanding hereunder, in such manner as the Landlord may see fit; and
- (d) subject to interest at the Interest Rate if any such payment is not made when due, which shall be Additional Rent payable with the next monthly installment of Rent, all without prejudice to any other right or remedy of the Landlord.

4.03 Interest

Without waiving any other right of action of the Landlord in the event of default of payment of rent hereunder, in the event that the Tenant is delinquent after the date appointed in making the payments required hereunder, the Tenant shall pay interest thereon at the rate of eighteen per cent (18%) per annum.

4.04 Percentage Rent

The Tenant shall remit to the Landlord in accordance with the provisions hereof the Percentage Rent derived by the Tenant from its operations hereunder, whether such revenue is actually paid or due and payable only, and notwithstanding any loss sustained by the Tenant with respect to Gross Revenue as a result of theft, defalcation or from any other cause whatsoever.

4.05 Financial Statements

- (a) During the currency of this Lease, the Tenant shall keep, or cause to be kept, records of Gross Revenue and expenses prepared in accordance with generally accepted accounting principles in respect of all activities on the Premises.
- (b) On or before the twelfth (12th) day of each month of the Lease, the Tenant shall supply to the Landlord an itemized statement of Gross Revenue prepared in accordance with generally accepted accounting principles for the preceding month, signed by a responsible, authorized signing officer of the Tenant, upon which the Percentage Rent payments under this Lease shall be calculated, broken down by major product and service categories for each outlet.

- (c) The Tenant shall also provide such financial statements as may be requested by the Landlord acting reasonably from time to time.

4.06 Audit and Inspection

The books of the Tenant shall be open for audit and inspection and for taking extracts therefrom at all times, during business hours, by a representative of the Landlord. The Tenant shall prepare and keep adequate books and records which shall show transactions by the Tenant. The cost of any audit performed pursuant to this Section shall be borne by the Landlord, provided, however, that should the result of such audits reveal a discrepancy of more than two per cent (2%) between the annual Gross Revenue reported in accordance with Section 4.05 and the gross revenue as determined by such audits, then the full cost of such audits including an additional charge for administration and overhead as determined by the Landlord shall be borne by the Tenant.

4.07 Permitted Disclosure of Information

The Landlord is and shall be permitted at any time and for any purpose, to compile, publish or otherwise distribute information relating to commercial activities at the Airport, including rents received by the Landlord or volume of retail sales generated at the Airport or within areas of the Airport, and, for the purpose of compiling, publishing or distributing such information, use information derived by the Landlord from any financial statements prepared by the Tenant pursuant to Section 4.05;

4.08 Additional Tenant's Records

- (a) The Tenant shall keep or cause to be kept in the metropolitan area of St. John's for the period mentioned below, copies of detailed financial and other business records and documents concerning the business operation on the Premises. Originals will be made available at the reasonable request of the Landlord. Such records shall include, but shall not be limited to those which would normally be examined and required by the Tenant's auditor in such auditor's audit of the annual financial statements of the Tenant.
- (b) All other details records and documents for each Rental Year of the whole Term shall be preserved for a period of at least seventy two (72) months after the end of such Rental Year.

4.09 Additional Rent

- (a) And further yielding and paying to the Landlord, yearly and every year during the Term as additional rent (the "**Additional Rent**"), for each Rental Year or portion thereof, the aggregate of either:
 - (i) any administrative fees charged by the Landlord; and
 - (ii) any other sums of money required to be paid by the Tenant under this Lease, save and except only rent.

4.10 Payment of Taxes

The Tenant shall pay any business tax, value added tax, multi-stage sales tax, sales tax, goods and services tax, or any other tax lawfully imposed on any rent receivable by the Landlord hereunder or in any way related to the Premises, the improvements thereon, the business conducted on the Premises, or in any way related to the Tenant's occupation thereof, or use of the Premises, by any governmental or other taxing authority having jurisdiction, whether known as business transfer tax, value added tax, goods and services tax, or by any other name.

ARTICLE 5 – QUIET ENJOYMENT

5.01 Quiet Enjoyment

The Landlord covenants that it has authority to lease the Premises and that so long as the Tenant complies with and performs its obligations under this Lease, it shall quietly enjoy the Premises without hindrance or molestation by the Landlord or any other person claiming through or under the Landlord, subject to the terms and conditions hereinafter contained.

5.02 Access

- (a) The Landlord or a representative of the Landlord shall have full and free access for inspection purposes to any and every part of the Premises;
- (b) Subject to the terms of this Lease, the Tenant shall have quiet possession of the Premises, and the right of ingress and egress over the Airport roadways subject to rules and regulations as may be established by the Landlord respecting such use.

5.03 Delivery and Transportation of Merchandise and Supplies

- (a) The Landlord shall provide the Tenant with access to a groundside loading dock attached to the Air Terminal Building for the receiving and subsequent distribution of goods to storage areas and concession locations in the Air Terminal Building.
- (b) The Tenant shall arrange for the timely delivery of all retail goods, supplies, merchandise and other items necessary for Tenant's operations authorized under this Lease at such times, in such location and in a manner satisfactory to the Landlord. The Landlord may issue to the Tenant terminal delivery procedures that best allow for the safe movement of delivery vehicles at the Airport.
- (c) The Landlord may issue schedules of acceptable delivery times, locations, and points of access, and vehicle size restrictions by written notice to the Tenant, which the Landlord may amend from time to time, which the Tenant shall comply except with the Landlord's prior written consent.

- (d) The Tenant shall be responsible for complying with all CATSA, or such similar replacement agency, requirements for security screening in relation to all goods, supplies, merchandise and other items necessary for Tenant's operations authorized under this Lease and shall be responsible for any costs associated with such compliance.
- (e) The Tenant shall ensure that all retail goods, supplies, merchandise and other items necessary for Tenant's operations authorized under this Lease that are being transported to and from storage and the Premises within the Air Terminal Building are handled with care and do not interfere with the traveling public and normal airline terminal operations. All such goods, supplies, merchandise and other items should be packaged within containers that prevent damage or leakage during transportation and that enable x-ray inspection if required.
- (f) In transporting such retail goods, supplies, merchandise and other items necessary for Tenant's operations authorized under this Lease, the Tenant shall use only those delivery and receiving routes established by the Landlord. If delivery and receiving routes are carpeted, any carts used must be equipped with wheels suitable for operating on carpets without causing damage to them. The Tenant may only transport retail goods, supplies, merchandise and other items necessary for Tenant's operations authorized under this Lease in those service or public elevators designated for delivery. Under no circumstances may deliveries be taken onto the escalators. The Tenant must always refrain from transporting operating materials, such as office supplies, inventory, merchandise, recyclables, and trash through the public common areas of the Airport whenever service and delivery corridors are available.
- (g) The Landlord reserves the right to further regulate the delivery and servicing activities of the Tenant and its suppliers to the Airport and the Premises and the Tenant agrees to abide by such further regulations of the Landlord.

ARTICLE 6 – INTERFERENCE WITH AIRPORT OPERATIONS

6.01 Prohibited Works

- (a) The Tenant shall not:
 - (i) conduct any operation;
 - (ii) erect or construct any building Improvement or Trade Fixture;
 - (iii) make any addition to any Improvement or Trade Fixture;
 - (iv) install any facility or equipment in, over or upon the Premises or any part thereof; or
 - (v) do anything else which will, in any manner:
 - (i) interfere with any electronic signal from any air navigation facility;
 - (ii) cause physical or electronic interference or hazard to the navigation of any aircraft;

- (iii) obstruct the line of sight from the air traffic control tower or the flight service station to any part of the Airport and its approaches over which the air traffic control tower or the flight service station has the responsibility for the control or advice related to aircraft and vehicle movements;
- (iv) violate any physical or other zoning requirements;
- (v) violate any safety-related standards, procedures, standards or recommended practices affecting aircraft safety or airport certification; or
- (vi) adversely affect any air navigation facility or any electrical power system.

6.02 Notice of Interference

Upon receipt of a notice from the Landlord of any such interference, obstruction, hazard, violation or effect, the Tenant shall, at its own expense, immediately take all steps necessary to cease any activity causing any such interference, obstruction or hazard, to remove any interference, obstruction or hazard contemplated in Section 6.01 or to rectify any violation to Section 6.01 to the satisfaction of the Landlord. Without limiting the generality of the foregoing, such steps may include, but shall not be limited to, discontinuance or modification of operations of the Tenant, and removal, rebuilding or repair of buildings, structures, improvements, facilities or equipment of the Tenant.

6.03 Landlord's Right to Rectify

With respect to any such Improvement or Trade Fixtures causing any such interference, obstruction or hazard, in the event the Tenant fails to forthwith remove any such interference, obstruction or hazard in addition to any other remedies the Landlord may have pursuant to this Lease, the Landlord may enter the Premises and remove the Improvement or Trade Fixtures causing any such interference, obstruction or hazard at the Tenant's expense. No such entry for such purpose shall be deemed to be a forfeiture or termination of this Lease and the Tenant shall permit such entry. The Tenant shall forthwith reimburse the Landlord for all expenses it has incurred in entering the Premises and removing the Improvement or Trade Fixtures causing any such interference, obstructions or hazard together with an administration fee of fifteen percent (15%) of such costs.

ARTICLE 7 - REPAIR

7.01 Vesting of Repairs, Alterations, Improvements or Replacements

- (a) The Tenant shall, at the Tenant's sole cost, repair, maintain and keep in good working order, as a prudent owner would, all Improvements, equipment and systems on the Premises.
- (b) The Tenant shall carry out its responsibilities under Subsection (a) above in accordance with any policy, guideline or rule of the Landlord that may be in full force and effect at any given time during the Term of this Lease. It is the sole responsibility of the Tenant to become familiar with and follow any policy, guideline or rule of the Landlord that may be applicable to the maintenance and repair of the Premises and Improvements and any part thereof.

- (c) If, at any time during the Term, the Tenant fails to maintain or repair the Premises or Improvements, as a prudent owner would, or is not proceeding diligently to maintain or repair the Premises or Improvements according to the terms and conditions of this Lease and upon notice from the Landlord within fourteen (14) days of receipt thereof, or forthwith in the event of an emergency, the Landlord may perform such maintenance or make such repairs without liability to the Tenant for any loss or damage that may occur to the Tenant's merchandise, fixtures or other property, or to the Tenant's business by reason thereof unless such loss or damage is caused by the negligence of the Landlord, its agents, employees, contractors or those for whom it is in law responsible, and upon completion thereof, the Tenant shall pay, on demand, as Additional Rent, the Landlord's costs of making such repairs together with an administration fee of fifteen percent (15%) of such costs. It is expressly understood and agreed that the Landlord shall not be under any obligation to perform any maintenance or repairs during the Term of this Lease.

7.02 Repair of Damage

- (a) If, at any time or times hereafter, any damage or injury (reasonable wear and tear only excepted) should be occasioned to the Premises or the Improvements or any part thereof, or to any works of the Landlord on the Airport by reason of or on account of the operations of the Tenant hereunder or any action taken or things done or maintained by virtue thereof, then, and in every such case, the Tenant shall, at the Tenant's sole cost and within a reasonable time upon notice thereof from the Landlord given in writing, repair, rebuild and restore the same in good, sufficient and workmanlike manner. If the Tenant fails to repair or is not proceeding diligently to repair, rebuild and restore according to the terms and conditions of this Lease and upon notice from the Landlord within fourteen (14) days of receipt thereof, or forthwith in the event of an emergency, the Landlord may make such repairs without liability to the Tenant for any loss or damage that may occur to the Tenant's fixtures or other property, or to the Tenant's business by reason thereof, and upon completion thereof, the Tenant shall pay, on demand, as Additional Rent, the Landlord's costs of making such repairs together with an administration fee of fifteen percent (15%) of such costs. In the event of failure on the part of the Tenant to repair, rebuild and restore according to the terms and conditions of this Lease and in the event of non-repair by the Landlord, the Tenant shall remain liable to the Landlord for the amount of the damage or injury to the extent the Tenant is liable therefor in law and payment of such amount shall be made by the Tenant to the Landlord forthwith, upon receipt by the Tenant of appropriate accounts therefor from the Landlord.
- (b) The Tenant shall keep the Premises in good and substantial repair and in good working order, including all fixtures and erections (including, without limiting the generality of the foregoing, security doors and store front doors) which are now or which at any time during the Term are erected thereon.

7.03 Notice of Damage

As soon as the Tenant becomes aware of any damage to or deficiency or defect in any part of the Premises or the Building, whether or not the Tenant has any obligation to repair the same, the Tenant shall promptly notify the Landlord of such damage, deficiency or defect.

7.04 Fire Prevention

The Tenant shall, at the expense of the Tenant, take all precautions to prevent fire from occurring in or about the Premises and shall observe and comply with all laws and regulations in force respecting fires at the Airport, and with all instructions given from time to time by the Landlord with respect to fires and extinguishing of fires.

7.05 Inspection by Landlord

The Landlord or a representative of the Landlord shall have full and free access for inspection purposes to any and every part of the Premises and Improvements.

7.06 Destruction of Premises

- (a) In the event the Premises are damaged by a peril against which the Landlord has insured, but are not thereby rendered unusable to the Tenant, in whole or in part, the Landlord will promptly, at the Landlord's expense and to the extent that the Landlord's insurance shall cover the costs for same, cause the damage to be repaired. In this event, there shall be no abatement of rent or other sums payable by the Tenant.
- (b) In the event the Premises are damaged by a peril against which the Landlord has insured, and are thereby rendered unusable by the Tenant in part, the Landlord will, at its expense and to the extent that the Landlord's insurance shall cover the costs for same, cause the damage to be repaired. In this event, the annual rent (except for Additional Rent) shall abate proportionately as to the portion of the Premises rendered unusable until such time as the Premises have been rendered wholly usable. The determination as to the extent to which the Premises are unusable and the determination as to when the Premises have been made wholly usable shall be made by a qualified architect retained by the Landlord, and that architect's finding shall be conclusive and finally binding on the Landlord and the Tenant.
- (c) In the event the Premises are damaged by a peril against which the Landlord has insured, and are thereby rendered wholly unusable by the Tenant, the Landlord may:
 - (i) cause the damage to be repaired at the expense of the Landlord to the extent that the Landlord's insurance shall cover the costs for same, in which case the rent (except for Additional Rent) will abate in their entirety until the Premises have been made wholly usable. The determination as to whether the Premises are wholly unusable and the determination as to when the Premises have been made wholly usable shall be made by a qualified

architect retained by the Landlord, and that architect's findings shall be conclusive and finally binding on the Landlord and the Tenant; or

- (ii) within sixty (60) days from the date of the damage, give the Tenant thirty (30) days' notice in writing that the Landlord has elected not to repair or reconstruct the Premises, whereupon this Lease will cease and determine as of the date thereof, and all rent and other charges will be adjusted between the parties as of that date.

ARTICLE 8 - LEASEHOLD IMPROVEMENTS

8.01 Erection and Maintenance of Leasehold Improvements

- (a) The Tenant shall not make, or cause to be made, any alterations, additions or Improvements or erect, or cause to be erected any Leasehold Improvements or Trade Fixtures on the Premises or Support Space without first obtaining the written approval of the Landlord or its representative, of plans showing the design and nature of construction of such Leasehold Improvements and Trade Fixtures and their proposed location, and all such Leasehold Improvements and Trade Fixtures (including appropriate utility metering) shall be constructed and thereafter maintained by and at the expense of the Tenant to the satisfaction of the Landlord.
- (b) The Tenant shall not make any alterations to the Premises, Support Space or facilities or services connected therewith or add any facilities or services, prior to receiving an approved "Facility Alteration Permit", duly executed by or on behalf of the Landlord. Upon receipt of the approved "Facility Alteration Permit", the Tenant agrees to make the alterations at the Tenant's cost, in accordance with the requirements, terms and conditions specified in the "Facility Alteration Permit", and thereafter maintain the said alterations at the cost of the Tenant and to the satisfaction of the Landlord.

8.02 Cleaning and Maintenance

The Premises, and everything in and about them, shall in all respects be kept clean, neat and in good condition, in accordance with all the Landlord, Federal, Provincial and Municipal health, fire and police standards, codes or regulations, all to the satisfaction of the Landlord, it being expressly understood that the Landlord reserves the right to rule upon the cleaning methods and quality of the cleaning supplies.

8.03 Furniture, Fixtures and Equipment

The Tenant shall provide, install and maintain in the Premises, such new fixtures, furnishings and equipment required for purposes in connection with the operation conducted in the Premises pursuant to this Lease and the Tenant shall also provide replacement of equipment, all at the cost and expense of the Tenant and to the satisfaction of the Landlord; provided, however that the Tenant shall submit to the Landlord plans and specifications for approval prior to the purchase and installation thereof.

8.04 Landlord's Right to Relocate the Tenant

- (a) The Tenant agrees that the Air Terminal Building is at all times subject to the exclusive control, maintenance, management and operation of the Landlord. Without limiting the generality of the foregoing, the Landlord has the sole and exclusive right from time to time to:
 - (i) change the area, level, location, arrangement or use of any part of the Air Terminal Building;
 - (ii) make alterations, changes, additions, deletions and improvements in and to, subtractions from, rearrangements of the Air Terminal Building or any portion thereof; and
 - (iii) relocate, rearrange or alter the various buildings, structures, leasable premises and common facilities of the Air Terminal Building.
- (b) In order to facilitate the Landlord's exercise of its rights under Subsection (a) hereof, the Tenant agrees that the Landlord shall have the right at any time and from time to time, to require the Tenant to relocate any of the Tenant's locations comprising the Premises to other space of more or less comparable size in the Air Terminal Building as designated by the Landlord, and the Tenant shall complete its relocation within the aforesaid notice period.

8.05 Tenant not to Overload Facilities

The Tenant shall not install any equipment which will exceed or overload the capacity of any utility, electrical or mechanical facilities in the Premises and the Tenant will not bring into the Premises or install any utility, electrical or mechanical facility or service of which the Landlord does not approve. The Tenant agrees that if any equipment installed by the Tenant requires additional utility, electrical, or mechanical facilities, the Landlord may, in its sole discretion, if they are available (and if the Tenant at its expense has obtained the prior written consent of all governmental authorities having jurisdiction thereover), elect to install them at the Tenant's expense in accordance with plans and specifications prepared by the Tenant at the Tenant's expense to be approved in advance by the Landlord, acting reasonably. The Tenant shall pay to the Landlord a sum equal to fifteen (15%) percent of such costs representing the Landlord's overhead, which shall be paid by the Tenant to the Landlord as Additional Rent upon demand.

8.06 Tenant not to Overload Floors

The Tenant shall not bring upon the Premises or any part thereof any machinery, equipment, article or thing, that by reason of its weight, size or use, might in the opinion of the Landlord damage the Premises and shall not at any time overload the floors of the Premises. If any damage is caused to the Premises by any machinery, equipment, object or thing or by overloading, or by any act, omission, negligence, fault, neglect or misuse on the part of the Tenant, or any of its servants, agents or employees, or any third party having business with the Tenant, or any person for whom the Tenant is in law responsible, the Tenant will forthwith repair such damage or, at the option of the Landlord, pay the Landlord the cost of repairing such damage, plus a sum equal to fifteen (15%) percent of such costs representing the Landlord's overhead as Additional Rent upon demand.

8.07 Pattern of Passenger Traffic

The Landlord shall have the unfettered right from time to time during the Term hereof, to renovate, refurbish and modernize the Air Terminal Building, in whole and in part, in a manner consistent with the management and operation of a first class airport. The Landlord does not guarantee that the present pattern of passenger traffic adjacent to the Premises, or any future pattern thereof, will be permanent for all or any portion of the Term. The Tenant hereby acknowledges and agrees that it shall have no claim whatsoever against the Landlord for any of the foregoing changes for any reason.

ARTICLE 9 – ASSIGNMENT

The Tenant shall not transfer, mortgage, or encumber any interest in this Lease or assign this Lease or sublet the whole or any part of the Premises or part with possession of the Premises or any part thereof.

ARTICLE 10 – LIABILITY, RELEASE AND INDEMNITY

10.01 Definitions

In this Article the following terms shall have the following meanings:

- (a) **“Claims”** means any Claims, losses, suits, proceedings, actions, causes of action, demands, judgments, executions, liabilities, and responsibilities for any Damages and for any Injuries;
- (b) **“Costs”** means all expenses, losses, charges and payments relating to an event and including any professional, consultant and legal fees (on a “solicitor and own client/full indemnity” basis) or professionals and consultants retained by a party;
- (c) **“Damages”** means any loss, cost or damage including, but not limited to direct, indirect, incidental, exemplary, consequential or otherwise, loss of profits or revenue, interference with business operations, loss of tenants, lenders, investors or buyers, diminution in value of the Premises or any part thereof, inability to use any part of the Premises and Costs; and
- (d) **“Injury”** means any personal injury, bodily injury including death resulting therefrom and whether the death occurs before or after the end of the Term.

10.02 Landlord Not Responsible

The Tenant acknowledges and agrees that the Landlord shall not be liable or responsible for any Injury to any person or for the loss of or damage to any property of the Tenant or any other person in respect of any occurrence on or after the Date of Commencement, including, without limitation:

- (a) any loss of or damage to any property (including loss of use thereof) of the Tenant or of any other person;

- (i) from any cause whatsoever if such property is located in or on the Premises or any part thereof; and
- (ii) if such loss or damage is caused by or results from any use of or any operation, occurrence or omission on the Premises, if such property is not located on the Premises,
- (b) any loss or damage suffered to the Premises or the contents thereof;
- (c) any damage, loss of profits and consequential damages caused or contributed to by reason of the condition of or any interruption or failure in any utility or service;
- (d) any Injury, loss or damage insured against or required to be insured against by the Tenant arising from any act or omission in, upon, or relating to the Premises or any part thereof or from the ownership, occupancy or use of the Premises in any such case whether or not any such Injury, loss or damage results from any fault, default, negligence, act or omission of the Landlord, or the agent, servant, employee, contractor or any other person for whom either the Landlord is in law responsible. The Tenant hereby expressly assumes these obligations, agrees to indemnify and hold the Landlord harmless and releases the Landlord with respect thereto.

10.03 Release and Indemnity

The Tenant hereby expressly releases the Landlord from any Claims whatsoever which the Tenant would be entitled to advance but for this release, and covenants and agrees to indemnify and hold the Landlord harmless from and against any Claims whatsoever advanced by any person for any Injury and Damages of any nature whatsoever which is caused, results, or arises from or is contributed by reason of:

- (a) the ownership, occupancy or use of the Premises including any Claims resulting from occupiers liability;
- (b) any act by or on behalf of the Landlord as landlord pursuant to this Lease;
- (c) any inability to develop any part of the Premises for any reason whatsoever;
- (d) the condition of the Premises or any part thereof;
- (e) the condition of or any interruption, cessation, unavailability or failure in the supply of any utility, service, or system;
- (f) the assessment or imposition of any charge or fee by or on behalf of the Landlord;
- (g) any act or omission by or on behalf of the Landlord in curing or attempting to cure any default of the Tenant under this Lease;
- (h) any lawful entry by or on behalf of the Landlord and any lawful act or omission by or on behalf of the Landlord in exercising any of the Landlord's rights or remedies;
- (i) any lawful entry by or on behalf of the Landlord and any lawful act or omission by or on behalf of the Landlord in entering the Premises or any part thereof;

- (j) any act or omission by or on behalf of the Landlord in remedying any condition giving rise to a cancellation, threatened cancellation or of reduction in coverage in any policy of insurance;
- (k) the Landlord having withheld consent or approval in any case requiring the Landlord's consent or approval for which the Landlord originally withheld consent or approval and subsequently gives its consent or approval, or for which a court of competent jurisdiction determines that such consent or approval should have been given;
- (l) any notice, short notice, failure to give a required notice, lack of notice by the Landlord and any act or omission relating in each case to the curing of a default under this Lease;
- (m) the removal of any building structure or work causing any interference, obstruction or hazard; and
- (n) any Claim for any Injury, or any loss or damage of the nature referred to in Section 10.02 or property damage,

however so caused respecting the Premises and whether such Injury or Damage is caused or contributed to by any fault, default, negligence, act or omission of the Landlord .

10.04 Limitation on Application of Sections 11.02 and 11.03

Notwithstanding Sections 10.02 and 10.03, the Tenant's releases and agreement to indemnify and hold harmless thereunder shall not apply with respect to any Injury or Damage to the extent that such Injury or Damage is:

- (a) caused by or results from the sole negligent act or sole omission by the Landlord or any other person for whom the Landlord is responsible in law; and
- (b) excluded from or in excess of the liability insurance coverage (including the deductible) required to be carried by the Tenant under ARTICLE 12 at the time of such negligent act or omission.

10.05 Obligations Survive Termination

The obligations of the Tenant to indemnify and hold harmless the Landlord harmless with respect to liability by reason of any matter arising prior to the expiry or early termination of this Lease shall, notwithstanding any other provision of this Lease or any law now or hereafter in force, continue in full force and effect until discharged whether before or after the end of the Term.

10.06 Tenant to Defend Action

The Tenant shall, in any and every event in which the Landlord is made a party to any action, suit or proceeding in respect of a Claim to which the Tenant's obligation to indemnify and hold either the Landlord harmless under any provision of this Lease extends, if so requested by the Landlord, defend such action, suit or proceeding in the name of the Landlord and shall pay all Costs of the Landlord in connection with the

litigation; provided that the Tenant may, in any such event, elect to compromise, pay or satisfy any such action, suit or proceeding.

ARTICLE 11 - DEFAULT AND RE-ENTRY

11.01 Default and Re-Entry

- (a) It is expressly agreed that:
- (i) if the Tenant shall be in default in the payment of rent or amounts collectable hereunder as rent; or
 - (ii) if the Tenant shall be in default of any of its covenants or agreements hereunder and such default shall continue for a period of fifteen (15) days after notice by the Landlord to the Tenant specifying with reasonable particularity the nature of such default and requiring the same to be remedied; or
 - (iii) if the Tenant or any agent of the Tenant falsifies any report required to be furnished to the Landlord pursuant to this Lease; or
 - (iv) if the Tenant shall make an assignment for the benefit of creditors, or shall make an assignment or have a petition or a receiving order made against it under the *Bankruptcy and Insolvency Act* (Canada), or becoming bankrupt or insolvent shall make application for relief under the provisions of any statute now or hereafter in force concerning bankrupt or insolvent debtors, or any action whatsoever, legislative or otherwise shall be taken with a view to the winding-up, dissolution or liquidation of the Tenant; or
 - (v) if a receiver, interim receiver and manager, custodian or liquidator is appointed for the business, property, affairs or revenue of the Tenant; or
 - (vi) if the Tenant vacates or abandons or attempts to abandon the Premises; or
 - (vii) if the Tenant is in default of the terms, covenants or conditions of any Other Agreement to be observed and performed by it,

then the current month's rent shall immediately become due and payable, and at the option of the Landlord the remaining Term hereby granted shall become forfeited and void, and the Landlord may without notice or any form of legal process whatsoever forthwith repossess and enjoy the same as of its former estate, anything contained in any statute or law to the contrary notwithstanding.

- (b) If the Tenant fails to perform an obligation of the Tenant under this Lease, the Landlord may perform the obligation and for that purpose may enter upon the Premises to the Tenant or without notice in the case of an emergency, and do such things upon or in respect of the Premises as the Landlord considers necessary. The Tenant shall pay as additional rent all expenses incurred by or on behalf of the Landlord under this Subsection plus fifteen per cent (15%) for overhead upon presentation of a bill therefor. The Landlord shall not be liable to the Tenant for loss or damage resulting from such action by the Landlord unless caused by the sole negligence of the Landlord or another person for whose sole negligence the Landlord is responsible in law.

- (c) Forfeiture of this Lease by the Tenant shall be wholly without prejudice to the right of the Landlord to recover arrears of rent or damages for any previous breach of covenant on the part of the Tenant, and notwithstanding any such forfeiture the Landlord may subsequently recover from the Tenant damages for loss of rent suffered by reason of the Lease having been determined prior to the end of the Term and the rights hereunder shall survive the termination of this Lease whether by act of the parties or by operation of law.

11.02 Additional Rights on Re-Entry

If the Landlord shall terminate this Lease, then:

- (a) notwithstanding any such termination or the Term thereby becoming forfeited and void, the provisions of this Lease relating to the consequences of termination shall survive;
- (b) the Landlord may use such force as it may deem necessary for the purpose of gaining admittance to and retaking possession of the Premises and the Tenant hereby releases the Landlord from all actions, proceedings, claims and demands whatsoever for, or in respect of, any such forcible entry or any loss or damage in connection therewith or consequential thereupon;
- (c) the Landlord may re-let the Premises or any part thereof for a term or terms which may be less or greater than the balance of the Term and may grant reasonable concessions in connection therewith; and
- (d) the Tenant shall pay to the Landlord, on demand, such reasonable expenses as the Landlord may incur or has incurred in connection with the re-entering, terminating, re-letting, collecting sums due or payable by the Tenant, realizing upon assets seized including, without limitation, brokerage, legal fees and disbursements, and the expenses of keeping the Premises in good order, repairing the same and preparing them for re-letting.

11.03 Re-letting for Tenant's Account

Whenever the Landlord becomes entitled to re-enter upon the Premises under any provision of this Lease, the Landlord, in addition to all other rights it may have, shall have the right, as agent of the Tenant, to enter the Premises and re-let them and to receive the rent therefor and, as agent of the Tenant, to take possession of any furniture or other property therein and to sell the same at public or private sale without notice and to apply the proceeds thereof and any rent derived from re-letting the Premises upon account of all sums due and to become due to the Landlord under this Lease and the Tenant shall be liable to the Landlord for the deficiency, if any.

11.04 Security Interest

- (a) The Tenant hereby grants to the Landlord a continuing security interest ("**Security Interest**") in all the Tenant's present and after-acquired personal property and all proceeds therefrom, to secure the due and punctual payment of all rent, the fulfillment of the other obligations of the Tenant and the payment by the Tenant of any damages suffered by the Landlord as a result of the

Tenant's breach of any such obligations under this Lease. The Tenant agrees to enter into, on the Landlord's request, a separate security agreement, in addition to this security agreement, or to document separately the Security Interest hereby granted, containing such terms as the Landlord shall reasonably require. This security agreement is separate from and shall survive the termination, expiration or disclaimer of this Lease, until all obligations of the Tenant have been performed or satisfied.

- (b) The Tenant expressly agrees the Landlord is entitled to legal costs on a solicitor and own client (full indemnity) basis relative to the enforcement of the Security Interest granted by this Section. The Tenant expressly agrees the Landlord shall not be deemed to have terminated this Lease by exercising this Security Interest absent written notice terminating this Lease.
- (c) This Security Interest shall not be deemed to have been satisfied, discharged or redeemed by reason of the Tenant not being indebted to the Landlord at any time or from time to time and no payment shall reduce the amount secured by this Security Interest except to the extent expressly approved by the Landlord in writing.
- (d) This Security Interest is given in addition, and not as an alternative, and may be exercised by the Landlord without prejudice to any other rights of the Landlord under this Lease or at law including, without limitation, the Landlord's right of distress.
- (e) The Tenant expressly waives any right to receive a copy of any financing statement or similar document the Landlord may register in respect of this Lease or any agreement amending, supplementing or replacing it. The Tenant hereby acknowledges receipt of a signed copy of this Lease.

ARTICLE 12 - INSURANCE

12.01 Tenant's Insurance

- (a) The Tenant shall, during the whole of the Term and during such other time as the Tenant occupies the Land, take out and maintain the following insurance, in such form and with such companies as the Landlord may reasonably require:
 - (i) commercial general liability insurance against claims for bodily injury, including death and property damage or loss arising out of the use or occupation of the Premises, or the Tenant's business on or about the Land, and such insurance shall include the Landlord as an additional insured and shall contain a "cross liability" or "severability of interests" clause so that the Landlord and the Tenant may be insured in the same manner and to the same extent as if individual policies had been issued to each, and shall be for an amount of not less than Five Million (\$5,000,000.00) Dollars combined single limit or such other amount as may be reasonably required by the Landlord from time to time, and such commercial general liability insurance shall, for the Tenant's benefit only, include contractual liability

- insurance in a form and of a nature broad enough to insure the obligations imposed upon the Tenant under the terms of this Lease;
- (ii) all risks property insurance on all buildings and improvements constructed on the Premises including, without limitation, the Improvements, in an amount not less than the full replacement cost thereof; and
 - (iii) automobile insurance with respect to all motor vehicles owned or operated by the Tenant in an amount of not less than Two Million (\$2,000,000.00) Dollars.
- (b) The policies of insurance referred to above shall contain the following:
- (i) provisions that the Landlord is protected notwithstanding any act, negligence or misrepresentation of the Tenant which might otherwise result in the avoidance of a claim under such policies and that such policies shall not be affected or invalidated by any act, omission or negligence of any third party which is not within the knowledge or control of the Landlord;
 - (ii) provisions that such policies and the coverage evidenced thereby shall be primary and non-contributing with respect to any policies carried by the Landlord and that any coverage carried by the Landlord shall be excess coverage;
 - (iii) all property insurance referred to above shall include the Landlord and the Tenant as named insureds as their respective interests may appear, and shall provide for waivers of the insurer's rights of subrogation as against the Landlord and those for whom the Landlord is, in law, responsible; and
 - (iv) provisions that such policies shall not be amended or cancelled without the insurer providing the Landlord thirty (30) days' written notice stating when such amendment or cancellation shall be effective.
- (c) The Tenant shall further, during the whole of the Term, maintain such other insurance in such amounts and upon such terms as the Landlord may reasonably determine from time to time.
- (d) Evidence satisfactory to the Landlord of all such policies of insurance shall be provided to the Landlord upon each renewal or modification.

12.02 Deductibles

From the Date of Construction Occupancy and for the balance of the Term any liability policy and in any property damage policy (except for earthquake coverage) the deductible (if any), which in any event shall be for the account and at the risk of the Tenant, shall be no greater than the Maximum Insurance Deductible for each and every claim.

12.03 Liability Insurance

- (a) The Tenant shall at its expense purchase, provide and maintain commercial general liability insurance. The policy shall provide for a "Broad Named Insured" including the Landlord, and all directors, officers, servants, agents and employees of the foregoing, and shall specify employees as additional

insureds. The policy shall not contain an "airport exclusion" clause or a "pollution exclusion" clause. The policy shall contain a "severability of interest clause" and a "cross liability clause" and shall include coverage for property damage, bodily injury (including death) and personal injury arising out of the leasing, ownership, operation, maintenance and use of the Premises and shall include such coverage as required by the Landlord and, in addition, shall include as a minimum the Minimum Insurance Coverage.

- (b) The liability insurance policy shall provide for coverage in the following limits:
 - (i) a combined single limit of not less than the Minimum Insurance Amount per occurrence for bodily injury and property damage; and
 - (ii) a combined single limit of not less than the Minimum Insurance Amount per occurrence with respect to personal injury.
- (c) The liability insurance shall cover the Landlord and other persons required to be insured pursuant to Subsection (a) against any claims advanced against either of them for any injury or damage which is caused by or contributed to by any fault, default, negligence, act or omission of either of them, including any director, officer, servant, agent or employee of them, and any other person for whom they may be responsible in law, and any person who has a right to claim a right of contribution as against either of them.

12.04 Repair and Replacement

The proceeds of all property insurance claims of the Tenant shall, unless the Tenant and the Landlord agree otherwise, be applied firstly to the repair, replacement, reconstruction or restoration of the property damaged or destroyed on the part of the Premises where such damaged or destroyed property was located prior to such damage or destruction. Any such repairs, replacements, reconstruction or restoration shall be carried out so as to repair, replace, reconstruct or restore the property damaged or destroyed to the same condition as that in which the Tenant was required to maintain the same pursuant to this Lease immediately prior to the occurrence of such damage or destruction.

12.05 Minimum Insurance Coverage

Where a specific term or expression relating to insurance coverage is utilized, except where otherwise specifically mentioned, the Tenant shall be obliged to obtain insurance having, as a minimum coverage, that coverage presently provided by the specific insurance coverage referred to.

12.06 Coverage not Available

Notwithstanding anything contained in this Article or any other Section dealing with insurance, in the event that any specific obligation contained in this Article or such Section becomes obsolete or that insurance to meet such obligation is not available, then the Tenant shall obtain insurance providing for similar coverage which shall be satisfactory to the Landlord. In the event the Tenant is unable or unwilling to provide such other similar coverage, then the Landlord may obtain such other coverage and recover the cost thereof from the Tenant as Additional Rent. If no such similar coverage is available, then the

Tenant shall obtain a replacement for such coverage as required by the Landlord, acting reasonably. Until the replacement policy is put into effect, the Landlord may place such coverage as it deems advisable to protect its interest and recover the cost thereof from the Tenant as Additional Rent.

12.07 Other Insurance and Increased Limit

The Tenant shall, at its own expense, purchase, provide and maintain such additional insurance and such increased limits as may, from time to time, be requested by the Landlord, acting reasonably.

12.08 Acts of the Tenant

The Tenant covenants not to do anything, omit to do anything, or permit anything to be done, or omitted to be done, which will invalidate, adversely affect or limit any insurance policy referred to herein. The Tenant covenants to ensure that no occupant or transferee does anything, omits to do anything or permits anything to be done or omitted to be done which will invalidate, adversely affect or limit any insurance policy referred to herein.

12.09 Premiums

The Tenant shall, in accordance with the insurer's payment plan, duly and punctually pay all premiums and other sums of money payable for maintaining any insurance as aforesaid. If and so often as the Tenant neglects or omits to pay any premiums or other sums of money payable for maintaining any insurance, the Landlord may, but shall not be obliged to, pay the same, and the amount so paid together with interest thereon shall be payable by the Tenant to the Landlord and shall be recoverable by the Landlord as additional rent.

12.10 Evidence of Insurance

The Tenant shall, prior to its effective date, deliver to the Landlord certificates of insurance to evidence that any such policy is in full force and effect during the entire term of such policy, and shall provide to the Landlord evidence of renewal of such insurance. Delivery to and examination by the Landlord of any policy of insurance or certificate thereof or other evidence of insurance in no way shall relieve the Tenant of any of its obligations to insure in strict compliance with the provisions of this Article or other Sections of the Lease dealing with insurance, and in no way shall operate as a waiver by the Landlord of any of its rights.

12.11 Co-Insurance

All property policies of insurance and business loss insurance shall either not contain any co-insurance requirements or shall be written on a stated amount co-insurance basis only, with a stated amount satisfactory to the Landlord.

12.12 Approvals

- (a) All insurance shall be in terms, form and amounts from time to time approved by the Landlord.
- (b) All insurance shall be placed with insurers satisfactory to the Landlord.

- (c) Renewal of an approved policy without any change in terms and conditions or insurer need not be approved, provided the insurer executes a certificate certifying that:
 - (i) the previous policy identified by number has been renewed;
 - (ii) none of the terms and conditions of such policy have been altered or amended; and
 - (iii) the renewal policy provides coverage for all improvements for their Replacement Cost; and
 - (iv) the Tenant delivers an original copy of any such certificate to the Landlord's Manager, Corporate Risk and Insurance.

12.13 Extra Coverage

Nothing herein contained shall be construed so as to prevent the Tenant at its sole expense, from taking out insurance for greater amounts or against additional perils than may be required under this Lease.

12.14 Liabilities of the Tenant

The Tenant's liabilities and obligations shall not be restricted to any sums mentioned as minimums in any of the insurance clauses contained herein or by an approval of the Landlord and, furthermore, the unavailability of any insurance required herein or the approval by the Landlord of the terms, form or amount of any insurance or the approval of the Landlord of any insurer, or the waiver of any insurance requirement, shall not reduce or waive any of the Tenant's obligations to indemnify the Landlord as required by this Lease.

12.15 Landlord's Right to Insure

If any insurance policy (including any insurance placed by or on behalf of the Landlord with respect to the Airport or any portion thereof) shall be cancelled or shall be threatened by the insurer to be cancelled, refused to be renewed or the coverage thereunder reduced in any way by the insurer by reason of the use, occupation, operation or maintenance of the Premises or any part thereof by the Tenant or anyone permitted by the Tenant to be upon the Premises, and if the Tenant fails to remedy the condition giving rise to cancellation, threatened cancellation or reduction in coverage within forty-eight (48) hours after notice thereof from the insurer or if the Tenant is unable or unwilling to purchase, provide or maintain any insurance it is required to maintain in amounts, form, terms, and with an insurer approved by the Landlord, the Landlord, in addition to any other remedy, may, at its option:

- (a) enter upon the Premises and remedy the condition giving rise to such cancellation, threatened cancellation or reduction in coverage and the Tenant shall forthwith pay the costs thereof to the Landlord; and
- (b) without assuming any obligation in connection therewith and without prejudice to any other rights and remedies of the Landlord, effect such of the insurance at the sole cost of the Tenant, and all outlays and expenses incurred by the

Landlord shall be immediately paid by the Tenant to the Landlord as additional rent.

12.16 Right to Review and Amend Insurance Requirements

Notwithstanding anything contained in this ARTICLE 12, in the event that any specific obligation respecting insurance coverage contained in this ARTICLE 12, including, without limitation, specific insurance coverage, amounts, deductibles, exclusions or endorsements contained therein, become obsolete, unavailable or outdated (as reflected by current industry standards), upon written notice of the Landlord, the Tenant shall obtain provide, maintain and pay for any similar, amended or additional insurance coverage, amounts, deductibles, exclusions or endorsements as may specified by the Landlord in the notice. If no such similar, amended or additional replacement insurance coverage, amounts, deductibles, exclusions or endorsements as required by the Landlord under such notice are available, then the Tenant shall obtain, provide, maintain and pay for a replacement to such insurance coverage, amounts, deductibles, exclusions or endorsement which are acceptable to the Landlord, acting reasonably. Until such time as the Tenant can provide such replacement insurance coverage, amounts, deductibles, exclusions or endorsement, as applicable, the Landlord may place such insurance coverage as it deems advisable to protect its interest and may recover the cost thereof from the Tenant.

ARTICLE 13 - CONDUCT OF BUSINESS

13.01 Level of Services to be Provided by the Tenant

- (a) The Tenant shall continuously and actively operate and maintain the Vending Program and related services in a first class manner, and shall offer for sale Goods and Services of the type set out in Schedule "B" hereto and as may be authorized in writing by the Landlord of high quality and ensure and maintain a high standard of service, which quality and service shall be at least equivalent of that provided at the Comparable Outlets.
- (b) The Tenant shall at all times operate the program in a manner consistent with good business practice as would a reasonable and prudent owner and shall use its best efforts to generate optimum revenues.
- (c) The Tenant shall ensure that the vending machines are at all times adequately stocked to the satisfaction of the Landlord acting reasonably.
- (d) The Tenant agrees that if the Tenant fails to:
 - (i) adequately stock the vending machines as required by Subsection (a) hereof;
 - (ii) fails to maintain the vending machines,and if the Tenant shall have received from the Landlord two (2) written notices in respect of any such failures specifying with reasonable detail the nature of such failures, then, without prejudice to any other recourse of the Landlord provided for in this Lease, the Landlord shall be entitled to assess the Tenant, as Additional

Rent, an administrative charge of Two Hundred and Fifty (\$250.00) Dollars for each subsequent failure of the Tenant as contemplated by this Subsection.

- (e) In the operation of the Vending Concession, the Tenant additionally shall;
 - (i) not use any traveling or flashing lights or signs or any loud speakers, television, phonograph, radio or other audiovisual or mechanical devices in a manner so that they can be heard or seen outside of the Premises. If the Tenant uses any such equipment, the Landlord shall be entitled to remove such equipment without notice at any time and such removal shall be done and all damage as result thereof shall be made good, in each case, at the sole cost of the Tenant plus fifteen percent (15%), payable as Additional Rent forthwith receipt of the Landlord's invoice therefor.
 - (ii) not do nor suffer nor permit to be done any action in or about the Air Terminal Building which in the Landlord's opinion hinders, interrupts or in any way obstructs the free movement of passengers and other parties doing business in the Air Terminal Building; and
 - (iii) abide by all rules and regulations and general policies formulated from time to time by the Landlord relating to the delivery of goods and merchandise to the Premises;
 - (iv) operate the Vending Concession 24 hours per day, 365 days per year;
 - (v) stock an inventory of merchandise of such size, character and quality as will produce the maximum volume of gross revenue from the Premises consistent with good practices;
- (f) The Tenant agrees that the total number of vending machines and location of services shall be set by the Landlord and may change from time to time at the Landlords sole discretion.

13.02 Service Quality

- (a) The Tenant acknowledges that the Landlord will develop a customer service program at the Airport. The Tenant agrees to participate in the customer service program, to the extent applicable to the Tenant.
- (b) The Tenant agrees with the Landlord that in the event the Landlord offers training courses at no charge (or at a cost-recovery charge) to its tenants and licensees in connection with the quality of service to be provided to the public at the Airport (the "**Service Quality Courses**"), the Tenant, at its own cost and expense, shall cause those of its employees who are employed at the Airport to attend at the Service Quality Courses.
- (c) The Tenant agrees that if any of its employees who are registered to attend a Service Quality Course do not, without giving prior notice to the Landlord, attend the Service Quality Course for which they are registered, the Landlord shall be entitled to charge the Tenant, as Additional Rent, an amount equal to Fifty (\$50.00) Dollars for each such employee in addition to any cost-recovery charge that may have been applicable.

13.03 Pricing and Price List

- (a) The Tenant agrees that during the Term, it will sell its Goods and Services in accordance with this Section 13.03. Without restricting the generality of the foregoing, the Tenant agrees that:
 - (i) Goods and Services prices will be no more than 10% greater than those prices at the Comparable Outlets for like items over the duration of this Lease;
 - (ii) any material changes to the principles referred to above, shall require the prior approval of the Landlord, which approval shall not be unreasonably withheld.
- (b) At least annually during the Term as determined by the Landlord, the Tenant shall submit to the Landlord comparison studies of Goods and Services prices for the Comparable Outlets, and, in addition thereto, the Tenant shall submit such comparison studies whenever the Tenant is proposing price increases.
- (c) The Tenant shall be obliged to provide the Landlord with any and all proposed future price increases in advance for the Landlord's approval unless such increased prices are consistent with any increased prices then in effect at the Comparable Outlets.
- (d) Notwithstanding any of the foregoing provisions of this Section, the Tenant shall implement price reductions, special promotions and price changes consistent with the Tenant's national or regional pricing programs or promotional campaigns for its Comparable Outlets.
- (e) Where the Landlord's approval is required by this Section, such approval shall not be unreasonably or unduly withheld or delayed and shall be provided as soon as may be reasonable and practical from the Tenant's request therefor.
- (f) The Tenant shall not impose any fee or charge in its supply of Goods and Services which is stated or represented to be directly or indirectly related to the Tenant's cost of conducting business at the Airport whether due to concession fees, percentage rent or otherwise, nor shall the Tenant allege or state in any of its price lists, receipts, billings or any other means of communication with its customers that the price charged by the Tenant for Goods and Services contains any recovery on account of a concession fee or tax which has been imposed, authorized by or collected on behalf of the Landlord.

13.04 Permitted Product Line

The Tenant agrees that during the Term, it will sell only the Goods and Services that are approved by the Landlord.

13.05 Objectionable Goods

The Tenant shall not by itself nor by any person or persons acting for it, or with its permission, in, upon or about the Premises, or any part thereof, bring, keep, sell, store,

offer for sale, give away or otherwise use, handle or dispose of any merchandise, goods, materials, effects, or things which the Landlord may for any reason deem objectionable.

13.06 Service to Disabled Persons

The Tenant's employees shall participate in Transport Canada's "Accessibility for All" training (approximately 1 hour).

13.07 Printed Matter

The Tenant covenants that all printed and written material shall be printed in both official languages as per the *Official Languages Act* (Canada) or other similar legislation, and agrees that if a breach occurs of this covenant, the Landlord may terminate this Lease.

13.08 Operational Concepts

The Tenant agrees that during the Term of this Lease it shall adhere to and perform each and every one of its undertakings and representations contained in the Tenant's Operational Proposal.

13.09 Personnel

- (a) The Tenant shall engage suitable personnel to the satisfaction of the Landlord acting reasonably, who shall:
 - (i) efficiently provide and maintain the required standard of service;
 - (ii) engage in customer service training as approved or required by the Landlord acting reasonably;
 - (iii) engage in security awareness training as approved or required by the Landlord acting reasonably;
 - (iv) be properly groomed and attired; and
- (b) If the Landlord determines that national security is involved, the Landlord may instruct the Tenant to provide information concerning any person or persons employed by the Tenant on the Premises and may require the removal of any person or persons from the Premises. The Tenant shall comply immediately with instructions from the Landlord pursuant to this Section.
- (c) If operating in a secure area, all Tennant personnel must be eligible to obtain and retain a Restricted Area Identity Card from Transport Canada.
- (d) The Tenant shall pay for parking at the Airport for their personal automobiles or other motorized vehicles of the Tenant's employees, at rates in effect from time to time at the Airport. The Tenant, its employees, agents, subtenants, licensees, suppliers and contractors, shall only park vehicles and other equipment in areas designated by the Landlord, such parking being subject to the payment of parking fees and charges in effect for such areas, as may be amended from time to time.

13.10 Continuous Occupation

The Tenant acknowledges that its continued occupancy of the Premises and the regular conduct of its business therein are of utmost importance to neighboring tenants and to the Landlord in the renting of space in the Air Terminal Building, the renewal of other leases therein, the efficient and economic supply of services and utilities, the maintenance of rent, and in the character and quality of the other tenants in the Air Terminal Building. The Tenant shall take possession of the Premises upon the Date of Occupancy, and shall open the whole of the Premises for business, fully fixtured, and stocked upon the Opening Date, and shall thereafter conduct continuously, diligently and actively, on the whole of the Premises at all times, its business operations duly and strictly in accordance with the subject to the terms, covenants and conditions of this Lease. The Tenant further agrees that if it vacates or abandons any of the Premises or fails to so conduct its business therein, or without the prior written consent of the Landlord, uses or permits or suffers the use of the Premises for any purpose not specifically herein authorized and allowed, then without constituting a waiver of the Tenant's obligations or limiting the Landlord's remedies, all the annual rent reserved in this Lease shall immediately become due and payable to the Landlord and in the event that Percentage Rent is payable, an amount equal to the Percentage Rent payable for the immediately preceding Rental Year pro rated for the balance of the Term.

13.11 Prohibited Activities

- (a) The Tenant acknowledges and agrees that it is only one of many tenants in the Air Terminal Building and that therefore the Tenant will conduct its business in the Premises in a first class manner and in a manner consistent with the operations of the Airport as a whole.
- (b) The Tenant shall not engage in or allow any activities to be carried on in the Premises which would constitute a nuisance to adjoining occupants or other users of the Air Terminal Building.
- (c) The Landlord, acting reasonably, shall have the right, upon written notice, to cause the Tenant to discontinue, and the Tenant shall thereupon forthwith discontinue, the sale of any items or goods, the supply of any service, or the carrying on of any business activity or practice.
- (d) The Tenant shall not use in use Premises sound equipment (such as loudspeakers, broadcasts and telecasts).

13.12 Enforcement

Any failure by the Tenant to comply with the requirements set forth in this agreement, shall constitute a breach of the conditions of this Lease and shall be subject to the cancellation of this Lease under the following conditions:

- (a) in the event of non-compliance with any of the aforementioned requirements then, and in every such case, unless reasonable steps have been taken by the Tenant to cure any such breach within thirty (30) days from the date of notice in writing thereof from the Landlord to the Tenant, the Landlord may terminate this Lease by giving the Tenant thirty (30) days written notice of

intention to terminate, during which time the Tenant will no longer be permitted to cure the breach or non-observance; and thereupon after the expiration of such period of notification, this Lease shall be determined and ended without any further notice or delay.

ARTICLE 14 - GENERAL

14.01 Headings

Any note appearing as a heading in this Lease has been inserted for convenience and reference only, and of itself cannot define, limit or expand the scope or meaning of the present Lease or any of its provisions.

14.02 Effect of Lease

This Lease and everything herein contained shall enure to the benefit of and be binding upon the successors and permitted assigns, as the case may be, of each of the parties hereto, subject to granting of consent by the Landlord as provided herein to any assignment, transfer or sublease of this Lease, and where there is a male, female or corporate party, the provisions hereof shall be read with all grammatical changes to gender and number required by the context, and all covenants and obligations shall be deemed joint and several.

14.03 Provisions Separately Valid

If any covenant, obligation, agreement, term or condition of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such covenant, obligation, agreement, term or condition to persons or circumstances other than those in respect of which it is held invalid or unenforceable, shall not be affected thereby and each covenant, obligation, agreement, term or condition of this Lease shall be separately valid and enforceable to the fullest extent permitted by law.

14.04 Waiver Negated

The failure by the Landlord or authorized representative, as the case may be, to require the fulfillment of the obligations, or to exercise any rights herein contained shall not constitute a waiver, a renunciation or a surrender of those obligations or rights.

14.05 No Implied Obligations

No implied terms or obligations of any kind by or on behalf of the Landlord shall arise from anything in this Lease and the express covenants and agreements herein contained and made by the Landlord are the only covenants and agreements upon which any rights against the Landlord may be founded.

14.06 Entire Agreement

This Lease shall be deemed to constitute the entire agreement between the Landlord and the Tenant hereto with respect to the subject matter hereof and shall supersede all previous negotiations, representations, and documents in relation hereto made by any party to this Lease.

14.07 Joint Obligations

Where there is more than one party named in this Lease as Tenant the obligations of the Tenant herein shall be joint and several obligations of each of the named Tenants.

14.08 Title

Notwithstanding anything to the contrary herein the Premises are let subject to:

- (a) all applicable laws now in effect or hereafter adopted by any competent authority;
- (b) any aboriginal claim which may affect any right, title or interest of the Tenant in the whole or any part of the Premises;
- (c) the right of access or the right of way in favour of the Federal Crown or its servants and agents to the airports area control centre, or any other portion of the Airport being used, possessed or operated by the Federal Crown or the Landlord for the purposes of aircraft navigation, control or airport security;
- (d) a right of access in favour of and at no cost to the Landlord, their servants, employees, agents, contractors, licensees, tenants and invitees in common with others for pedestrian and vehicular traffic over, along and upon any areas of the Premises used from time to time for pedestrian and vehicular traffic; and
- (e) the Tenant covenants to grant, upon request of the Landlord, easements, licenses, rights of way or privileges on, over, under, through or across the Premises or any part thereof, for the purpose of causing any services to be brought on, over, under, through or across any part of the Airport to provide services to any air navigation facility, the area control centre, any other air traffic control unit, or any other facility operated by or on behalf of the Federal Crown.

14.09 Obligations Survive Termination

The obligations of the Tenant hereunder including the obligation to indemnify and hold the Landlord harmless with respect to liability by reason of any matter shall, notwithstanding any other provision of this Lease or any law now or hereafter in force, continue in full force and effect until discharged whether before or after the end of the Term.

14.10 Landlord's Right

In the event that, in the judgment of the Landlord acting reasonably, the Airport lands or any part thereof or the Tenant's interest therein may become liable to any forfeiture or sale or otherwise be in jeopardy, the Landlord may, but shall not be obliged to, secure the removal of any lien filed or registered at any such time, and any amount paid or costs incurred by the Landlord for this purpose, together with all costs of the Landlord, shall be forthwith paid to the Landlord by the Tenant with interest at the Interest Rate as Additional Rent.

14.11 Joint Venture

The parties hereto specifically agree that nothing in this Lease shall be construed to establish any relationship of agent and principal and/or employer and employee, and/or master and servant, and/or as partners as between the Landlord and the Tenant.

14.12 Costs of Enforcement

The Tenant covenants to pay any and all reasonable costs incurred by the Landlord, including without limitation, solicitors fees on a solicitor and own client basis (full indemnity), and all fees for agents, employees or other costs incurred in the successful enforcement or attempted enforcement of any provision of this Lease or for the curing of any default of the Tenant, its agents or assigns.

14.13 References

Except as otherwise specifically provided, reference in this Lease to any contract, agreement or any other instrument shall be deemed to include references to the same as varied, amended, supplemented or replaced from time to time and reference in this Lease to any enactment including, without limitation, any statute, law, by-law, regulation, ordinance, order, policy, guideline, standard, or rule, shall be deemed to include references to such enactment as re-enacted, amended or extended from time to time.

14.14 Amendments in Writing

This Lease may not be modified or amended except by an instrument in writing duly executed by the parties hereto or their heirs, executors, administrators, successors or permitted assigns.

14.15 Time of the Essence

Time is to be considered of the essence of this Lease and therefore, whenever in this Lease either the Landlord or the Tenant is required to do something by a particular date, the time for the doing of the particular thing shall only be amended by written agreement of the Landlord and the Tenant. If the time for the doing of the particular thing shall be amended by written agreement of the Landlord and the Tenant, time shall remain of the essence, even if not so expressed in such written agreement.

14.16 Ensuring Performance of Third Parties

Notwithstanding any provision to the contrary, where this Lease provides that the Tenant shall "ensure" a covenant or obligation of a third party or shall "ensure" compliance by a third party or provides that the Tenant covenants or agrees to a specific matter on behalf of a third party, the obligation of the Tenant in respect thereof shall be deemed to have been performed if:

- (a) the Tenant shall have obtained from such third party, a covenant, obligation or agreement on terms which are no less stringent; and
- (b) in the event of a breach of such covenant, obligation or agreement by the third party, the Tenant shall have used diligent efforts to enforce such covenant, obligation or agreement, including the initiation and continuance and prosecution of legal proceedings with due diligence.

14.17 License to Use Common Areas

The Landlord grants to the Tenant for the Term, as an additional benefit of this Lease, for use by the Tenant and its agents, customers, employees, invitees and servants, in common with the Landlord and other tenants of the Landlord and their respective agents, customers, employees, invitees, licensees and servants, the non-exclusive licence to use such parts of the Airport set aside by the Landlord for roadways and designated by the Landlord from time to time, for public access and ingress to and egress from the Premises, all subject to the terms of this Lease, the Rules and Regulations and any limitations imposed from time to time by the Landlord in respect of such use. The Tenant shall be prohibited from storing any of its inventory, equipment, disposables or other property in common areas except with the prior written consent of the Landlord.

14.18 Registration of Lease Interest

Neither the Tenant nor anyone on the Tenant's behalf or claiming under the Tenant shall register this Lease against title to the Airports lands.

14.19 Notices

- (a) Whenever in this Lease, it is required or permitted that notice or demand be given or served by either party of this Lease to or on the other, such notice or demand will be in writing and will be validly given or sufficiently communicated if delivered, faxed, or sent by registered mail as follows:

To the Landlord: St. John's International Airport Authority
 100 World Parkway
 St. John's NL A1A 5T2

Attention: Director, Finance

To the Tenant at the address set out in the Term Sheet.

- (b) Such addresses may be changed from time to time by either party giving notice as above provided.

- (c) If any question arises as to whether any notice was or was not communicated by one party to the other, it shall be deemed to have been effectively communicated or given on the day received or on the fifth (5th) day after it was mailed or sent, whichever is the earlier.
- (d) Notwithstanding the foregoing, in the event of a mail strike or slowdown, service shall not be deemed until actual delivery of the notice in question.

14.20 Force Majeure

- (a) Whenever and to the extent that either party is *bona fide* unable to fulfill or is delayed or restricted in fulfilling any of its obligations under this Lease by an event including, without restricting the generality of the foregoing: fires, strikes, floods, acts of God or the Queen's enemies, lawful acts of public authorities, delays or defaults caused by common carriers which cannot be reasonably foreseen or provided against (hereinafter collectively called an event of "**Force Majeure**"), such party shall be relieved from the fulfillment of the part of its obligations affected by Force Majeure during the period of Force Majeure. Financial inability does not constitute Force Majeure.
- (b) Notwithstanding an event of Force Majeure, the party affected shall proceed with the performance of its obligations not thereby affected.
- (c) The provisions of this Article shall not operate to excuse the Tenant from the payment of any rent, the provision of or payment for any insurance or any other obligation to pay money or from obtaining any letter of credit or provision of security.

14.21 Members of the House of Commons

No member of the House of Commons of Canada shall be admitted to any share or part of this Sublease or to any benefit to arise herefrom.

14.22 Governing Law

This Lease shall be subject to and interpreted in accordance with the laws of the Province and the laws of Canada applicable therein.

14.23 Mediation

Should any dispute arise between the parties to this Lease other than a dispute regarding:

- (a) the failure to pay fees or other payments as required by this Lease; or
- (b) possession; or
- (c) an adjustment of the fees

it is agreed that such dispute will be submitted to a mediator prior to any arbitration or litigation. The parties shall exercise good faith efforts to select a mediator who shall be compensated equally by both parties. Both parties agree to exercise good faith efforts to resolve disputes covered by this section through this mediation process. The parties shall have any rights at law or in equity with respect to any dispute not covered by this Article 17.26.

IN WITNESS WHEREOF the parties hereto have executed this Lease by the hands of their duly authorized officers as of the date first above written.

**ST. JOHN'S INTERNATIONAL AIRPORT
AUTHORITY**

Per: _____ (c/s)
Name:
Title: CEO
(I have authority to bind the corporation.)

Per: _____ (c/s)
Name:
Title: CFO and Director, Finance
(I have authority to bind the corporation.)

[NAME OF TENANT]

Per: _____ (c/s)
Name:
Title:
(I have authority to bind the corporation.)

Per: _____ (c/s)
Name:
Title:
(I have authority to bind the corporation.)

SCHEDULE "A"

RULES AND REGULATIONS

1. Drainage and Discharge of Materials

The Tenant shall not discharge, cause or permit to be discharged or howsoever to pass into the sewer systems, storm drains or surface drainage facilities at the Airport or elsewhere any deleterious material, noxious, contaminated or poisonous substances, all as determined by the Landlord, whose decision shall be final; it being expressly understood and agreed that in the event of a discharge or escape of such deleterious material, noxious, contaminated or poisonous substances in and under the control of the Tenant, the cost incurred in the clean-up to the satisfaction of the Landlord shall be immediately paid by the Tenant to the Landlord as Additional Rent.

2. Nuisance

The Tenant shall not cause or maintain any nuisance in, at, or on the Premises or the Airport. Without restricting the generality of the foregoing, the Tenant shall not make or permit any improper noise on the Premises and will not operate or permit to be operated any sound producing instrument or device on the Premises which may disrupt operations at the Airport. In addition, the Tenant will not operate any flashing or rotating lights or any electrical device which may interfere with or impair operations at the Airport.

3. Fire Prevention

The Tenant shall, at the expense of the Tenant, take all precautions to prevent fire from occurring in or about the Premises and shall observe and comply with all laws and regulations in force respecting fires at the Airport, and with all instructions given from time to time by the Landlord with respect to fires and extinguishing of fires.

4. Signs, Advertising

- (a) The Landlord reserves the right to require the Tenant to remove any displays and advertising signs on the Premises which are determined to be inappropriate by the Landlord of which will or may, in the Landlord's sole opinion, cause an interference with Airport operations, and the Tenant shall conform to the aesthetic standards of the Air Terminal Building and any directives which may be introduced from time to time by the Landlord, including, without limitation, the Airport Tenant Design Manual.
- (b) The Tenant shall obtain the written approval of the Landlord in advance, of all signs and similar advertising material, including lettering and other advertising media erected, installed or placed upon the exterior of the Premises or within the Improvements and upon the exterior and interior surfaces of all doors and windows. The cost of installing, maintaining, changing and removing all signs shall be borne by the Tenant.
- (c) Any installation requiring the Landlord's consent, which has not received such consent shall be subject to immediate removal without notice at the Tenant's cost.

5. No Solicitation

The Tenant shall not solicit or suffer or permit its employees or agents to solicit business in the parking areas or other Common Areas and shall not distribute any handbills or other advertising matter therein.

6. Notice of Accident, Defects

The Tenant shall give immediate notice to the Landlord in case of fire or accident on the Premises or in the Building or of defects therein or to any fixtures or equipment thereon.

7. Emergency Contacts

The Tenant shall provide the Landlord with the names, addresses and telephone numbers of two authorized employees or agents of the Tenant who may be contacted by the Landlord at any time in the event of an emergency relative to the Premises or Building.

8. Permits, Licences

The Tenant alone shall be responsible for obtaining, from the appropriate governmental authority or other regulatory body having jurisdiction, whatever permits, licences or approvals as may be necessary for the operation of its business, the whole to the entire exoneration of the Landlord.

9. Tenant's Work

Any work to be performed on the Premises by the Tenant or its contractors shall be first approved in accordance with the terms and conditions of this Lease and a Facility Alteration Permit issued by the Landlord and the rules or regulations of the Landlord from time to time in respect of work by tenants.

10. Airport Security

- (a) Recognizing the special security concerns of the Airport, the Tenant shall forthwith fully co-operate with the Landlord's requests for information or assistance relating to the Premises or any of the Tenant's employees, agents, contractors or sub-contractors and shall agree to and assist in the immediate removal of any person or thing from the Premises.
- (b) The Tenant shall provide and pay the cost of a security escort approved by the Landlord whenever access is required to restricted areas by the Tenant to persons not authorized by the Landlord to enter restricted areas.
- (c) The Tenant shall provide the Landlord with keys or other means of obtaining access to the Premises or Improvements thereon for the sole purpose of the Landlord responding to any fire, flood, airport security or other emergency in or about the Premises and the Landlord shall keep the keys or other means of obtaining access in a secure manner with limited access. The Tenant shall comply with all security measures instituted from time to time by the Landlord including those related to

restricted area passes, personnel identification systems and security clearance procedures.

11. Further Rules and Regulations

The Landlord may amend these Rules and Regulations in accordance with the terms and conditions of this Lease, by alteration or addition, and such amended Rules and Regulations shall be binding on the Tenant.

SCHEDULE “B”

TENANT’S OPERATIONAL PROPOSAL