

**AMENDMENT NO. 6
TO THE AGREEMENT BETWEEN
THE TWEED NEW HAVEN AIRPORT AUTHORITY AND
AVPORTS LLC**

THIS AMENDMENT NO. 6 (“**Sixth Amendment**”) is made and executed as of the 19 day of August, 2022 (the “**Effective Date**”), by and among the TWEED-NEW HAVEN AIRPORT AUTHORITY (the “**Authority**”), a political subdivision of the State of Connecticut existing under the laws of the State of Connecticut and having its principal office at 155 Burr Street, New Haven, CT 06512, AVPORTS LLC (“**Avports**”), a Delaware limited liability company having offices at 45025 Aviation Drive, Suite 100, Dulles International Airport, Dulles, VA 20166, and AVPORTS HVN LLC (“**Assignee**”), a Delaware limited liability company having offices at 45025 Aviation Drive, Suite 100, Dulles International Airport, Dulles, VA 20166. “**Party**” (and, unless the context requires otherwise, “**party**”) means a party to this Agreement and “**Parties**” (and, unless the context requires otherwise, “**parties**”) means all of them.

WHEREAS, the Authority operates and manages Tweed-New Haven Airport (the “**Airport**”) pursuant to the provisions of Connecticut General Statutes, Sec. 15-120g *et seq.*, as amended, and holds the Airport pursuant to that certain Amended and Restated Lease and Operating Agreement by and between The City of New Haven and the Authority, dated August 19, 2022 as amended, amended and restated, supplemented or otherwise modified from time to time (the “**City Master Lease**”);

WHEREAS, Avports operates the Airport under the terms of an Amendment and Restatement of Management Agreement for the Operation of Tweed-New Haven Airport Between Tweed-New Haven Airport Authority and Macquarie Aviation North America 2, Inc. d/b/a AvPORTS dated July 1, 2004, which agreement was thereafter duly assigned to Avports, effective January 1, 2009, as amended by Amendment No. 1 dated as of March 19, 2014 (“**First Amendment**”), Amendment No. 2 dated as of September 21, 2016 (“**Second Amendment**”), Amendment No. 3 dated as of January 1, 2018 (“**Third Amendment**”), Amendment No. 4 dated as of May 17, 2019 (“**Fourth Amendment**”), and Amendment No. 5 dated as of May 6, 2021, as amended by the First Amendment to Amendment No. 5 dated October 1, 2021 (“**Fifth Amendment**” and, collectively, and as amended by this Sixth Amendment, the “**Agreement**”);

WHEREAS, simultaneously with the execution of this Sixth Amendment, the Authority has entered into a Lease & Development Agreement for Tweed-New Haven Airport (the “**Facility Development Agreement**”) with The New HVN LLC (“**Lessee**”), under which it will sublease a portion of the Airport to Lessee and grant rights to Lessee with respect to certain other portions of the Airport, including the West Terminal Facilities (such areas the “**Lessee Area**”) and *inter alia*, Lessee will develop, operate and maintain (i) the West Terminal and (ii) what is referred to as the “**New Terminal**” and upon the New Terminal becoming operational;

WHEREAS, the Authority with the assistance of Avports intends to extend Runway 02-20 at the Airport (“**Runway Extension Project**”) and to otherwise undertake certain activities within the scope of the Agreement with the involvement and oversight of Avports;

WHEREAS, the parties desire that the Agreement remain in effect, and be extended and modified to accommodate the Facility Development Agreement and the Runway Extension Project, and address certain contingencies to help ensure the operation and regulatory compliance of the Airport;

WHEREAS, the parties desire that the Agreement be assigned from Avports to Assignee;

WHEREAS, through this Sixth Amendment, the Authority and Avports desire to amend certain provisions of the Agreement as set forth below; and

WHEREAS, the Authority approved this Sixth Amendment by Resolution 568 on August 17, 2022.

NOW, THEREFORE, for and consideration of the foregoing and other good and valuable consideration, the parties hereto agree as follows:

1. **Definitions** – Capitalized terms not otherwise defined in this Sixth Amendment or the Agreement shall have the meaning ascribed thereto in Exhibit A.
2. **Narrowing of Application of Agreement** –
 - a. For the duration of the Facility Development Agreement, for purposes of the Agreement, the areas for which Avports is responsible and performs services under this Agreement will exclude the Lessee Area and any activities thereon.
 - b. Notwithstanding the foregoing:
 - (a) to the extent that there are any navigation aids on the Lessee Area, Avports will continue to maintain and repair the same pursuant to Section(b)(1)(ii) of Exhibit E unless, until, and while the Authority directs otherwise; and
 - (b) Avports will continue to perform any obligations or covenants that extend to the entire Airport or affect the entire Airport, but do not require performance within the Lessee Area or that are not expressly delegated to Lessee under the terms of the Facility Development Agreement.
 - c. To the extent that the Parties disagree on the reconciliation of any conflict, ambiguity or inconsistency resulting from the forgoing clauses a. and b. regarding whether Avports' obligations under the Agreement immediately prior to giving effect to this Sixth Amendment have been reduced or suspended and are otherwise to be performed by Lessee as a result of this Sixth Amendment and the Facility Development Agreement, the Authority may, in its discretion, notify Avports of its determination regarding such reconciliation, which determination shall be binding, unless this determination substantively amounts to a unilateral amendment to the Agreement or constitutes a breach of the implied covenant of good faith and fair dealing.
 - d. To the extent any portion of the Lessee Area ceases to be part of the Lessee Area, Avports will thereupon be responsible for performing all services under this Agreement with respect to such areas.
 - e. Pursuant to the Facility Development Agreement, certain agreements between the Authority and third parties will be assigned to Lessee ("**Assigned Agreements**") whereby the Authority will assign its rights and obligations. To the extent that Avports performed such responsibilities on behalf of the Authority under those Assigned Agreements, Avports will no longer be responsible for the same after the Authority has assigned the Assigned Agreements. If any Assigned Agreement is assigned back to the Authority, including any renewal or replacement thereof, Avports will resume performance of the Authority's responsibilities thereunder previously performed by Avports under the terms of the Agreement.
 - f. If the Authority reasonably determines that Lessee has failed to perform under the Facility Development Agreement in a manner that causes the Authority or the Airport to not comply with applicable Law or the Authority to not comply with its contractual obligations, and the action that would avoid such non-compliance or failure would, but for Section 2 of this Sixth Amendment, have been the responsibility of Avports, at the Authority's direction, Avports will perform such action within the Lessee Area under the terms of the Agreement.
 - g. Upon termination of the Facility Development Agreement, Sections 2(a) through (f) and 5.a(d) of this Sixth Amendment will be of no further force.
 - h. The Authority and Avports will reasonably coordinate the application of Section 2 of this Sixth Amendment, including resulting applicable adjustments to the Annual Operating Budget and the Fixed Fee, including adjustments required for performance to be undertaken pursuant to Sections 2(c), (d), (e), (f), (g) and 5.a(d) of this Sixth Amendment.

- i. In those cases where services are provided both on the portion of the Airport that continues to be covered by the Agreement and portions excluded under Section 2 of this Sixth Amendment, e.g., snow removal, Avports will coordinate with Lessee thereon, and the costs thereof will be allocated to each as reasonably coordinated with the Authority and Lessee, e.g., pro-rata as between the Facility Development Agreement and this Agreement based on square footage covered, submetering, etc., with any reimbursement or compensation to Avports being subject to Article Three of the Agreement.
 - j. For the avoidance of doubt, for those provisions of the Agreement that specify an escalation, the escalation will continue to apply as specified, even if not due or paid, with payment resuming with such escalation, but skipping the payments that do not apply, upon resumption of the applicable provision.
 - k. Upon execution of this Sixth Amendment, the Authority repayment obligations with respect to the Fifth Project Loan set forth in the Fifth Amendment shall terminate.
 - l. Without limiting the other provision of this Section 2 of this Sixth Amendment, while the Facility Development Agreement is in effect, the following provisions of the Agreement will not apply:
 - (a) clauses (a)(4), (a)(5), (a)(6), (e)(1), (e)(4), (f)(1), and (k) of Exhibit E, and
 - (b) Sections 3.4 and 3.5 of the Agreement and Sections 13 and 14 of the Third Amendment.
- 3. Term** – Article One of the Agreement is deleted in its entirety and replaced with the following:
- Acknowledging that the Agreement has been in effect since July 1, 1998, the term of this Agreement (the “**Term**”) shall continue for forty-three (43) years commencing on the Effective Date of this Sixth Amendment unless terminated earlier in accordance with the terms of this Agreement. The Authority will have the right to extend the term of this Agreement for up to three (3) years provided that such notice is given not earlier than two (2) years or later than one (1) year prior to the expiration of this Agreement.
- 4. Responsibilities of the Authority** –
- The Authority shall perform or cause to have performed the following administrative tasks at its sole cost and expense.
- a. Prepare the Board meetings, take minutes, and circulate invites.
 - b. Process the Authority invoices, e.g., legal, accounting, auditing, and payments from Avports.
 - c. Process Authority staff salary and other Authority transactions in the Authority’s accounting system.
 - d. Process Authority Reserve Fund transactions.
 - e. Procure accounting, legal, and auditing services (note that PFC Audit costs will be paid from PFC revenues).
 - f. Undertake Authority staff recruitment efforts.
 - g. With respect to the Environmental Stewardship Committee (“ESC”), make arrangements for physical meeting spaces, circulate meeting invites, and perform related administrative tasks with respect to the ESC.
 - h. Perform routine updates to the Authority website (excluding with respect to procurement matters).

- i. Prorated portion of immaterial utilities, including the phone bill, and office supplies, including copier, tea/coffee, and similar office supplies.
- j. Vehicle and maintenance of such vehicle for the Executive Director (if any).
- k. Review proposed changes to Operating Standards.
- l. Suggest changes to the Operating Standards.
- m. Review and approve the FCA manual.
- n. Procure independent FCA licensed professional engineer at its option pursuant to the Terminal Facilities Operating Standards.
- o. Preparing Authority's operating budget.
- p. Procurement of any professional advisor, consultant or engineer in connection with any monitoring or other oversight of any third party with whom the Authority has an agreement to the extent that Avports has not requested or engaged such professional advisor, consultant or engineer in connection with Avports obligations under this Agreement.

5. Responsibilities of Avports – Article Two of the Agreement is amended as follows:

- a. §2.0 of the Agreement is deleted in its entirety and replaced with the following:

§2.0

- (a) Avports shall, pursuant to this Agreement, provide Airport Services seven (7) days a week, twenty-four (24) hours a day (or such other hours as may be prescribed by the Authority) throughout the Term. Avports shall provide Airport Services in a safe and efficient manner and maintain it in a clean, orderly, safe and fully operational condition in conformity with, this Agreement, all applicable Law and all Authorizations in effect from time to time, including compliance with the Airport Operating Certificate, the Airport Certification Manual, Airport Emergency Plan and the Airport Security Program and the Baseline Standard of Practice.
- (b) The Authority hereby appoints Avports as the Authority's agent for purposes of compliance with 14 C.F.R. Part 139, Airport Certification and 49 C.F.R. Part 1542, Airport Security. Avports shall not be responsible for any compliance violations under 14 C.F.R. Part 139, Airport Certification or 49 C.F.R. Part 1542, Airport Security if such violation is a direct result of Acts and Faults of the Authority or third parties not under Avports' control.
- (c) The Authority and Avports acknowledge that Avports' rights to use and operate the Airport Facilities as a public use airport are subject to the right of the Authority, in accordance with the terms of this Agreement, to monitor and enforce compliance with this Agreement to ensure that the Airport Facilities are used and operated as required by this Agreement and Law.
- (d) Avports acknowledges receipt of the Facility Development Agreement and agrees, while it is in effect, (i) to take such actions on behalf of and at the direction of the Authority to enable the Authority to comply with its obligations under the Facility Development Agreement, (ii) to refrain from any action (or inaction) that would cause a breach or default by the Authority under the Facility Development Agreement or which is calculated or intended to directly or indirectly prejudice or frustrate the Authority's rights under the Facility Development Agreement, and (iii) that, notwithstanding any affiliate relationship between Avports and Lessee, Avports shall conduct all interactions with Lessee under the terms of this Agreement on an arm's

length basis without any preference or favor to be afforded Lessee which would not be afforded an unaffiliated third-party.

- b. §2.1 of the Agreement is deleted in its entirety and replaced with the following:

§2.1 Avports shall have no liability for failure to perform its obligations hereunder to the extent, but only to the extent, that it is unable so to perform by reason of (a) the unreasonable failure of the Authority to provide any approval, direction or authority required by the FAA or by any city, State or Federal law or regulation, or (b) the failure or refusal of the Authority to approve budgetary appropriations reasonably required for such performance. In addition, Avports shall have no liability for failure to perform its obligations hereunder to the extent, but only to the extent, a Force Majeure Event prevents, delays, interrupts or limits Avports' performance of its obligations hereunder. Avports shall promptly notify the Authority of its non-compliance and the cause therefor and the estimated duration of such noncompliance and take all steps reasonably necessary to eliminate or mitigate the effects of such event, including all steps that would generally be taken in accordance with the Baseline Standard of Practice. Notwithstanding the foregoing, for purposes of this §2.1, Avports shall not be entitled to any relief to the extent the relevant arises due to its Acts and Faults.

- c. §2.2 of the Agreement is deleted in its entirety and replaced with Exhibit E.

6. Planning and Development – The following is inserted at the end of Article Five of the Agreement:

- a. A new §5.1 is added immediately after §5.0 to read as follows:

§5.1 Runway Extension Project

- (a) Avports will:

1. complete the Environmental Assessment on or before September 30, 2022, but in no event later than December 31, 2022, and, thereafter, diligently pursue and obtain, comply with, promptly renew and maintain in good standing, the NEPA Approval Documents and satisfy any requirements of the applicable Governmental Authorities with respect to such NEPA Approval Documents;
2. complete applications and other required submissions for all other Authorizations required from Governmental Authorities for commencement of construction of the Runway Extension Project (including those required by DEEP) within ninety (90) days following receipt of the NEPA Approval Documents, but in no event later than one hundred eighty (180) days following receipt of the NEPA Approval Documents, and, thereafter, diligently pursue and obtain, comply with, promptly renew and maintain in good standing, such Authorizations and satisfy any requirements of the applicable Governmental Authorities with respect to such Authorizations for the Runway Extension Project;
3. diligently pursue and obtain, comply with, promptly renew and maintain in good standing all other Authorizations required from Governmental Authorities in connection with the Runway Extension Project and other projects at the Airport as directed by the Authority; and
4. minimize the extent to which the Runway Extension Project will require changes to the City of New Haven's zoning ordinance;

in each case, as directed by the Authority, provided that Avports shall not be deemed to be in breach of its obligations hereunder to the extent that such breach is caused by delays by the applicable Governmental Authorities in completing tasks that are necessary for completion of the Environmental Assessment or other applications referred to herein.

- (b) Following the issuance of the NEPA Approval Documents and the DEEP Approval Documents, in addition to any other uses permitted hereby, Avports shall be permitted to use the Authority Property for the Runway Extension Project and other uses ancillary and incidental thereto in accordance with the terms and provisions of this Agreement.
 - (c) If all Authorizations required from Governmental Authorities for commencement of construction of the Runway Extension Project (including, by way of example but not by way of exclusion, the NEPA Approval Documents and the DEEP Approval Documents, but excluding, for certainty, any operational Authorizations with respect to the Runway, other than Authorizations needed to operate the Airfield Facilities during construction) are obtained:
 - 1. on or prior to November 1, 2022, subject to the occurrence of any Delay Events, Avports will commence the Runway Work on or prior to May 1, 2023; or
 - 2. after November 1, 2022, subject to the occurrence of any Delay Events, Avports will commence the Runway Work on or prior to the later of (i) one hundred eighty (180) days from the receipt of all such Authorizations and (ii) sixty (60) days following receipt of the first AIP discretionary grant pursuant to 49 U.S.C. §§ 47115-47116 related to the Runway Extension Project, which grant and further such grants the Authority agrees to pursue in good faith (the date on which Avports commences the Runway Work, the **“Runway Construction Commencement Date”**.)
 - (d) Subject to the occurrence of any Delay Events, Avports will achieve Substantial Completion of the Runway Work within twenty-four (24) months from the Runway Construction Commencement Date (the **“Expected Runway Substantial Completion Date”**). If Avports fails to achieve Substantial Completion of the Runway Work on or before the Expected Runway Substantial Completion Date, Avports shall, at the Authority’s request: (i) deliver monthly construction progress reports to the Authority until Substantial Completion of the Runway Work is achieved; (ii) prepare and submit a detailed work plan that shall set forth a schedule and specific actions to be taken by Avports to achieve Substantial Completion of the Runway Work by the Substantial Completion Deadline, which work plan shall be reviewed and confirmed by an independent engineer hired by the Authority and paid by Avports; (iii) provide an explanation for any delays in achieving Substantial Completion of the Runway Work; and (iv) provide a new proposed Expected Runway Substantial Completion Date.
- b. A new §5.2 is added immediately after the new §5.1 to read as follows:
- §5.2 Provisions Governing the Runway Extension Project
- (a) The Runway Extension Project shall be constructed in a manner consistent with the NEPA Approval Documents, the DEEP Approval Documents and applicable Law and Authorizations.
 - (b) Avports will, with reasonable diligence, (i) complete or cause the completion of the Runway Extension Project in a good and workmanlike manner in accordance with the

terms of this Agreement and degree of skill, care, prudence, foresight, and practice that would reasonably and ordinarily be expected from time to time of a skilled and experienced project and program manager and (ii) advance the funding required for such Runway Extension Project at its sole cost and expense (except as otherwise provided herein). Notwithstanding the foregoing, if the Facility Development Agreement is terminated according to its terms prior to completion of the Runway Extension Project, Avports shall not be obligated to advance any further funding for the Runway Extension Project; and the Authority will be responsible for all cost and expense associated therewith, including reimbursing Avports for costs eligible for reimbursement from AIP Grants, Passenger Facility Charges or any other grants, subsidies, fees, taxes, or other funding which may be available from the FAA or any other Governmental Authority from time to time.

- (c) The Authority will:
1. pursue applications before the FAA for authority to impose and use Passenger Facility Charges for the Runway Extension Project and pay the proceeds thereof within ten (10) days of receipt to Avports for the eligible portions of the Runway Extension Project (including any eligible financing costs and interest incurred in connection therewith) until Avports has been reimbursed for any funds it expends pursuant to §5.2(b);
 2. pursue applications for FAA discretionary grants to the maximum extent possible for the Runway Extension Project and pay the proceeds thereof within ten (10) days of receipt to Avports for the eligible portions of the Runway Extension Project until Avports has been reimbursed for any funds it expends pursuant to §5.2(b);
 3. pay the proceeds of FAA entitlement grants within ten (10) days of receipt to Avports for the eligible portions of the Runway Extension Project until Avports has been reimbursed for any funds it expends pursuant to §5.2(b); and
 4. pursue any other grants, subsidies, fees, taxes, or other funding which may be available from the FAA or any other Governmental Authority from time to time for the Runway Extension Project and timely pay the proceeds thereof to Avports until Avports has been reimbursed for any funds it expends pursuant to §5.2(b).
- (d) At Avports' request, upon the occurrence of any circumstance, event or condition that increases the cost or expense of the Runway Extension Project, the Authority will:
1. apply to amend any approved Passenger Facility Charge or FAA discretionary grants (or other approved funding available from the FAA or other Governmental Authority), as appropriate, to take into account such increased cost or expense; and
 2. to the extent Passenger Facility Charges or AIP Grants (or other funding from the FAA or other Governmental Authorities) are unavailable to reimburse Avports for such increased costs or expenses, if any funds are actually available in the Authority's "Airport Reserve Fund" as a result of contributions from the Facility Development Agreement for such purpose at such time and upon timely notice requesting such reimbursement by Avports to the Authority, the Authority will pay such funds to Avports provided that in

no event may the Authority's Airport Reserve Fund carry a negative balance.

- (e) The Runway Extension Project will comply with applicable requirements imposed by Law including from the TSA, FAA, and (if applicable) Customs and Border Protection.
 - (f) The Runway Extension Project will be performed:
 - 1. in a safe and compliant manner; and
 - 2. so as to not unduly interfere with the use of the Airport.
 - (g) The Runway Extension Project will be performed in a manner that complies with, and so that the Airport Facilities can be operated in compliance with, Environmental Laws. Except as set forth in §5.2(h), Avports will be responsible for costs and operational requirements arising under Environmental Laws associated with the performance of the Runway Extension Project, including the investigation, monitoring and/or remediation of any Hazardous Materials actually encountered (x) in areas excavated or otherwise physically disturbed, (y) within the scope of demolition and (z) with respect to any Release to the extent caused or permitted by Avports during performance of the Runway Extension Project as required under Environmental Laws. For the avoidance of doubt, with respect to §5.2(g)(x) and (y), (i) Avports will not be responsible to investigate or remediate Hazardous Materials beyond the areas excavated or otherwise physically disturbed and the scope of demolition, and (ii) any Claims (including third-party bodily injury, property damage, or other toxic tort Claims) related to the Hazardous Materials in areas excavated or otherwise physically disturbed, or within the scope of demolition, in connection with the Runway Extension Project shall remain, as between Avports and the Authority, the responsibility of the Authority, except to the extent that such Claims arise directly from such excavation, disturbance or demolition (e.g., worker health and safety Claims from Avports' contractors) shall be the responsibility of Avports.
 - (h) For the avoidance of doubt, with respect to §5.2(g)(x) and (y), the Authority may require Avports to undertake additional investigation, remediation and/or monitoring as required by Environmental Laws and for which the Authority shall bear all costs ("**Additional Environmental Work**") beyond those areas excavated or otherwise physically disturbed or within the scope of demolition. Any Additional Environmental Work shall constitute Differing Site Conditions. The Authority shall be responsible for all Claims (including third-party bodily injury, property damage, or other toxic tort Claims) related thereto, except to the extent that such Claims arise directly from such excavation, disturbance or demolition (e.g., worker health and safety Claims from Avports' contractors) shall be the responsibility of Avports.
 - (i) Notwithstanding the foregoing, if Avports encounters Hazardous Materials for which it reasonably believes the Authority may be liable or responsible, then Avports will notify the Authority, keep the Authority reasonably informed and consult with the Authority regarding any investigation, management and remediation prior to taking any such actions, except in an emergency or necessary to respond to an imminent threat to human health or the environment. In all cases, Avports will take commercially reasonable steps to mitigate the cost of any such actions, which will be risk-based and intended to satisfy the industrial/commercial standards (or similar) of Environmental Laws.
- c. A new §5.3 is added immediately after the new §5.2 to read as follows:
- §5.3 Coordination

- (a) Adjacent Property Coordination
 - 1. Avports shall be responsible for coordinating (or ensuring the coordination of) all Airport Services with owners of Adjacent Property, including cooperating and coordinating with the Authority, a Governmental Authority, or a third-party undertaking any project or activity on the Adjacent Property or the Authority Property, but shall have no responsibility for such Adjacent Property.
 - 2. Avports agrees to include in the design and construction any new or reconstructed Airfield Facilities projects any elements necessary to effect surface transportation and utility integration with Adjacent Properties.
 - 3. The Authority shall cooperate with Avports with respect to its obligations under this §5.3(a).
- (b) FAA and Other Intergovernmental Coordination – The Parties shall consult with each other, keep each other informed of, and reasonably coordinate and cooperate with each other in connection with all actions by the FAA or TSA in connection with, without limitation, 49 C.F.R. Part 1542 or 14 C.F.R. Part 13, 16, 139 or 302. Avports shall not make any formal submissions pursuant to, without limitation, 49 C.F.R. 1542 or 14 C.F.R. Part 13, 16, 139 or 302, or any other provision of law or regulation that requires formal submissions by an airport sponsor without first consulting with, receiving comments from and reasonably coordinating with the Authority with regard to any position that Avports is taking with respect to such matters, in each case in a timely manner.
- (c) No Interference – The Parties understand and agree that (i) nothing in the foregoing §5.3(a) is in any way intended to interfere with the Airport Services and (ii) the Authority shall cooperate with Avports in minimizing any effect that the obligations of Avports under this §5.3 may have on the Airport Services and the revenues of the Airport Facilities.
- d. A new §5.4 is added immediately after the new §5.3 to read as follows:
 - §5.4 Warranties
 - (a) Warranties for Work on Authority Property
 - 1. For the Runway Extension Project, Avports will obtain for itself and for the benefit of the Authority warranties from third-parties performing the Runway Work that such Runway Work:
 - (i) will be fit for use and be designed, constructed, and completed in a manner that meets all applicable requirements of this Agreement and complies with the Baseline Standard of Practice:
 - (ii) for construction work (excluding any design, architectural, engineering, or project management services performed as part of the Runway Work) will be of good quality;
 - (iii) will be free from unpermitted deviations and from any faults or defects affecting the condition, use, functionality, or operation of such element, including from any applicable defects in materials or workmanship (but not design); and

- (iv) will be free from any other fault or defect, including of design, that would be recognized to exist as a matter of Law,

or such other form of warranties as the Authority may approve in its discretion.
 - 2. The warranty period for the Runway Work that is subject to the foregoing will commence on the completion date of the Runway Extension Project and end on the latest of:
 - (i) the first anniversary thereof for all elements of the Runway Extension Project;
 - (ii) for any corrective work performed to remedy a defect or breach of warranty, the first anniversary of the completion of such work; and
 - (iii) for warranties that exist as a matter of Law, any such later date as is provided for under such Law.
 - 3. Any third-party warranties obtained by Avports in accordance with this Section will be fully transferrable and assignable to the Authority, or such other Persons as the Authority may reasonably request, upon the earliest of (i) the end of the Term and (ii) at such time as the Authority, or such other Person, takes control of the warranted element of the Runway Work.
 - 4. Avports will promptly investigate, repair, replace, or otherwise correct and fully remedy any defect in the work (as reasonably determined by Avports) covered by the foregoing warranties or any breach of the foregoing warranties.
 - (b) No Limitations - The rights and remedies of the Authority or any other warranty beneficiary arising with respect to any breach of the warranties referenced in this §5.4 will not limit Avports liability or responsibility, or the Authority's rights and remedies, under this Agreement or Law with respect to the Runway Work.
 - (c) No Warranty from Avports – For the avoidance of doubt, outside its performance hereunder, Avports will not self-perform any aspect of the Runway Work and does not itself provide any warranty concerning the Runway Work.
7. **Dispute Resolution** – Article Six of the Agreement is deleted in its entirety and replaced with Exhibit B attached hereto.
8. **Condition of Airport** – The following is inserted at the end of Article Seven of the Agreement:
- §7.4 Avports will operate and maintain the Airport such that, as of the end of the Term, each part thereof which has been maintained by it be in such condition as would be reasonably expected assuming such has been at all times operated and maintained, including as applicable through reconstruction, rehabilitation, restoration, renewal or replacement, in accordance with Section 3 of the Operating Standards and all other applicable provisions of this Agreement.
9. **FAA Requirements, Non-Discrimination, and Other Compliance** – Article Eight of the Agreement is deleted in its entirety and replaced with the following:

ARTICLE EIGHT. NON-DISCRIMINATION, FAA REQUIREMENTS, AND OTHER COMPLIANCE

§8.0 Non-Discrimination

- (a) Avports shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Avports shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by AvPorts to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Authority deems appropriate, which may include, but is not limited to:
1. Withholding monthly progress payments;
 2. Assessing sanctions;
 3. Liquidated damages; and/or
 4. Disqualifying the contractor from future bidding as non-responsible.
- (b) Avports will comply with all applicable federal, state, and local Laws regarding non-discrimination, including but not limited to, as applicable: (i) the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.* (1981); (ii) the Civil Rights Act of 1991, P.L. 102-166; (iii) Executive Order Number 11246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. § 2000(e) note, as amended by Executive Order Number 11375, 32 Fed. Reg. 14,303 (1967) and by Executive Order Number 12086, 43 Fed. Reg. 46,501 (1978); (iv) the Age Discrimination Act, 42 U.S.C. §§ 6101-6106 (1981); (v) the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-34 (1967); (vi) the Rehabilitation Act of 1973, 29 U.S.C. §§ 793-794 (1981); (vii) the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* (1990); (viii) the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. § 4301 *et seq.*; Connecticut General Statutes Sections 4-60a and 4a-60a; and Chapter 12½ of the General Ordinances.
- (c) Avports will include a provision in each subcontract entered into with any Subcontractor for such Subcontractor to comply with each of the federal laws and the State of Connecticut laws referenced in this Article Eight. Avports will include the non-discrimination requirements in §8.0 be included in subcontracts of every tier.

§8.1 Avports will comply in all material respects with all applicable Laws governing employee wages and hours, including, but not limited to, as applicable, the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* and the Connecticut Minimum Wage Act, Conn. Gen. Stat. § 31-58, *et seq.*

§8.2 Minority-Owned and Women-Owned Business Enterprises

- (a) Avports will use good faith efforts during the Term to obtain the participation of M.B.E./W.B.E. in its Airport Services.
- (b) In order to demonstrate this good faith efforts commitment, Avports will, and will cause all Subcontractors to, complete and submit to the Authority (i) a M.B.E./W.B.E. Solicitation and Commitment Statement, which will detail the efforts of Avports or the Subcontractor, as applicable, to obtain such participation or (ii) a M.B.E./W.B.E. Commitment Waiver Request, which will detail the reasons why no M.B.E./W.B.E. participation could be obtained.
- (c) Within thirty (30) Days after the Authority's request, Avports and the Subcontractor, as applicable, will submit a report detailing the actual levels of M.B.E./W.B.E. participation.
- (d) Avports will comply in all material respects with Chapter 12¼ of the City of New Haven Code of General Ordinances, subordinate to applicable Law.

§8.3 Airport Concession Disadvantaged Business Enterprise (“ACDBE”) Program

The Authority receives federal financial assistance from the DOT and has established an ACDBE program in accordance with regulations of the DOT, 49 C.F.R. Part 23. As part of the Airport Services, to the extent applicable in connection with its performance of the Airport Services, Avports shall cause the Authority to be in compliance with such ACDBE program.

§8.4 Non-Collusion / No Conflict of Interest

- (a) By signing this Agreement, Avports duly swears, affirms, and warrants that it is the contracting party, and that it has not, nor has any other member, employee, representative, agent, or officer of the firm, company, corporation or partnership represented by it, directly or indirectly, to the best of Avports’ knowledge, entered into or offered to enter into any combination, conspiracy, collusion or agreement to receive or pay any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of this Agreement.
- (b) Avports certifies and warrants to the Authority that neither it nor, any of its agents, Representatives, or employees who will participate in any way in the performance of Avports’ obligations hereunder has or will have any direct conflict of interest with the Authority during the performance of this Agreement.

§8.5 Drug-Free Workplace Certification

- (a) Avports hereby covenants and agrees to comply with all applicable drug-free workplace requirements.
- (b) Avports will give written notice to the Authority within ten (10) days after receiving actual notice that an employee of Avports has been convicted of a criminal drug violation occurring in Avports’ workplace at the Airport.

§8.6 General Ordinances Related to Noise

Although the General Ordinances as of the Effective Date with respect to noise are not legally enforceable, Avports will notify users of such ordinance, consistent with existing practice at the Airport. Avports will work with Airport users on a program that limits engine run-ups to designated locations and that schedules engine run-ups and use of ground power units and auxiliary power units only between 7:00 AM and 10:00 PM, except as aircraft operational necessities dictate.

§8.7 Additional Obligations

- (a) Avports agrees to operate the Airport in accordance with the obligations of the Authority to the Federal Government under all applicable Laws and regulations and in compliance with all existing Grant Agreements in effect at the time of execution of the Agreement and any future Grant Agreements. In furtherance of this general covenant, but without limiting its general applicability, Avports specifically agrees to: operate the Airport for the use and benefit of the public; to make available all Airport Facilities and Airport Services on fair and reasonable terms and without unjust discrimination; to use airport revenues only for the capital and operating expenses of the Airport, in compliance with applicable grant assurances and the FAA Revenue Use Policy; to provide space at the Airport, to the extent available; and to grant rights and privileges for use of the landing

area facilities of the Airport to all qualified persons, firms, and corporations desiring to conduct aeronautical operations on the Airport, in each case as required by and in compliance with applicable Law and regulations and all Grant Agreements then in effect.

- (b) It is specifically understood and agreed that nothing contained in the Agreement shall be construed as granting or authorizing the granting of a sole right that would be prohibited by Section 308(a) of the Federal Aviation Act and wherever the word “exclusive” appears in the Agreement and wherever same would be violative of Section 308(a) of the Federal Aviation Act, same shall be deleted.
- (c) The Airport site is subject to multiple FAA reviews, designed to assess all proposed obstructions, both temporary and permanent, and their impact to navigable airspace. Construction equipment, such as crane booms, or permanent installations of material or equipment at an elevation higher than specified heights or exceeding imaginary surfaces, must be submitted to the FAA, using FAA Form 7460-1, Notice of Proposed Construction, at least 45 days before the start of the proposed construction or alteration, subject to certain exceptions. The Authority reserves the right to preclude Avports from erecting, or permitting to be erected, any building or alteration in the event that the FAA issues a final Determination of Hazard that the proposed structure would have or has a substantial adverse effect on the safe and efficient use of navigable airspace.
- (d) The Agreement shall be subordinate to provisions of any existing or future agreements entered into between the Authority and the United States to obtain Federal aid for the improvement of operation and maintenance of the Airport. To the extent that the law permits only the Authority to act as sponsor in connection with the grant of Federal funds for Airport development, Avports shall participate in any such application for such funds through Authority to the extent permitted, and any such grant should recognize the unique relationship between the Authority and Avports.
- (e) It is understood that the FAA will at all times look to the Authority for affecting such actions as may be required to conform to the Authority’s compliance obligations, and Avports shall be considered, by the FAA, as “resident agents” of Authority for purposes of conforming to the Authority’s compliance obligations. Authority hereby reserves such rights and authority so as to ensure that the Airport will be operated and maintained in accordance with pertinent Federal statutes, regulations, and covenants contained in Authority’s contractual assurances entered into, or hereinafter entered into, in Grant Agreements between Authority and FAA. As between Authority and Avports, Avports has responsibility for such compliance obligations.
- (f) The parties recognize and agree to comply with the requirements of 49 U.S.C. § 40117(f), Passenger Facility Charges, Limitations on Contracts, Leases, and Use Agreements.
- (g) FAA Required Provisions
 1. Avports will comply with all of the required federal provisions attached to this Agreement as Exhibit F, as such required federal provisions may be changed by the USDOT or the FAA and apply to the Authority or the Airport from time to time.

2. Avports will include a provision in each subcontract entered into with any Subcontractor for such Subcontractor to comply with each of the applicable federal laws and State laws referenced in this Article 8 and Exhibit F and will require such provisions to be included in subcontracts of every tier.

10. Assignment – Article Ten of the Agreement is amended as follows:

- a. §10.0 is deleted in its entirety and replaced with the following:

§10.0 Avports shall not, except as provided in this Article Ten, assign, mortgage or transfer this Agreement or any part hereof, or any payments due hereunder, without the prior written consent of the Authority (which consent shall not be unreasonably withheld conditioned or delayed).

- b. The following new §10.2 is added immediately after §10.1 as follows:

§10.2 Notwithstanding §10.1, Avports shall not make any assignment in connection with a merger, consolidation, or sale as described in §10.1 to the extent (a) such merger, consolidation or sale does or would involve the transfer of any shares or membership interests to a Prohibited Person, (b) is or would be in violation or causes a violation of applicable Law or any Authorization, or (c) if the Authority reasonably determines that the proposed assignee (or, if applicable, the managers or operating partners to be engaged by the proposed assignee to perform all or substantially all of the Airport Services pursuant to this Agreement) is not capable of performing the obligations and covenants of Avports under this Agreement, which determination shall be based upon and take into account the experience of the proposed assignee (or any proposed managers or operating partners to be engaged by the proposed assignee) in operating airports. Further, Avports shall not assign this Agreement (or any part hereof) to Lessee without the prior written consent of the Authority (with consent shall not be unreasonably withheld, conditioned or delayed).

- c. The following new §10.3 is added immediately after §10.2 as follows:

§10.3 Notwithstanding anything herein to the contrary, Avports shall be permitted to collaterally assign this Agreement to its financing parties without the consent of the Authority. The Authority agrees to use good faith efforts to negotiate and enter into with such financing parties (or an agent acting on their behalf) a customary direct or consent agreement, pursuant to which the Authority will consent to the collateral assignment of this Agreement. The direct or consent agreement will contain other customary and desirable provisions such as the financing parties' right to cure a default by Avports under this Agreement and, if necessary, to enter into a replacement agreement directly with the Authority.

11. Termination – Article Eleven of the Agreement is amended as follows:

- a. The following is inserted at the end of §11.0:

For purposes of this §11.0, the Authority and Avports agree that a “material breach” will include, but not be limited to: (a) Avports having placed the Authority in violation of its obligations under its Airport Operating Certificate, Airport Security Program, or Airport Certification Manual and has failed to remedy such violation within a reasonable time, as such may be set by the applicable Governmental Authority; (b) Avports is insolvent or is subject to a bankruptcy proceeding or filing; or (c) after exhaustion of all rights of appeal, Avports is suspended or debarred from bidding,

proposing or contracting with any State of Connecticut or federal Governmental Authority.

- b. A new §11.4 is added immediately after the new §11.3 to read as follows:

§11.4 Assignment and Transfers During Handback

- (a) Without limiting its other obligations under this Agreement, upon the end of Term or early termination of this Agreement, Avports will, unless the Authority elects in writing to the contrary, assign and transfer to the Authority, and/or any person designated by the Authority, and Authority will assume or causes such designated Person to assume, for no additional payment, any and all Authorizations and subcontracts and/or other direct contractual arrangements (as may be reasonably required by the Authority) that Avports may have from or with any third parties exclusively in relation to the work under this Agreement.
- (b) Avports will promptly after, and in any event no later than twenty (20) Days after the end of Term or early termination of this Agreement hand over to the Authority all records and other work product owned by the Authority pursuant to this Agreement (or complete and accurate copies to the extent originals are not required by the Authority) by whatever means the Authority reasonably requires that are in the possession, custody or power of Avports or its Affiliates.

- c. A new §11.5 is added immediately after the new §11.4 to read as follows:

§11.5 Hiring of Employees

- (a) Upon the Authority's written request in connection with the end of Term or early termination of this Agreement Avports will use Reasonable Efforts (i) subject to any limitations on disclosure under Law, deliver to the Authority such employment records, terms, and conditions, and other relevant information for purposes of review by the Authority and/or its designee and/or any replacement or succeeding contractor; (ii) facilitate such interviews of individual employees for post-expiry or termination positions with the Authority and/or its designee and/or any replacement or succeeding contractor; and (iii) as the Authority may request, subject to the express written consent of the individual affected employees, with respect to information only to the extent such information identifies individual persons.
- (b) The Authority is entitled itself or through a designee or replacement or succeeding contractor to subsequently and independently hire any, all, or no such employees in its and their discretion. For certainty, under no circumstances will any such new employer be liable for claim or loss of any kind or character whatsoever, in Law or in equity, with respect to such employee's prior employment (including with respect to any pension, benefit, or wages accrued or owed) or which the employee has or may have for any period prior to and including the date of the termination of their prior employment or at any time thereafter that they may have against Avports or any other Avports related party including, claims for breach of contract, wrongful dismissal, unpaid wages, unfair dismissal, redundancy payment, any and all forms of employment discrimination in violation of any Law, any and all suits in tort, equal pay or any other claims or rights of action whatsoever or howsoever arising in connection with their

employment with Avports or another Avports related party or their termination.

d. A new §11.6 is added immediately after the new §11.5 to read as follows:

§11.6 Ongoing Support Services

- (a) Commencing on the last day of the Term or the date of early termination and ending on the earlier of (i) one hundred eighty (180) days thereafter and (ii) thirty (30) days following a written notice of early termination of such one hundred eighty (180) Day period from the Authority to Avports, Avports will provide certain Ongoing Support Services (as defined below) to the Authority.
- (b) Such Ongoing Support Services will include all reasonably necessary services, to support continued services (collectively, the “**Ongoing Support Services**”), as required for the continued operation and maintenance of the Airport in accordance with standards equivalent to those that apply under this Agreement and applicable law.
- (c) Absent or pending execution of a separate definitive agreement between the Authority and Avports with respect to the Ongoing Support Services, the Parties agree that: (i) Avports will perform the following Ongoing Support Services in accordance with this §11.6 and such other provisions of this Agreement which by their inherent character should survive the expiration or early termination of, or completion of the work contemplated under this Agreement; and (ii) in consideration of Avports’ performance of the Ongoing Support Services, the Authority will pay Avports for the Ongoing Support Services at actual cost, plus a customary markup, not to exceed (in aggregate) fifteen percent (15%).
- (d) Avports will perform and be paid for the Ongoing Support Services in accordance with: (i) terms equivalent to those which apply to the equivalent work under this Agreement; (ii) Law and all Authorizations with respect thereto in effect from time to time; and (iii) the Baseline Standard of Practice.
- (e) The Parties agree that Avports will provide a detailed monthly invoice to the Authority for its Ongoing Support Services, and the Authority will promptly pay such amounts due for such Ongoing Support Services.

12. **Remedies** – Article Thirteen of the Agreement is deleted in its entirety and replaced with the following:

ARTICLE THIRTEEN. REMEDIES CUMULATIVE

§13.0 Remedies

- (a) Cumulative Remedies – The rights, remedies, powers, and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers, and privileges provided by Law.
- (b) No Double Recovery – Notwithstanding any other provision of this Agreement, no Party will be entitled to recover compensation pursuant to this Agreement or any other agreement in relation to this Agreement in respect of any Loss that it has incurred to the extent that it has already been compensated in respect of that Loss pursuant to this Agreement or otherwise.

- (c) Non-financial Remedies – Without prejudice to the other rights and remedies pursuant to the express terms of this Agreement, nothing in §13.0(b) will prevent or restrict the right of the Authority or Avports to seek any non-financial remedies from the court pursuant to the dispute resolution procedures set forth in Exhibit B.
- (d) Available Insurance – Avports will not be entitled to any payment or credit (or any portion of either thereof) which would have been due, or from which it would have otherwise received a benefit, pursuant to this Agreement to the extent that it is (or, but for any breach by it of this Agreement, would be) able to recover the amount or receive the benefit of such payment or credit (or such portion) pursuant to, without duplication:
 - 1. any insurance policy;
 - 2. any other policy of insurance that Avports has taken out and maintains; or
 - 3. any other policy of insurance that Avports is entitled to claim under as an additional insured,

paragraphs 1 through 3 above, together, the “**Available Insurance**”.

§13.1 Damages and Liabilities

(a) Waiver of Consequential Damages

- 1. Subject to §13.1(a)(2), neither Party will be liable to the other for any punitive, indirect, incidental or consequential damages of any nature (including, for certainty, lost revenue), whether arising out of a breach of this Agreement, tort (including negligence) or other legal theory of liability (except for Claims and/or Losses by either Party against the other Party for fraud or for intentional misrepresentation or intentional breach).
- 2. The limitation set out in §13.1(a)(1) will not apply to:
 - (i) any amounts expressly payable pursuant to this Agreement;
 - (ii) either Party’s liability for:
 - i. Claims and/or Losses (including defense costs) to the extent that they are covered by the proceeds of, in the case of Avports, Available Insurance, and in case of the Authority, such insurance the Authority otherwise carries;
 - ii. fines and/or penalties issued by a Governmental Authority arising out of or relating to any Release of Hazardous Materials at, on, under, or from the Authority Property;
 - iii. any type of damage arising out of fraud, willful misconduct, criminal conduct, recklessness, bad faith or gross negligence on the part of the relevant Party (including, with respect to Avports, that of any Affiliate); and

iv. interest, late charges, fees, transaction fees and charges, penalties, and similar charges that the Agreement expressly states are due from the relevant Party.

- (b) Joint and Several Liability – In the event that Avports, or its successors or assigns, if any, is at any time comprised of more than one individual or other legal entity (or a combination thereof) and is not itself a legal entity, then and in that event, each and every obligation or undertaking herein stated to be fulfilled or performed by Avports will be the joint and several obligation or undertaking of each such individual or other legal entity.
- (c) No Personal Liability – Each of the members, owners, directors, officers, employees, managers, agents, consultants, and advisors of the Authority and Avports and each of the Authority’s authorized representatives and Avports’ authorized representatives are acting solely as agents and representatives of the Authority or Avports when carrying out the provisions of or exercising the power or authority granted to them under this Agreement, and, as such, none of them will be liable either personally or as employees of the Authority or Avports for actions in their ordinary course of employment.

13. No Partnership or Third Party Beneficiaries – Article Sixteen of the Agreement is deleted in its entirety and replaced with the following:

§16.0 Except as expressly provided herein to the contrary, nothing contained in this Agreement will constitute or be deemed to create a partnership or joint venture between the Authority and Avports. Except as expressly provided herein to the contrary (including with respect to such rights as are expressly granted to any indemnified party pursuant to this Agreement) no term or provision hereof be construed in any way to grant, convey or create any rights or interests to any Person not a party to this Agreement.

14. Insurance and Indemnification – Article Seventeen of the Agreement is amended as follows:

- a. §17.1(a) is revised in that the following is added to the end, “For purposes of this Section, even if otherwise the case, Lessee will not be deemed an Affiliate of Avports.”
- b. For purposes of §17.1(d), except with respect to §17.1(c), the indemnity by the Authority will also not apply to the extent that any such loss, penalty, damage, or liability may be caused by an event of Force Majeure or as a result of willful misconduct, gross negligence or causally related breach of this Agreement on part of Avports or any Avports Affiliates.
- c. For purposes of §17.3, the indemnity by Avports of the Authority will exclude any damages, liabilities, costs, and expenses to the extent caused by:
 - (a) without limiting Avports' obligations under Exhibit E(n)(5), actions taken by or on behalf of Avports that are either in a written directive from the Authority where the Authority mandates the means or methods of Avports’ performance or where specifically required by Law or Governmental Authority;
 - (b) an event of Force Majeure; and
 - (c) the willful misconduct, gross negligence, or causally related breach of this Agreement on the part of the Authority.
- d. A new paragraph is added after §17.4 as follows:

§17.4 If Avports or an Avports Affiliate suffers any damages, liabilities, costs or expenses arising directly or indirectly from any suit, action or proceeding based upon an act or omission of Lessee under the Facility Development Agreement, without the Authority being relieved of any otherwise applicable liability, upon Avports' request the Authority will (a) assign to Avports the any right that the Authority has to assert a claim against Lessee in respect of the same; or (b) use Reasonable Efforts to assert a claim against Lessee in respect of the same and will convey to Avports any amount recovered (not to exceed the amount of the corresponding damages, liabilities, costs and expenses) less the Authority's reasonable cost and expense (including reasonable attorneys' and professional fees and expenses) of pursuing such claim.

15. Subcontracting – Article Eighteen of the Agreement is revised as follows:

- a. A new §18.1 is added immediately after §18.0 to read as follows:

§18.1 The retention of any Subcontractor (of any tier) by Avports in accordance with this Agreement shall neither relieve Avports of its obligations and liabilities nor increase the Authority's obligations and liabilities, or deprive the Authority of any rights, in each case under this Agreement. As such, as between Avports and the Authority, Avports will be responsible for the performance, acts, defaults, omissions, breaches, and negligence of its Subcontractors.

- b. A new §18.2 is added immediately after the new §18.1 to read as follows:

§18.2 Avports shall have the right to have the Airport Services and other work performed pursuant to this Agreement directly or indirectly performed by Affiliates of itself only if the following conditions are satisfied:

1. the Affiliate shall be qualified, experienced, licensed (if applicable), and capable in the performance of such part of the work assigned;
2. Avports shall execute, or have a Subcontractor execute, a written subcontract with the Affiliate which subcontract shall:
 - (i) be on terms consistent with this Agreement;
 - (ii) be on terms no more or less favorable to Avports (or, as applicable, its Subcontractor) than those that Avports (or such Subcontractor) could reasonably obtain in an arms' length, competitive transaction with an unaffiliated Subcontractor; and
 - (iii) Avports shall make no payments to Affiliates for work or services in advance of provision of such work or services under the terms of a subcontract, except for reasonable mobilization payments or other payments consistent with arm's length, competitive transactions of similar scope.
3. Avports shall make no payments to Affiliates for work or services in advance of provision of such work or services under the terms of a subcontract, except for reasonable mobilization payments or other payments consistent with arm's length, competitive transactions of similar scope.

16. Right of Access and Inspection – Article Nineteen of the Agreement is amended as follows:

- a. The Article heading is revised to read "Right of Access and Inspection; Oversight; Reservation of Rights; Confidentiality".

- b. References to “New Jersey” in §19.0 are deleted and replaced with “Virginia.”
- c. A new §19.1 is added immediately after §19.0 to read as follows:

§19.1 Avports will deliver to the Authority each of the reports listed in Section 1.2.5 of the Operating Standards as and when required by the Operating Standards. Avports will provide with each such report a certification that information set forth in each such report will be true, complete, and correct, in all material respects, as of the date thereof.
- d. A new §19.2 is added immediately after the new §19.1 to read as follows:

§19.2 Avports will:

 - (a) provide notice as soon as reasonably practicable to the Authority of:
 1. all Emergencies, with such notice being given as promptly as possible, and, in any event, not later than twenty-four (24) hours of such Emergency being known to Avports;
 2. any material Release of Hazardous Materials on, under or with respect to the Airport Facilities and Assets or through the performance of the Airport Services;
 3. all other material accidents and incidents occurring on or with respect to the Airport Facilities and Assets;
 4. to the extent not otherwise notified, all material Claims made by or against Avports of which Avports has knowledge, or potential material Claims that Avports reasonably expects to make against, or to be made against it by, third parties;
 5. any aircraft accident or serious incident that is reportable to the National Transportation Safety Board pursuant to 49 CFR § 830.5, to the extent of, and immediately following Avports’ knowledge of such accident or incident; and
 6. if Avports becomes aware of a material breach by Avports under this Agreement has occurred (or with the passage of time will occur); provided, however, that the failure to give such notice will not constitute an independent breach of this agreement; and
- e. provide access (via a database or other reasonable means) to the Executive Director to:
 1. complaints and citizen inquiries with respect to Airport operations and aircraft activities in accordance with the Operating Standards; and
 2. any notices delivered by Avports to airlines or aircraft operators with respect to aircraft noise.
- f. A new §19.3 is added immediately after the new §19.2 to read as follows:

§19.3 Reservation of Rights

 - (a) Without otherwise limiting its rights under this Agreement, the Authority reserves (for itself and any of its Representatives, grantees, tenants, mortgagees, licensees, and other claiming by, through or under the Authority) and will, at all times during the Term, have the right to enter the Airport Facilities in response to any of the following events, circumstances or purposes:

1. following reasonable prior notice, to inspect the Airport Facilities and Assets or determine whether or not Avports is in compliance with its obligations under this Agreement or applicable Law, and Avports shall provide proper facilities for safe access to allow proper inspection of the same;
2. if Avports is in material breach of this Agreement, to make any necessary repairs to the Airport Facilities and Assets and perform any work therein, with the costs and expenses of such repairs to be reimbursed by Avports to the Authority; and
3. in the event of an Emergency, if Avports is not then taking all necessary steps to rectify or deal with such Emergency, to take actions as may be reasonably necessary (or as directed by the FAA, TSA, NTSB or other affected federal agency) to rectify such Emergency;

provided that the Authority will not be obligated to make any payments to Avports for such access and the Authority will use Reasonable Efforts to minimize interference with the Airport Services in connection with any such entry.

- (b) Without otherwise limiting its rights under this Agreement, the Authority, at its own cost and expense (except as otherwise expressly provided in this Agreement) and solely in accordance with the terms hereof, will have the right to do any other act or thing that the Authority may be obligated to do or have a right to do under this Agreement.
- (c) To the extent that the Authority undertakes work or repairs in the Airport Facilities and Assets pursuant to the foregoing, such work will be commenced and diligently completed in a good and workmanlike manner, in accordance with any applicable Operating Standards and in such a manner as to not materially interfere with Avports' conduct of business in or use of such space to the extent reasonably possible.

- g. A new §19.4 is added immediately after the new §19.3 to read as follows:

§19.4 Effect of Reservation

- (a) Any reservation of a right by the Authority and any of its Representatives, grantees, tenants, licensees, and others claiming by, through, or under the Authority to enter the Airport Facilities and to make or perform work in, to, above, or about the Airport Facilities which is Avports' obligation pursuant to this Agreement, will not be deemed to:
 1. impose any obligation on the Authority to do so;
 2. render the Authority liable to Avports or any other Person for the failure to do so; or
 3. relieve Avports from any obligation to indemnify the Authority as otherwise provided in this Agreement.
- (b) Nothing in this Agreement will impose any duty upon the part of the Authority to do any work required to be performed by Avports hereunder and performance of any such work by the Authority and any of its Representatives, grantees, tenants, mortgagees, licensees and others

claiming by, through or under the Authority will not constitute a waiver of Avports' default in failing to perform the same.

h. A new §19.5 is added immediately after the new §19.4 to read as follows:

§19.5 Confidentiality and Public Records

- (a) Unless disclosure is required by applicable Law, the Authority shall keep confidential any Information obtained from Avports or its Representatives that:
 - 1. constitutes (i) trade secrets, which for purposes of this §19.5, consists of Information that (A) derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from their disclosure or use, and (B) are the subject of efforts that are reasonable under the circumstances to maintain secrecy, or (ii) commercial or financial information, given in confidence, not required by statute or (ii) commercial or financial information, given in confidence, not required by statute; and
 - 2. is designated as confidential by Avports in writing to the Authority.
- (b) If a Connecticut Freedom of Information Act or other request is submitted to the Authority seeking any confidential information, the Authority shall promptly notify Avports before providing any such confidential information to any third party. Avports will have the burden, cost and expense of establishing the availability of any exemption from disclosure before the Connecticut Freedom of Information Commission or in any other legal proceeding related to the disclosure of the confidential information, and shall have the right, at its cost and expense, to initiate, prosecute or defend any legal proceeding or to seek to secure any protective order or other relief to prevent disclosure of any confidential information; provided, however, that the Authority may make such disclosures of confidential information (i) as the Authority is required by law, regulation or legal process, in the opinion of the Authority's counsel, to make or (ii) to which Avports has consented in writing. The Authority is responsible for any violations of the terms of this Section committed by any of its Representatives. It is understood and agreed that money damages may not be a sufficient remedy for any breach of the provisions hereof and that Avports may be entitled to seek, from any court of competent jurisdiction, specific performance and injunctive or other equitable relief without proof of actual damages or posting of bond as a remedy for any such breach or threatened breach in addition to all other remedies available at law or equity to Avports.
- (c) This §19.5 shall not apply to any Information that:
 - 1. is already in the possession of the Authority; provided that such information is not known by the Authority to be bound by another confidentiality agreement with or other obligation of secrecy to Avports or another party;
 - 2. becomes generally available to the public other than as a result of a disclosure by the Authority or their Representatives in violation of the terms of this §19.5;

3. becomes available to the Authority on a non-confidential basis from a source other than Avports or its advisors; provided that such source is not known by the Authority to be bound by another confidentiality agreement with or other obligation of secrecy to Avports or another party; or
4. is independently developed by the Authority or its Representatives.

17. Interpretation – Article Twenty of the Agreement is amended as follows:

- a. §20.2 of the Agreement is deleted in its entirety and replaced with the following:

§20.2 Governing Law and Jurisdiction

- (a) This Agreement will be governed by, and interpreted and enforced in accordance with, the Laws in force in the State of Connecticut (excluding any conflict of laws rule or principle which might refer such interpretation to the Laws of another jurisdiction).
- (b) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS SIXTH AMENDMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

- b. §20.5 of the Agreement is deleted in its entirety and replaced with the following:

§20.5 Severability

- (a) if any provision of the Agreement or the application thereof to any Person or circumstance is held or deemed to be or determined to be invalid, inoperative or unenforceable in any particular case in any particular jurisdiction or jurisdictions because it conflicts with any other provision or provisions hereof or of any applicable Law, or public policy, or for any other reason, then:
 1. the Parties will promptly meet and negotiate a substitute for such provision or part thereof which will, to the greatest extent legally permissible, effect the original intent of the Parties and amend the Agreement to implement the provisions set forth herein, and
 2. if the Parties cannot agree on an appropriate amendment, either Party may refer the matter for determination pursuant to the dispute resolution procedures set forth in Exhibit B. If, by means of such procedures, the Parties are unable, as a result of applicable Law, to resolve the matter in a manner that effectively entitles the Authority to have the same rights after the aforesaid determination of invalidity or unenforceability as before, the Authority will have the right to enact, and cause to come into force, any Law to provide for the same or substantially the same rights as were determined to be invalid or unenforceable; provided that the rights of Avports or any Secured Party shall in no event be diminished by any such Law.
- (b) If any provision (or part of any provision) of this Agreement will, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such provision (or part thereof) will not affect the validity, legality, and enforceability of any other provision of (or the other part of such provision) or any other documents referred to in this Agreement, and this Agreement

will be construed as if such invalid, illegal, or unenforceable provision (or part thereof) had never been contained herein.

- c. §20.6 of the Agreement is deleted in its entirety and replaced with the following:
§20.6 The Agreement will inure to the benefit of the Parties and their respective permitted successors and assigns and is binding upon the Parties and their respective successors and assigns.
- d. A new §20.7 is added immediately after the new §20.6 to read as follows
§20.7 The following provisions of this Agreement shall survive the end of the term or early termination of the Agreement: (a) §11.6 with respect to Ongoing Support Services; (b) any provision which obligates Avports or the Authority to reimburse the other Party for any cost and expense incurred by them prior to the termination of the Agreement, unless already settled as part of the applicable termination payment or otherwise; (c) any other provisions which, either expressly or by their context, are intended to operate after termination or expiration of this Agreement; and (d) any other provisions if and to the extent necessary for the interpretation or application of the foregoing.
- e. A new §20.8 is added immediately after the new §20.7 to read as follows
§20.8 No Encumbrances; Removal of Encumbrances
 - (a) Except as authorized or consented to by the Authority, Avports will not do any act or thing that will create any Encumbrance (other than a Permitted Avports Encumbrance) against the Airport Facilities and Assets and will promptly remove any Encumbrance (other than a Permitted Avports Encumbrance) against such Airport Facilities and Assets, unless the Encumbrance came into existence as a result of Acts and Faults by the Authority or a Person claiming through the Authority which in turn was not caused by Acts and Faults of Avports. For certainty, under no circumstances shall Avports be entitled to create any Encumbrance against any part of the Airport or any Airport Facilities or Assets related to any borrowing or indebtedness incurred by it or an Affiliate.
 - (b) Avports will not be deemed to be in breach under §20.8 if Avports continuously, diligently and in good faith contests any such Encumbrance, or the validity thereof (or causes such contest), by appropriate legal proceedings that will operate to prevent the foreclosure of any such Encumbrance; provided that Avports has:
 1. provided advance notification to the Authority that it is the intent of Avports to contest the validity or collection thereof or cause such contest; and
 2. unless a bond or other security is provided in connection with such proceedings, (A) provided a satisfactory indemnity to the Authority or (B) deposited with the Authority a letter of credit, indemnity bond, surety bond, cash or other eligible investment reasonably satisfactory to the Authority in an amount equal to the amount of the Encumbrance, plus such interest and penalties, court costs, or other charges as the Authority may reasonably estimate to be payable by Avports at the conclusion of such contest or as is required to provide insurance over any potential Encumbrance; provided, that in the event such letter of credit, bond, cash or other eligible investment has been deposited with


the Authority, the same will be held by the Authority until such Encumbrance has been released and discharged and will thereupon be promptly returned to Avports, less any amounts reasonably expended by the Authority to procure such release or discharge or any loss, cost, damage, reasonable attorneys' fees or expense incurred by the Authority by virtue of the contest of such Encumbrance.

18. **Removal of Engineering Services** – Section 3.7 of the Agreement as amended by Section 15 of the Third Amendment is deleted.
19. **Removal of Extension of Rights** – Section 5 of the Fourth Amendment (amendment Section 7 of The Third Amendment) is deleted in its entirety.
20. **Environmental Stewardship Committee** – The Authority will establish, appoint and consult with an environmental stewardship committee (the “ESC”) with the following composition: three (3) residents from the Town of East Haven, three (3) residents from the City. The ESC’s primary duties will be to explore and promote sustainability efforts at the Airport.
21. **Assignment** – Upon the execution of this Sixth Amendment, the Agreement is assigned to Assignee and, by its signature below, Assignee assumes all of the obligations hereunder and will hereafter be deemed “Avports” under the Agreement.
22. **Representations and Warranties** –
 - a. Avports and Assignee represent and warrant to the Authority that each representation and warranty set out in Part A of Exhibit C is true and correct as of the Effective Date of this Sixth Amendment.
 - b. The Authority represents and warrants to Avports and Assignee that each representation and warranty set out in Part B of Exhibit C is true and correct as of the Effective Date of this Sixth Amendment.
23. **Subordination of Amendment** –
 - a. The Parties covenant and agree that this Sixth Amendment shall be subordinated to the provisions of any existing or future agreement or assurances between the Authority and the United States federal government, the execution of which has been or will be required as a condition precedent to the granting of federal funds or the approval to impose or use PFCs for the development of the Airport.
 - b. In the event that this Sixth Amendment, either on its own terms or by any other reason, conflicts with or violates such agreement referred to in the prior paragraph, the Authority will promptly notify Avports of such conflict or violation, and work with Avports to amend, alter or otherwise modify the terms of this Sixth Amendment in order to resolve such conflict or violation in a manner reasonably acceptable to both Parties.
24. **Ratification** – Except as amended herein, all terms and conditions of the Agreement, as amended, remain unchanged and in full force and effect.
25. **Costs** – Avports will be responsible for its own costs and expenses incurred in connection with preparation, negotiation, and execution of this Sixth Amendment.
26. **Setoff** – Notwithstanding any other provision of this Agreement, each Party may set-off against any amount owing to the other Party pursuant to this Agreement which amount is due from the other Party pursuant to this Agreement.
27. **Counterparts** – This Sixth Amendment may be executed in counterparts, by either an original signature or signature transmitted by facsimile transmission, by email in portable document format (PDF) or other similar process and each copy so executed will be deemed to be an original and all

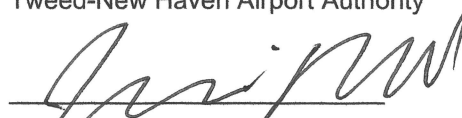
copies so executed will constitute one and the same agreement, provided, however, that, without limiting the foregoing, each Party agrees to provide the other with originals of the counterparts that it executes. It is further agreed that the foregoing processes may be used for the execution of further documents among the Parties.

IN WITNESS WHEREOF, each of the parties hereto has caused its duly authorized representatives to execute this Sixth Amendment as of the day and year first written above.

ATTEST


Lori Ann L. Moran

Tweed-New Haven Airport Authority


John Picard, Chairman

ATTEST

Avports LLC

Jorge Roberts, CEO

ATTEST

Avports HVN LLC

Jorge Roberts, CEO

IN WITNESS WHEREOF, each of the parties hereto has caused its duly authorized representatives to execute this Sixth Amendment as of the day and year first written above.

ATTEST


Tweed-New Haven Airport Authority

John Picard, Chairman

ATTEST

Avports LLC

Brian E. Hunt




Jorge Roberts, CEO

ATTEST

Avports HVN LLC

Brian E. Hunt



Jorge Roberts, CEO

Exhibit A

Definitions

“**ACDBE**” is defined in §8.3 the Agreement.

“**Acts and Faults**” means a Person’s performance, act, omission, negligence, misconduct, fraud, willful misconduct, criminal conduct, recklessness, bad faith, or breach of Law, Authorization or agreement (including, as applicable, this Agreement).

“**Additional Environmental Work**” is defined in §5.2(h) of the Agreement.

“**Adjacent Property**” means any public or private property, including any existing and future buildings, structures or facilities, including any pedestrian or transportation buildings, structure or facility of any mode, in each case including both directly related component utilities, stations, facilities, fixtures, equipment, and systems, that is located above, intersects with, crosses over or under or is adjacent to the Airport Facilities or any part thereof.

“**Adverse Action**” means any action or actions taken by the Authority, the City or any other Governmental Authority during the Term (including through a Change in Law) and the effect of such action or actions, individually or in the aggregate, is reasonably expected to:

- (a) (A) principally apply to Avports (or Avports and private operators of Comparable Airport Facilities) and (B) have a material adverse effect on Avports’ obligation to perform the Airport Services; or
- (b) to discriminate against the Airport, the Airport Facilities and Assets, the Runway Extension Project or the Airport Services, relative to other projects, facilities or operations at Comparable Airport Facilities;

excluding:

- (c) the exercise of law enforcement, subpoena or investigatory powers as permitted under this Agreement or applicable Law; or
- (d) the imposition of a Tax or an increase in Taxes in either case of general application;

provided that such event or the cause thereof is not otherwise specifically dealt with in this Agreement and excluding any event to the extent such arises as a result of any Acts and Faults of or by Avports.

“**Affiliate**” when used to indicate a relationship with a specified Person, means a Person that, directly or indirectly, through one or more intermediaries has a ten percent (10%) or more voting or economic interest in such specified Person or Controls, is controlled by or is under common Control with such specified Person, where for purposes of this definition a managed fund or trust will be deemed to be an Affiliate of the Person managing, supervising, sponsoring or advising such fund or trust and a limited partner in a managed fund or trust will be deemed to be an Affiliate of such fund or trust and of the Person managing, supervising, sponsoring or advising such fund or trust.

“**Agreement**” is defined in the recitals to this Sixth Amendment.

“**AIP Grants**” means grants and any funding under the Airport Improvement Program of the FAA, which program is authorized by 49 U.S.C. ch. 471.

“Airfield Facilities” means that Airport property and those Airport facilities consisting primarily of safety zones, runways, taxiways, taxi lanes, navigational aids, lighting and all ancillary facilities needed for the operation of the airfield in compliance with the requirements of the FAA, in each case to the extent included within the Authority Property.

“Airport” is defined in the recitals to this Sixth Amendment.

“Airport Assets” means the personal property/tangible assets of the Authority and its Subcontractors used in connection with operation, maintenance and management of the Airport.

“Airport Certification Manual” means an airport certification manual authorized and approved by the FAA pursuant to 14 C.F.R. Part 139 with respect to the Airport Operating Certificate.

“Airport Emergency Plan” means an airport emergency plan authorized and approved by the FAA pursuant to 14 C.F.R Part 139 with respect to the Airport Operating Certificate.

“Airport Facilities” means the Airport and all easements, licenses, privileges, rights and appurtenances related thereto, including all terminals, hangars, runways, buildings, structures (above grade and below grade), roadways and all fixtures, and related facilities, now or hereafter situated on the Authority Property or within the Lessee Area.

“Airport Facilities and Assets” means, from time to time, the Airport Facilities, the Airport Assets, and all improvements of any and every kind whatsoever forming a part of the Airport Facilities and used in connection with the delivery of the Airport Services.

“Airport Operating Certificate” means the airport operating certificate issued by the FAA pursuant to 14 C.F.R. Part 139 authorizing the Authority to operate the Airport Facilities.

“Airport Reserve Fund” is defined in the Facility Development Agreement.

“Airport Security Program” means the airport security program approved by TSA under 49 C.F.R. Part 1542 with respect to the Airport Facilities.

“Airport Services” is defined in Exhibit E.

“Assignee” is defined in the recitals to this Sixth Amendment.

“Assigned Agreements” is defined in Section 2.e of this Sixth Amendment.

“Authority” is defined in the recitals to this Sixth Amendment.

“Authority Board” means the governing board of the Airport established pursuant to Section 15-120i of the General Statutes of Connecticut.

“Authority Dispute Representative” has the meaning given to it in Section 3(c) of Exhibit B.

“Authority Lease Revenue” is defined in the Facility Development Agreement.

“Authority Property” means all Master Lease Premises that is not the Leased Property.

“Authorization” means any approval, certificate of approval, authorization, consent, waiver, variance, exemption, declaratory order, exception, license, filing, registration, permit, notarization, or other

requirement of any Person that applies to the Airport Facilities and Assets or the Airport Services and other work performed by Avports pursuant to this Agreement or is reasonably required from time to time therefor.

“**Available Insurance**” is defined in 13.0(d)(3)

“**Avports**” is defined in the recitals to this Sixth Amendment.

“**Avports Dispute Representative**” has the meaning given to it in Section 3(c) of Exhibit B.

“**Baseline Standard of Practice**” means the degree of skill, care, prudence, foresight, and practice that would reasonably and ordinarily be expected from time to time of a skilled and experienced professional Airport Services provider, designer, engineer, or constructor, engaged in the same (or if none, a reasonably equivalent) type of activity or activities in North America as that of Avports, or any other Person to which such term relates, never being less than the standard applied by Avports or such Person, or any of its or their Affiliates, under the same or similar circumstances.

“**Change in Law**” means the enactment of a new Law or the repeal (in whole or in part), modification, amendment or change of a Law or in the enforcement or interpretation of a Law (including a change in the application or interpretation thereof) in each case, by a Governmental Authority, after the Effective Date that:

- (a) is materially different from or inconsistent with Law as in effect prior to the coming into effect of the relevant change as referenced above; and
- (b) was not (in the same or substantially similar form and substance to that which later comes into effect) pending, passed or adopted, including in the form of a bill or draft, as of the Effective Date;

provided that Change in Law excludes any such enactment, promulgation, adoption, change or modification of any (x) labor Law of general applicability or (y) tax Law of general applicability.

“**City**” means The City of New Haven, a municipal corporation, duly organized and validly existing under the laws of the State of Connecticut.

“**City Master Lease**” is defined in the recitals to this Sixth Amendment.

“**Claim**” means any demand, action, cause of action, suit, proceeding, arbitration, claim, judgment or settlement or compromise relating thereto.

“**Comparable Airport Facilities**” means aeronautical facilities at airports in the United States of America (whether privately or publicly owned) open to the general public that are reasonably comparable to the Airport Facilities with respect to the matter to be determined.

“**Control**” of a Person by another Person (or group of Persons acting in concert) means that the other Person or group (whether directly or indirectly):

- (a) holds either (i) more than fifty percent (50%) of the direct or indirect voting or economic interests in such Person or (ii) a percentage of the direct or indirect voting or economic interests in such Person that is either equal to or greater than the percentage held by any other Person (or group of Persons acting in concert);

(b) holds the power to appoint, approve or remove either (i) more than fifty percent (50%) of the board of directors (or equivalent) of such Person or (ii) a percentage of the board of directors (or equivalent) of such Person either equal to or greater than the percentage appointed, approved or removed by any other Person (or group of Persons acting in concert); or

(c) holds the power directly or indirectly to direct or cause the direction of management and policy of such Person, whether through ownership of voting securities, by contract, management agreement, or common directors, officers or trustees or otherwise, including with respect to an investment fund the power to direct, recommend or propose all or substantially all of the investments of such investment fund (with respect to each of the foregoing, notwithstanding the fact that an independent board or trustee makes final investment decisions with respect thereto).

“Debarment Regulations” means (a) Federal Executive Order no. 12549 (Feb. 18, 1986), (b) Federal Executive Order no. 12689 (Aug. 16, 1989), (c) 31 U.S.C. § 6101 note (Section 2455, Pub. L. 103-355, 108 Stat. 3327) and (d) 2 CFR Part 180 “Government wide Debarment and Suspension (Nonprocurement)”.

“DEEP” means the Connecticut Department of Energy and Environmental Protection.

“DEEP Approval Documents” means any and all environmental permits, registrations, licenses and other approvals required by DEEP with respect to the New Terminal Project and the Runway Extension Project.

“Delay Event” means any of the following events that results in or would result in a delay or interruption in the performance by Avports of any obligation under this Agreement:

- (a) Force Majeure Event;
- (b) a failure to obtain, or delay in obtaining, any Authorization from a Governmental Authority (provided that such failure or delay could not have been reasonably prevented by technical and scheduling measures of Avports in the ordinary course);
- (c) any Adverse Action;
- (d) any Change in Law which is not an Adverse Action;
- (e) a delay caused by the performance of works carried out by a Governmental Authority or any energy, water and waste, or telecommunications utility or a delay caused by the performance of works by any other Person not acting under the authority or direction of, or pursuant to a contract or any other agreement or arrangement with Avports;
- (f) a failure by the Authority to perform or observe any of its covenants or obligations under this Agreement;
- (g) any Differing Site Condition;
- (h) the occurrence of any casualty loss, destruction or damage of the Airport Facilities and Assets, or the performance or delay in performance of a Restoration of any such casualty loss, destruction or damage;
- (i) an Emergency; or
- (j) Avports’ compliance with or the implementation of any direction or instruction of the Authority in the nature of a mandated directive letter,

provided that such delay or the cause thereof is not otherwise specifically dealt with in this Agreement and excluding any event to the extent such arises as a result of any Acts and Faults of or by Avports.

“Differing Site Condition” means the encountering or discovery on or under any part of the Authority Property of any:

- (a) antiquities (including structures), fossils, articles of value, cultural artifacts, human burial sites and remains, and other similar remains;
- (b) any animal or plant species listed as threatened or endangered under and subject to an applicable threatened or endangered species Law or other legal restrictions;
- (c) utility condition;
- (d) buried obstruction of man-made origin (other than a utility of any kind) that requires specialized or large-scale excavation equipment or blasting for removal or which otherwise obstructs the work performed by Avports pursuant to this Agreement;
- (e) latent naturally occurring geological conditions (excluding groundwater); or
- (f) any Hazardous Material in building materials, soil, surface water, or groundwater to the extent at concentration levels above the relevant RSR criteria and/or other applicable criteria, requiring the performance of Hazardous Materials investigation, management or remediation activities pursuant to Environmental Laws,

in each case only to the extent:

- (g) such conditions were not disclosed to or known by Avports prior to the Effective Date or which could have reasonably been known, identified, discovered, observed or anticipated by Avports undertaking due diligence prior to the Effective Date; and
- (h) with respect to subsurface conditions unrelated to Hazardous Materials, such conditions are of an unusual nature that are materially different from those ordinarily encountered and generally recognized as inherent in the work performed by Avports pursuant to this Agreement.

“Dispute” has the meaning given to it in Section 1(a) of Exhibit B.

“Dispute Representatives” has the meaning given to it in Section 3(d) of Exhibit B.

“Effective Date” is defined in the recitals to this Sixth Amendment.

“Emergency” means a non-ordinary course situation that is urgent and calls for immediate action, which, if such action is not taken, is reasonably likely to result in:

- (a) a material danger to the safety or security of the Airport Services or any user of the Airport Facilities and Assets; or
- (b) a material impairment to the Airport Facilities or to the continuing use of the Airport as a commercial service Airport,

in each case including any such event affecting the Airport Facilities and Assets that is recognized or declared as an emergency by the Governor of the State, the Federal Emergency Management Agency, the U.S. Department of Homeland Security or any other Governmental Authority, including the FAA or TSA, with legal authority to recognize or declare an emergency.

“Encumbrance” means any mortgage, lien, judgment, execution, pledge, charge, security interest, restriction, easement, servitude, option, reservation, lease, claim, trust, deemed trust or encumbrance of any nature whatsoever, whether arising by operation of Law, judicial process, contract, agreement or otherwise created.

“Environmental Assessment” means the environmental assessment required under NEPA for the New Terminal Project and the Runway Extension Project.

“Environmental Laws” mean and include all Law relating to environmental quality (including land surface or subsurface strata, sediments, groundwater, surface water, air, ambient air, plant and animal life, and any other environmental medium or natural resource), health and safety (as they relate to exposure to Hazardous Materials), contamination, and clean-up, as they currently exist or may exist in the future, including the Clean Air Act, 42 U.S.C. §7401 et seq.; the Clean Water Act, 33 U.S.C. §1251 et seq.; the Water Quality Act of 1987; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 et seq.; the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. §1401 et seq.; the Noise Control Act, 42 U.S.C. §4901 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. §300f et seq.; the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq., as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right to Know Act, and the Radon Gas and Indoor Air Quality Research Act; the Hazardous Material Transportation Act, 49 U.S.C. §9601 et seq.; the Toxic Substance Control Act, 15 U.S.C. §2601 et seq.; the Atomic Energy Act, 42 U.S.C. §2011 et seq.; the Nuclear Waste Policy Act of 1982, 42 U.S.C. §1010 et seq.; the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §651 et seq.; all State environmental protection, superlien and environmental clean-up statutes (including the Connecticut Transfer Act, Conn. Gen. Stat. §22a-134 et seq.); all implementing rules, regulations, guidelines, and orders and all local laws, regulations, rules, ordinances, and orders insofar as they are equivalent or similar to the federal laws recited above or purport to regulate Hazardous Materials; and judicial interpretations of each of the foregoing.

“Environmental Use Restriction” means an engineered and/or institutional control implemented in accordance with R.C.S.A. §§ 22a-133q-1 through 9, as amended, such as a prohibition on the disturbance of soil rendered inaccessible by pavement or clean fill or environmentally isolated by an existing building or structure.

“Executive Director” means the Executive Director of the Tweed-New Haven Airport Authority.

“Exhibit” means an Exhibit attached hereto and incorporated in this Agreement, unless otherwise expressly indicated by the terms of this Agreement.

“Expected Runway Substantial Completion Date” is defined in §5.1(d) of the Agreement.

“FAA” means the Federal Aviation Administration.

“Facility Development Agreement” is defined in the recitals to this Sixth Amendment.

“Fifth Amendment” is defined in the recitals to this Sixth Amendment.

“Fifth Project Loan” is defined in Section 2 of the Fifth Amendment.

“Fiscal Year” means July 1st of each Calendar Year through June 30th of each Calendar Year.

“Force Majeure Event” means any event beyond the reasonable control of the applicable performing Party that prevents, delays, interrupts, or limits the performance of such Party’s obligations hereunder, including:

- (a) war (including civil war and revolution), invasion, an intervening act of a public enemy or foreign enemy, armed conflict, or military or armed blockade, or act of terror, sabotage, riot or other public disorder, civil commotions, interference by civil or military authorities;
- (b) condemnation or confiscation of property or equipment by any Governmental Authority;
- (c) any action or order of any Governmental Authority;
- (d) explosion, nuclear, chemical or biological contamination or emissions (including as applicable associated radiation);
- (e) fire, tornado, earthquake, weather event manifesting severe and historically unusual wind and/or liquid precipitation conditions directly affecting any part of the Airport Facilities and Assets;
- (f) epidemic or pandemic, provided that COVID-19 will not qualify as a Force Majeure Event except to the extent of (i) a Governmental Authority action or orders related thereto or (ii) effects of or responses thereto that had not occurred or were not foreseeable as of the Effective Date; or
- (g) any official or unofficial strike, labor dispute or other labor protest, stop-work order or injunction issued by a Governmental Authority, or governmental embargo;

provided that such event or the cause thereof is not otherwise specifically dealt with in this Agreement and excluding any event claimed by a Party to the extent such arises as a result of any Acts and Faults of or by such Party.

“General Ordinances” means the Code of Ordinances of the City of New Haven, Connecticut.

“Governmental Authority” means any court, federal, state, local or foreign government, department, commission, board, bureau, agency or other regulatory, administrative, governmental or quasi-governmental authority.

“Grant Agreement” means an agreement between the Authority and the United States government required for the receipt of a grant-in-aid or federal financial assistance (by way of example only, “Grant Agreement” includes an agreement between the Authority the United States government related to receipt of Airport Improvement Program grants).

“Hazardous Materials” means any and all materials, substances, products, by-products, waste, or other materials of any nature or kind whatsoever which is or becomes listed or regulated as a “hazardous” or “toxic” material, substance, or waste, or words of similar import, under any Environmental Laws, including fuel, petroleum based and/or asbestos based materials, products, by-products, or waste, radioactive materials or waste, lead or lead-containing materials, urea formaldehyde foam insulation, MBTE, perfluoroalkyl and polyfluoroalkyl substances, and polychlorinated biphenyls.

“Information” means any and all information relating to the Airport Services and Avports’ performance under this Agreement.

“Law” means any order, writ, injunction, decree, judgment, law, ordinance, decision, opinion, ruling, policy, statute, code, rule or regulation of any Governmental Authority.

“Leased Property” is defined in the Facility Development Agreement.

“Lessee” is defined in the recitals to this Sixth Amendment.

“Lessee Area” is defined in the recitals to this Sixth Amendment.

“Litigation” has the meaning given to it in Section 2 of Exhibit B.

“Loss” or **“Losses”** means, with respect to any Person, any loss, claim, liability, damage, penalty, charge or out-of-pocket and documented cost or expense (including fees and expenses of counsel and any Tax losses) actually suffered or incurred by such Person.

“Master Lease Premises” means the “Leased Premises” as defined in the Master Lease.

“Mortgage” is defined in the Facility Development Agreement.

“NEPA” shall mean the National Environmental Policy Act, 42 U.S.C. §4321 et seq., as amended.

“New Terminal” is defined in the recitals to this Sixth Amendment.

“NEPA Approval Documents” shall mean the Environmental Assessment and finding of no significant impact and/or record of decision issued by FAA under NEPA with respect to the New Terminal Project and the Runway Extension Project.

“New Terminal Project” means the design and construction of (i) the New Terminal, along with its associated aircraft apron and landside facilities, including auto parking, access roads and roadways, rental car facilities, and other support facilities and (ii) any other facilities now or hereafter located within the Lessee Area.

“OFAC” means the U.S. Treasury Department’s Office of Foreign Assets Control.

“Ongoing Support Services” is defined in §11(b) of the Agreement.

“Operating Standards” means the standards, specifications, policies, procedures and processes that apply to the operation and maintenance of the Airfield Facilities and to the performance of the Airport Services attached hereto as Exhibit D.

“Party” is defined in the recitals to this Sixth Amendment.

“Parties” is defined in the recitals to this Sixth Amendment.

“Passenger Airline” means Persons operating or intending to operate civil aircraft as an air carrier or commercial operator, or both, in air commerce as defined in 14 CFR Part 119 § 119.1 and whose operations are conducted under 14 CFR Parts 121, 125, 129 or 135.

“Passenger Facility Charges” or **“PFC”** means the passenger facility charge authorized pursuant to 49 USC § 40117, or any predecessor or successor Law, and as approved by the FAA from time to time with respect to the Airport.

“Permitted Avports Encumbrance” means:

- (a) any Encumbrance that is being contested in accordance with § 20.8 of this Agreement (but only for so long as such contest effectively postpones enforcement of any such Encumbrance);
- (b) any:
 - (i) lien or security interest for obligations not yet due and payable to a Subcontractor or other Person;
 - (ii) statutory lien, deposit or other non-service lien;
 - (iii) lien, deposit or pledge to secure mandatory statutory obligations or performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases, or for purposes of like general nature, any of which are incurred in the ordinary course of business of the Airport Services, and are either:
 - (A) not delinquent or
 - (B) which are being contested by Avports in accordance with §20.8 of this Agreement (but only for so long as such contest effectively postpones enforcement of any such Encumbrance);
 - (iv) inchoate materialmen's, mechanics', workmen's, repairmen's, employees', carriers', warehousemen's or other like Encumbrances arising in the ordinary course of business of the Airport Services or Avports' performance of any of its rights or obligations hereunder, and either:
 - (A) not delinquent or
 - (B) which are being contested by Avports in accordance with §20.8 of this Agreement (but only for so long as such contest effectively postpones enforcement of any such Encumbrance);
 - (v) any right reserved to or vested in any Governmental Authority by any statutory provision or under common law (it being understood and agreed that nothing in this clause (v) will limit or otherwise affect the Authority's obligations or Avports' rights hereunder);
 - (vi) any other Encumbrance permitted hereunder;
 - (vii) any Encumbrance imposed upon Avports or any Affiliate of Avports as to Avports' or any such Affiliate's assets arising from borrowings, financings, leases or similar transactions (including reimbursement obligations under a letter of credit) in the ordinary course of business;
 - (viii) liens incurred in the ordinary course of business in connection with workers' compensation, unemployment insurance, social security and other governmental rules and that do not in the aggregate materially impair the use, value or operation of the Airport Facilities and Assets;
 - (ix) any Encumbrance for Taxes not yet due and payable or being contested in good faith;

- (x) any Encumbrances created, incurred, assumed or suffered to exist by the Authority or any Person claiming through the Authority;
- (xi) any Encumbrances created pursuant to a sublease or use, concession or similar agreement granted by Avports in connection with Avports' conduct of the Airport Services;
- (xii) one or more EURs, provided the Authority either obtains Avports' express consent, such consent not to be unreasonably withheld, delayed, or denied, or such EUR does not unreasonably restrict any uses reasonably related to airport-related uses typical on Comparable Airport Facilities, and in either case the Authority has an obligation to secure consent from the relevant property owner(s); any amendment, extension, renewal or replacement of any of the foregoing.

"Person" means any individual (including, the heirs, beneficiaries, executors, legal representatives or administrators thereof), corporation, partnership, joint venture, trust, limited liability company, joint stock company, unincorporated association or other entity or a Governmental Authority, including each of Avports and the Authority.

"Privacy Records" means employee, patron, tenant, or user data generated by, or accumulated or collected in connection with, conducting the Airport Services and other work performed by Avports pursuant to this Agreement, employing individuals, providing access and use of Airport Services and areas to individuals, and generating and collecting fees and revenues, including lists, identification numbers, contact information, account information and billing records, biometric or fingerprint recognition data, and other individual specific information, system performance statistics, and real time information, which:

- (a) may consist of or include information that identifies an individual who is an employee, patron, tenant, or user of, or visitor to, the Airport, including names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, vehicle registration information, medical data, facial, biometric, or fingerprint recognition data, law enforcement records, source or object code, security data, or other information that relates to any of these types of information; and
- (b) is exempt from disclosure to the public or other unauthorized persons under Law.

"Prohibited Person" means any Person who is:

- (a) debarred, suspended, proposed for debarment with a final determination still pending, declared ineligible or voluntarily excluded (as such terms are defined in any of the Debarment Regulations) from participating in procurement or nonprocurement transactions with the United States federal government or any department, agency or instrumentality thereof pursuant to any of the Debarment Regulations;
- (b) indicted, convicted or had a civil or administrative judgment rendered against such Person for any of the offenses listed in any of the Debarment Regulations and no event has occurred and no condition exists that is likely to result in the debarment or suspension of such Person from contracting with the United States federal government or any department, agency or instrumentality thereof;
- (c) listed on the "Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs" issued by the US General Services Administration;

- (d) located within, or doing business or operating from, a country or other territory subject to a general embargo administered by the U.S. Treasury Department's Office of Foreign Assets Control ("**OFAC**");
- (e) designated on OFAC's List of Specially Designated Nationals and Blocked Persons ("**SDN List**") or 50% or more owned by a person on the SDN List;
- (f) a banking institution chartered or licensed in a jurisdiction against which the United States Secretary of the Treasury has imposed special measures under Section 311 of the USA PATRIOT Act ("**Section 311**");
- (g) located within or is operating from a jurisdiction that has been designated as non-cooperative with international anti-money laundering principles by the Financial Action Task Force on Money Laundering;
- (h) a financial institution against which the United States Secretary of the Treasury has imposed special measures under Section 311;
- (i) a "senior foreign political figure" or a prohibited "foreign shell bank" within the meaning of 31 C.F.R. § 103.175; or
- (j) any Person with whom the Authority is engaged in litigation relating to performance of contract or business practices (unless the Authority has first waived (in the Authority's sole discretion) by written notice to the transferring equity holder, with a copy to Avports, the prohibition on a transfer to such Person during the continuance of the relevant litigation).

"Reasonable Efforts" means all those steps in the power of the relevant Party that are capable of producing the desired result, being steps which a prudent, determined and reasonable person desiring to achieve that result would take; provided that, subject to its other express obligations pursuant to this Agreement, the relevant Party will not be required to:

- (a) expend funds except for (A) those reasonably incidental or ancillary to the steps to be taken by the relevant Party (including its reasonable travel expenses, correspondence costs and general overhead expenses) and (B) those that the other Party agrees in advance to reimburse; or
- (b) take any action that is contrary to this Agreement, Law, or any Authorization

"Release" means any actual or threatened spilling, leaking, emitting, discharging, disposing, depositing, leaching, escaping, dumping, pumping, emptying, injecting, pouring, or migration into or through the environment.

"Representative" means, with respect to any Person, any director, officer, employee, official, partner, member, owner, agent, lawyer, accountant, auditor, professional advisor, consultant, engineer, Subcontractor, other Person for whom such Person is at law responsible or other representative of such Person and any professional advisor, consultant or engineer designated by such Person as its "Representative".

"Runway Construction Commencement Date" is defined in §5.1(c)(2) of the Agreement.

"Runway Work" means the design and construction of the Runway Extension Project to a length no greater than 6,635 feet and no less than 6,500 feet.

“Runway Extension Project” is defined in the recitals to this Sixth Amendment.

“Section 311” means Section 311 of the USA PATRIOT Act.

“Secured Party” means the holder or beneficiary of any Mortgage.

“SDN List” means OFAC’s List of Specially Designated Nationals and Blocked Persons.

“Senior Representatives” has the meaning given to it in Section 3(d) of Exhibit B.

“State” means the State of Connecticut.

“Subcontractor” means, with respect to a Person, any contractor or sublessee with whom such Person contracts to perform work or supply materials or labor or perform services in relation to the Airport Facilities and the Airport Services and other work performed by Avports pursuant to this Agreement, including any Subcontractor of any tier, supplier or materialman directly or indirectly employed pursuant to a subcontract with a Subcontractor.

“Substantial Completion” means, with respect to the Runway Work, the stage of work where the runway extension is operational, subject only to the completion of customary punch-list work.

“Substantial Completion Deadline” means the date that is forty-eight (48) months from the Runway Construction Commencement Date.

“Tax” means any federal, state, local or foreign income, gross receipts, commercial activity, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, permit fees, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, parking, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated or other tax, levy, impost, stamp tax, duty, fee, withholding or similar imposition of any kind payable, levied, collected, withheld or assessed at any time, including any interest, penalty or addition thereto, whether disputed or not.

“TSA” means the Transportation Security Administration created under the Aviation and Transportation Security Act, 49 U.S.C. § 40101 et seq., or any successor agency thereto.

“Term” is defined in Section 3 of this Sixth Amendment.

“USDOT” means the United States Department of Transportation.

“Use Agreement” means any airline use and/or lease agreement between the Authority and any airline.

“West Terminal” means the passenger terminal existing at the Airport as of the Effective Date as improved by the West Terminal Work.

“West Terminal Facilities” means the West Terminal, along with its associated aircraft apron and landside facilities, including auto parking, access roads and roadways, rental car facilities, and other support facilities, existing at the Airport as of the Effective Date, as improved by the West Terminal Work or otherwise. **“West Terminal Project”** means the project to renovate the West Terminal to accommodate Avelo Airlines (and any other Passenger Airline) on an interim temporary basis pending availability of the New Terminal for Passenger Airlines. **“West Terminal Work”** means the construction, renovation and development of the West Terminal in furtherance of the West Terminal Project.

Exhibit B

Dispute Resolution

1. Scope

- a. Any dispute, disagreement or controversy between the Authority and Avports arising out of, relating to, or in connection with this Agreement (a “**Dispute**”) will be resolved as set forth in this Exhibit B.
- b. This provision is material inducement for the Parties entering into the transactions contemplated hereby.

2. Prompt and Parallel Dispute Resolution

The Parties agree that all Disputes shall be resolved by a court of competent jurisdiction (“**Litigation**”) as set forth in Section 6 of this Exhibit B. A Party seeking resolution of a Dispute through Litigation must comply with the Amicable Settlement procedures in Section 3 of this Exhibit B before Litigation may begin.

3. Amicable Settlements

- a. The Parties must attempt to reach an amicable settlement of any Dispute as set forth in this Section 3 of this Exhibit B prior to referring such Dispute to Litigation.
- b. After a Dispute arises, each Party commits to resolving such Dispute in an amicable, professional, and expeditious manner so as to avoid unnecessary losses, delays, and disruptions to the Airport Services or any other work performed under this Agreement.
- c. The Parties will first attempt to resolve any Disputes through discussions between representatives of each Party (the “**Authority Dispute Representative**” and “**Avports Dispute Representative**”, respectively), each with the necessary authority within their own organizations to fully resolve the Dispute on behalf of their respective organizations, which discussions shall conclude within five (5) days of the initiating Party’s written request to meet unless the Parties mutually agree otherwise.
- d. If a Dispute cannot be resolved through discussions between the Authority Dispute Representative and Avports Dispute Representative, then, upon the request of either Party, senior representatives from each Party (the “**Senior Representatives**”, and together with the Authority Dispute Representative and Avports Dispute Representative, the “**Dispute Representatives**”), each with the necessary authority within their own organizations to fully resolve the Dispute on behalf of their respective organizations, shall meet as soon as possible, but in no case later than seven (7) days after such a request is made, to attempt to resolve such Dispute.
- e. The Parties will memorialize any resulting settlement of the Dispute pursuant to Section 5 of this Exhibit B.

4. Mediation

If a Dispute cannot be resolved through the Amicable Settlement procedures set forth in Section 3 of this Exhibit B, either Party may initiate mediation proceedings. Such proceedings shall occur pursuant to, and be governed by, the American Arbitration Association’s Construction Industry Mediation Procedures (i.e. Rules M-1 through M-17 of the American Arbitration Association’s Construction Industry Arbitration Rules and Mediation Procedures).

5. Documentation of Dispute Resolution

Upon the Parties’ agreement on any settlement or resolution of a Dispute reached pursuant to Sections 3 or 4 of this Exhibit B, the Parties will execute a written memorandum or similar document, in a form to be prepared by the Authority (unless the Authority otherwise delegates such preparation to Avports, in which case Avports will prepare such memorandum or document), setting out the details of such settlement or resolution. Such document will be considered a binding settlement agreement upon

execution by the duly authorized Dispute Representatives of each Party. The Parties' resolution of a Dispute pursuant to Sections 3 or 4 will be considered binding only upon both Parties' execution of a written memorandum or similar document.

6. Litigation

- a. After having attempted to resolve their Dispute in compliance with the Amicable Settlement procedures in Section 3 of this Exhibit B, either Party may at any time avail itself of any remedy under Law, including commencing court proceedings with respect to any Dispute.
- b. Avports will at all times maintain a registered agent for service of process in the State, the identity of which it will notify to the Authority. Service of process on Avports may be made either by registered or certified mail or recognized national courier service at the address specified for notices or by delivery to Avports' registered agent for service of process in the State.
- c. Each Party will bear its own litigation costs and expenses, including attorneys' fees, in any Dispute arising out of this Agreement, except as otherwise pursuant to a court decision.

7. Treatment of Settlement Negotiations and Mediation

Statements made by the Parties, including by their Dispute Representatives, during any meetings, hearings, proceedings, or in any communications related to efforts to resolve a Dispute pursuant to Sections 3 and 4 of this Exhibit B, and documents containing statements or opinions specifically prepared in connection with the same will be considered part of settlement negotiations and will not be admissible as evidence in any litigation proceeding between the Parties without the mutual written consent of the Parties, provided that any Party:

- a. that prepares demonstrative exhibits or summary exhibits of evidence; or
- b. that retains experts or other Persons employed in a professional capacity to provide expert opinions and/or reports, which opinions and/or reports are prepared for presentation in connection with efforts to resolve a Dispute pursuant to Sections 3 and 4 of this Exhibit B,

will be entitled to submit or otherwise use its own work product in any subsequent proceeding.

8. Continued Performance & Other Matters

While resolving any Dispute pursuant to this Agreement, the Parties will continue to perform in accordance with and to the extent required by this Agreement.

9. Joinder

Proceedings to resolve any Dispute arising out of or relating to this Agreement and the Facility Development Agreement shall be subject to consolidation or joinder without any further required consent by the Parties. All other disputes arising out of or relating to this Agreement shall not be subject to consolidation or joinder with any additional Person except with the written consent of each Party and any other Person sought to be so joined.

Exhibit C

Representations and Warranties

Part A: Avports and Assignee represent and warrant as follows:

1. Organization

- a. It is a duly organized, validly existing and in good standing under the laws of the State of Delaware.
- b. It is authorized to transact business, and is registered with the Secretary of State of the State of Connecticut.

2. Power and Authority

It has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof.

3. Authorization, Due Execution and Enforceability

- a. It has duly authorized and approved the execution and delivery of this Agreement and the performance by it of its obligations contained in this Agreement.
- b. The Person executing this Agreement on its behalf has been duly authorized to execute and deliver such document on its behalf.
- c. This Agreement constitutes a valid and legally binding obligation of it, enforceable against it in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

4. No Conflicts

The execution and delivery of this Agreement by it, the consummation of the transactions contemplated hereby and the performance by it of the terms, conditions and provisions hereof have not and will not contravene or violate or result in a material breach (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of it under:

- a. any applicable Law;
- b. any material agreement, instrument or document to which it is a party or by which it is bound; or
- c. its articles, bylaws or other governing documents.

5. Consents

No consent is required to be obtained by it from, and no notice or filing is required to be given or made by it to or with any Person (including any Governmental Authority) in connection with the execution, delivery and performance by it of this Agreement or the consummation of the transactions contemplated hereby, except for such consents which have been obtained and notices or filings which have been given or made as of the Effective Date or such other consents, notices

or filings that are not required to be obtained as of the Effective Date and are expected to be obtainable following the Effective Date.

6. Compliance with Law; Litigation

- a. It is not in breach of any applicable Law such that such breach could have a material adverse effect on its ability to comply with its obligations under this Agreement.
- b. Neither it nor any of its Affiliates is presently disqualified, suspended or debarred from bidding, proposing or contracting with any state-level, interstate or federal Governmental Authority, listed on the U.S. Department of the Treasury's Office of Foreign Assets Control's List of Specially Designated Nationals and Blocked Persons or on any other list of Persons with which the Authority may not do business under applicable Law.
- c. There is no action, suit or proceeding pending (or, to the best of its knowledge, threatened) by or against or affecting it before any Governmental Authority or arbitrator.

7. Brokers

Except for any broker whose fees will be paid by it or its Affiliates, there is no investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on its behalf or any of its Affiliates who might be entitled to any fee or commission in connection with the transactions contemplated by this Agreement.

Part B: The Authority represents and warrants as follows:

1. Organization

The Authority is a political subdivision of the State of Connecticut, duly organized and validly existing under the laws of the State of Connecticut.

2. Power and Authority

The Authority has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed, or performed by it in accordance with the terms hereof.

3. Authorization, Due Execution, and Enforceability

- a. The Authority has duly authorized and approved the execution and delivery of this Agreement and the performance by the Authority of its obligations contained in this Agreement.
- b. The Person executing this Agreement on behalf of the Authority has been duly authorized to execute and deliver such document on behalf of the Authority.
- c. This Agreement constitutes a valid and legally binding obligation of the Authority, enforceable against the Authority in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency, and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

4. No Conflicts

The execution and delivery of this Agreement by the Authority, the consummation of the transactions contemplated hereby (including the operation of the Airport Facilities and Assets in accordance with the terms of this Agreement), and the performance by the Authority of the terms, conditions, and provisions hereof have not and will not contravene or violate or result in a breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Authority or give rise to a right of termination, cancellation or augmentation of any

obligation or loss of a material benefit under or result in the creation of any material Encumbrance (other than a Permitted Authority Encumbrance as defined in the Facility Development Agreement) under:

- a. any applicable Law; or
- b. any material agreement, instrument or document to which the Authority is a party or by which it is bound; or
- c. the articles, bylaws or other governing documents of the Authority.

5. Consents

No consent is required to be obtained by the Authority from, and no notice or filing is required to be given or made by the Authority to or with any Person (including any Governmental Authority) in connection with the execution, delivery, and performance by the Authority of this Agreement or the consummation of the transactions contemplated, except for such consents which have been obtained and notices or filings which have been given or made as of the Effective Date. Without limiting the foregoing, the Authority has obtained all approvals and consents from the City necessary to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby.

6. Compliance with Law; Litigation

- a. The Authority is not in breach of any applicable Law such that such breach could have a material adverse effect on the ability of the Authority to comply with its obligations under this Agreement.
- b. To the knowledge of the Authority,
 - i. the Authority is not in breach of terms and conditions of any Authorizations from Governmental Authorities relating to the Airport and the Airport Facilities and Assets, such that such breach could have a material adverse effect on the ability of the Authority to comply with its obligations under this Agreement;
 - ii. no claim has been made by any Governmental Authority to the effect that an Authorization that the Authority has not obtained is necessary for the delivery of the Airport Services; and
 - iii. no additional Authorizations from any Governmental Authority are necessary for the delivery of the Airport Services as currently being delivered.
- c. There is no action, suit, or proceeding pending (or to the best of the Authority's knowledge threatened) by, against, or affecting the Authority before any Governmental Authority or arbitrator.

7. Brokers

Except for any broker whose fees will be paid by the Authority, there is no investment banker, broker, finder, or other intermediary which has been retained by or is authorized to act on behalf of the Authority who might be entitled to any fee or commission from the Authority in connection with the transactions contemplated by this Agreement.

Exhibit D
Operating Standards

EXHIBIT D – OPERATING STANDARDS
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Section 1

INTRODUCTION AND BACKGROUND

This section of the Airfield Facilities Operating Standards describes the purpose of the Airfield Facilities Operating Standards, its approval mechanism, and an overview of the document's organizational structure. Capitalized terms used but not otherwise defined in this Airfield Facilities Operating Standards have the meanings given to such terms in Exhibit A (Definitions) of the Amendment No. 6 to the Agreement Between the Tweed New Haven Airport Authority and Avports LLC (the "Agreement").

1.1 PURPOSE OF THE OPERATING STANDARDS

The purpose of this document is to provide the minimum requirements that Avports LLC ("Avports"), on behalf of the Tweed-New Haven Airport Authority (the "Authority"), will meet for the benefit of the Airport in the operation and maintenance of the Airfield Facilities, how the achievement of those minimum standards will be determined, and the process for remedying any deficiencies of performance.

As indicated in Section (I) of Exhibit E of the Agreement, Avports will, and will cause the Airport Services to, comply with and implement the Operating Standards in all material respects as such apply to the Airport Services at all times during the Term.

1.2 OPERATING STANDARDS OVERVIEW

This document provides guidance as to the development of an Airfield Facilities operations plan ("Operations Plan") that identifies minimum operating standards that are to be met or exceeded, ensuring the safe and continuous operation of the Airport.

1.2.1 Objectives

The Airfield Facilities will be operated and maintained such that it meets or exceeds certain minimum standards. Avports will comply with reasonable performance measures that are both quantitative and qualitative in nature, unless and except to the extent that acts or omissions of an airline, the Authority, a Governmental Authority, other airfield operational users and stakeholders or a Force Majeure Event impede or prevent Avports from so complying. The quantitative measurements are based on operating statistics and physical inventories, while the qualitative measurements are based on user perceptions and expectations.

- Quantitative measurements will be collected and assessed by tracking a variety of airport operating and physical statistics.
- Qualitative measurements will be collected through surveys of airport users, visual observations, and by reporting procedures established by the Authority and Lessee.

The performance measures identified in this report are separated into several categories intended to capture various aspects of the Airport's operating performance. They include trend data on air traffic demand and physical airport facilities, statistical performance metrics, quality of service measures, condition of airport facilities, regulatory compliance, community relations, and others. Avports is expected to collect all relevant data and to demonstrate compliance with all applicable standards identified in this manual.

1.2.2 Organizational Structure of this Document

This document, coupled with the Airport Certification Manual ("ACM"), Airport Security Program ("ASP") and other relevant documents, provides Avports with the minimum operating standards for the development and implementation of an Operations Plan for the Airport.

The Operations Plan will include specifications for the operation of all Airfield Facilities, including assets, systems and facilities, as well as reporting requirements for the same. The Operations Plan will address each of the following functional components of the Airfield Facilities, as follows:

- Airfield Facilities Standards Plan (Section 2)
- Airfield Facilities Capital Asset Management Plan (Section 3)
- Environmental Sustainability Plan (Section 4)
- Health and Safety Plan (Section 5)

This document also includes appendices as follows:

- Available Guidance and Standards (Appendix A)
- Form of Operational Performance Metrics Report (Appendix B)

Each individual component of the Operations Plan will generally include the following:

- Objective of the plan – a straightforward statement of the objective of the plan
- Essential staffing – minimum staffing levels required and identification of key personnel roles and responsibilities
- Stakeholder coordination – identification of the affected stakeholders and the Authority's coordination plan
- Scope of plan – identification of the physical facilities or operating procedures that are covered by the plan and the efforts involved in executing the plan
- Performance schedule – the frequency/schedule for which various tasks are executed for the requisite operation or procedure

- Reporting requirements – the scope of reporting and auditing that is required to ensure the plan requirements are being met or exceeded, as well as the specifications and methods for reporting.

Accordingly, this document provides sections including guidance as to the minimum requirements that will be addressed for each of these functional areas within the Operations Plan that Avports will develop, provide and/or update.

1.2.3 Title 14 CFR Part 139 Compliance

Avports will maintain the Airfield Facilities in compliance with Title 14 CFR Part 139, as specified in the ACM, and other relevant documents. The Operations Plan, at a minimum, shall define the procedures that Avports will execute to meet the requirements of Title 14 CFR Part 139.

For clarification, the Operations Plan defined in this document will make direct reference to those sections already present in the most current ACM and other relevant documents.

1.2.4 Coordination with Other Agencies

Avports will coordinate with several agencies and entities including but not limited to

- the Lessee
- Federal Aviation Administration (“FAA”)
- Transportation Security Administration (“TSA”)
- Customs and Border Protection (“CBP”)
- United States Centers for Disease Control and Prevention (“CDC”)
- Connecticut State Department of Public Health (“DPH”)
- Commercial air carrier(s)
- General aviation tenants
- Other ancillary supporting third party companies
- United States Environmental Protection Agency (“USEPA”)
- United States Department of Agriculture (“USDA”)
- Local law enforcement
- Mutual aid fire and EMS

1.2.5 Required Reports

This document will identify the required reporting policies and procedures. Avports annual report (“Annual Report”) will detail year over year traffic numbers, safety incidents within the Airfield Facilities, projects or other improvements undertaken or completed throughout the year, and the Airport Development Plan (“ADP”). The Annual Report will include:

- FAA Annual Certification Inspection Report
- Operational Performance Report
- Facilities Condition Assessment
- Airport Development Plan
- Sustainability Report
- Emergency Report, if applicable
- Safety Assessment Report

Avports shall also prepare a Security Assessment Report; however, this does not need to be summarized in the Annual Report. In addition, the Sustainability Report, Safety Assessment Report and Emergency Report do not need to be stand-alone documents. These can be produced as sections of the Annual Report. Outlines for each of these reports are provided in Appendix B.

1.3 OPERATING STANDARDS SUBJECT TO AGREEMENT AND FACILITY DEVELOPMENT AGREEMENT

The interpretation of these Airfield Facilities Operating Standards and Avports’ compliance with these Airfield Facilities Operating Standards (including any goals contained herein and any provisions where objective performance is described in absolute terms (i.e., “all”, “every”, “in all instances”, “completely”, etc.)) shall be subject to the provisions set forth in Section (I) of Exhibit E of the Agreement and Section 3.9 of the Facility Development Agreement.

1.4 RELATIONSHIP TO DOCUMENTS REQUIRED BY LAW

To the extent Avports’ compliance with any provision of these Airfield Facilities Operating Standards can be demonstrated by reference to any other document required by Law to be maintained by Avports, the Authority or the Lessee, such as the Airport Certification Manual, the Airport Emergency Plan or the TSA-approved Airport Security Program, Avports’ compliance with the relevant provisions of these Airfield Facilities Operating Standards may be demonstrated by cross-referencing any other such documents.

To the extent that any term or provision of these Airfield Facilities Operating Standards conflicts with any term or provision otherwise specified in the Title 14 CFR Federal Aviation Regulations (“FARs”), FAA orders, FAA directives, Advisory Circulars, and other FAA guidance and the Airport Certification Manual (including any subsequently-issued amendments thereto as issued by the FAA or the TSA-approved Airport Security Program (including any subsequently issued requirements thereunder as issued by the TSA)), then such term or provision of the Airfield Facilities Operating Standards shall be construed flexibly in light of their objectives, and the Airport Certification Manual, the TSA-approved Airport Security Program, FARs, FAA orders, directives, and mandatory FAA Advisory Circulars as applicable, shall govern and shall supersede any such conflicting term or provision of these Airfield Facilities Operating Standards.

Avports’ obligation to comply with the FAA’s guidance or Advisory Circulars extends only to FAA guidance and Advisory Circulars for which the FAA has made compliance mandatory on airport operators. To the extent that any FAA guidance or Advisory Circular is not mandatory, Avports is not obligated to comply with it (by virtue of such FAA guidance or Advisory Circular) but may do so in its discretion, so long as Avports maintains compliance with Part 139 Certificate requirements.

To the extent that these Airfield Facilities Operating Standards refer to any particular law, regulation, ordinance, order, directive, FAA guidance or Advisory Circular, the reference is to the then-current version of the same, as it may have been amended, revised, replaced or succeeded from time to time.

1.5 APPLICABLE LAW

The provisions of the Operating Standards and of the Operations Plan established under them shall comply with all applicable Laws, rules, regulations, ordinances, orders and directives. For convenience, these are referred to as “Legal Requirements” throughout this document.

Appendix A contains a list of available guidance and standards and applicable regulations with respect to the Airport. The list is not intended to include all applicable standards and regulations – it is the responsibility of Avports to identify and comply with all existing standards and regulations in a timely manner.

1.6 PLAN SUBMISSION AND REVISIONS; COMPLIANCE WITH APPLICABLE INDUSTRY STANDARDS

The Operations Plan, each of its component sections and any modifications thereto will be based on applicable industry standards in effect at Comparable Airport Facilities and will be developed by Avports in consultation with the Authority and the Lessee. The Operations Plan and each of its component sections will be revised at such times as described herein.

Contemporaneously with the submission of Annual Report, Avports will submit any proposed modification to the Airfield Facilities Operating Standards to the Authority and Lessee if applicable. Any changes to the Airfield Facilities Operating Standards and these documents are subject to the requisite approvals (if any) required under the Facility Development Agreement.

Avports is responsible for becoming familiar with future standards and regulations during the term of the Agreement, including applicable industry practices that apply to the design, operation, repair, and maintenance of the Airfield Facilities.

1.7 GENERAL STAFFING REQUIREMENTS

The staff levels required will be determined by the needs of Avports to fulfill its maintenance, operation, and contractual obligations as well as statutory and regulatory requirements under the Agreement, applicable Law, the Airfield Facilities Operating Standards and the Operations Plan then in effect. Avports will also comply with the staffing and training requirements set forth in Title 14 CFR Part 139.

The Airport is a 24-hours-per-day, 365-days-per-year operation. For this reason, Avports recognizes the need to have variable work shifts, employees, supervisors, and personnel to maintain constant operations consistent with the levels of operations at the Airport at such times (with the understanding that Avports may make reasonable judgments as to when increased or decreased staffing levels are appropriate). Avports will create work shifts that ensure the continual operation of the Airport. Staff requirements will be based upon the operational needs of the Airport.

Section 2

AIRFIELD FACILITIES STANDARDS PLAN

2.1 BACKGROUND

The Airfield Facilities Standards Plan (“AFSP”) provides assurance that Avports is executing appropriate and timely actions that maintain the safe, secure, sustainable, and continuous operation of the Airfield Facilities. The AFSP will be developed and executed by Avports. The AFSP shall address both the operation and maintenance of all Airfield Facilities and systems.

2.2 REGULATORY COMPLIANCE

The AFSP will identify and comply with all applicable Legal Requirements. Avports will ensure that employees and representatives responsible for the operation of airfield facilities and system operations comply with the provisions of the AFSP.

Title 14 Code of Federal Regulations, specifically Part 139 sections applicable to the Airport, will be addressed in the ACM and referenced in the AFSP. These provisions will be highlighted to avoid duplication. Avports will ensure that its employees and representatives conducting airport operations and maintenance procedures on its behalf, comply with the provisions of the AFSP.

2.3 EXISTING PLANS

To the extent applicable and accurate, Avports will utilize any available existing plans and descriptions of Airport facilities, systems, and procedures provided to it in the development of the AFSP, including the ACM and Airport Emergency Plan (“AEP”).

2.4 REQUIREMENTS OF THE PLAN

The AFSP will identify the plan’s objectives, essential staffing, stakeholders, scope, performance schedule, and reporting requirements as described below.

2.4.1 Objectives of AFSP

The objective of the AFSP is to establish policies and procedures, responsibilities, and minimum requirements to ensure the organized, efficient, continuous, and safe operation and maintenance of all Airfield Facilities.

2.4.2 Essential Staffing

An organizational chart will be included in the AFSP which identifies the essential staff responsible for each of the facilities covered under the AFSP.

The organizational chart will be supplemented by a summary of the levels of staffing, minimum training, staff certification and schedules that would be provided for each of the facilities operations for each season.

2.4.3 Stakeholders

The AFSP will identify all stakeholders (both public and private) that may be affected by the performance of the AFSP and define any necessary applicable coordination with individual stakeholders.

2.4.4 Scope of Plan

The AFSP will identify and address the operation and maintenance of all current and planned Airfield Facilities. The facilities that will be addressed within the AFSP include the following primary functional areas:

- Pavement areas including runways, taxiways, and taxi lanes, runway and taxiway safety areas, airfield pavement markings, airfield signage, runway and taxiway lighting, navigational aids, obstructions, public protection infrastructure, wildlife hazards, snow and ice control (when required), construction safety (when required);
- Public protection measures: fence line, barriers, etc.
- Ground equipment fueling facilities as included in the airfield area;
- Airfield vehicles including ARFF, snow removal, maintenance, and operations

The AFSP will address performance standards for operations, which may include quantitative and qualitative standards for performance and methods for remediation of sub-standard performance. Avports will, at minimum, include the relevant standards for performance and descriptions of facilities, systems and activities contained in Appendix B (Form of Operational Performance Metrics Report) as requirements under this section.

Given the Airport is operational on a 24-hour basis throughout the entire year, Avports will define the management and operation of all major facilities such that planned and unforeseen interruption of normal operations is minimized to the maximum extent possible.

The AFSP will also document:

- The inventory of all major facilities and systems directly managed by Avports, including identification of the type of facility;
- The routine maintenance program for all major facilities and systems, thereby ensuring the condition of said facilities will permit the continuous operation of the Airport;
- The schedule for major repairs as an input to the Capital Asset Management Plan

Operations and Maintenance of Airfield Facilities

Avports will provide descriptions of the procedures required for the operation and maintenance of each asset or facility within the Airfield Facilities. At a minimum, the AFSP will include the following for each facility:

- An exhibit of the location and key functional components of the facility;
- A brief narrative description of the facility and its components;
- The immediate-, near-, and long-term needs of the facility in terms of its capital requirements;
- The minimal and optimal resources required to operate the facility in terms of staffing and equipment;
- The identification of the essential staff that are responsible for the supervision, organization, and maintenance of the facility;
- The routine maintenance plan for the facility;

The performance standards included in Appendix B (Form of Operational Performance Metrics Report) will be included in the development of the AFSP.

The description of the operational requirements for each facility will also include descriptions of the inspection and maintenance routines. In the conduct of routine airfield operations and maintenance, Avports may require the closure of certain facilities. In the case of closure of airfield facilities, Avports will provide advanced notice to the Authority and Airport users of all airport facility closures. For emergencies or urgent matters, notification will be as soon as practical.

Operations and Maintenance of Airfield Systems

Avports will provide descriptions of the various systems required for the operation of the Airfield Facilities. At a minimum, the AFSP will include a description of the following systems for each facility, as appropriate:

- Tidal gates and stormwater management systems;
- De-icing/Glycol systems as included in Airfield Facilities;
- Aircraft fueling storage and distribution systems as included in the airfield, except those managed by others;
- Life safety systems, including fire protection, emergency systems, emergency communications systems, and security and access control systems, airfield lighting control system;

- Electrical systems, including communications systems, lighting, and back up;
- Other utility systems; not limited to; natural gas, wireless communications.

The description of the operational requirements for each system will also generally include descriptions of the operations and maintenance routines. Table 2-1 lists the basic functional areas of the airfield that the maintenance plan will address.

Table 2-1

AIRFIELD FACILITIES AND SYSTEMS PLAN FUNCTIONAL AREAS

Major Facilities and Systems
Airfield condition and navigation systems, including airfield lighting and signage not maintained by FAA
Life safety systems
Electrical systems, including lighting, airfield lighting control systems, communications, and backup equipment
Mechanical systems
Utility systems
Communications systems
Security systems
Airfield pavements, including runways, taxiways, and vehicle service roads
Aircraft and vehicle fueling systems and associated storage facilities outside the Leased Property.
Ground equipment fueling facilities outside the Leased Property unless operated by a third party, airlines or their agents
Ramp handling and GSE equipment outside the Leased Property unless operated by airlines or their agents
Airfield drainage systems, including the stormwater sewer system glycol recovery or management systems outside Leased Property
Snow removal and winter operations equipment and snow and ice control plan
Tree pruning/removal, and landscaping
Inspection program and related software and work order systems

Additional Detail on Critical Systems

The continuous operation of the Airport requires certain critical systems to have detailed plans for their operational integrity. Chief among these systems are the life safety systems. Additional detail regarding the life safety systems standards is provided in this section.

Avports will describe a plan for the continuous operation of the following critical systems:

- Emergency communications, including the emergency public address system, telephones, radios, and other mobile communication devices;
- Fire protection and suppression, including sprinkler systems; heat, smoke, and carbon dioxide detectors, and fire alarms;
- First response medical stations, including first aid supplies and personnel adequately trained and certified (if required by regulation) and automated external defibrillators; and
- Security systems (as included within the Airport Security Plan), including Airport and airfield access control and fencing, passenger security screening, video surveillance, emergency personnel identification, and random security procedures.

For each of the above, the AFSP will specify the operational procedures and policies that would be routinely executed to ensure that these systems are capable of operating without interruption, tested regularly for functionality and proper performance, and upgraded or improved as necessary.

- Communication systems. These systems will be operated and maintained to ensure their continual operation and compliance.
- Security and access control systems (as included within the Airport Security Plan), including: (1) access control; (2) video surveillance and closed-circuit television technology; and (3) video analytics and alarms. The operational plan for these systems will be developed in compliance with the Airport Security Plan (ASP).
- Energy distribution systems. The AFSP will address the procedures and policies employed by Avports to ensure that the energy distribution systems always remain fully operational.
- The AFSP will also address Avports' plan for enhancing reliability, providing redundancy, arranging for backup equipment, staff, power, and others and any other action required to safeguard continuous operations. The AFSP must address the following individual components:
 - Electrical supply, including emergency lighting, backup generators.

- Mechanical systems, including: (i) heating, ventilation, and air conditioning (HVAC) systems; and (ii) plumbing systems.

2.4.5 Performance Schedule

The AFSP section of the Operations Plan will be reviewed annually and revised as needed by Avports to reflect a good faith effort to update the AFSP as appropriate to maintain an accurate assessment of current Airfield Facilities and systems.

2.4.6 Reporting Requirements

Avports will report on the performance of Airfield Facilities on an annual basis within the Operational Performance Report (“OPR”). Avports will provide the quantifiable performance measures contained in the Form of Operational Performance Metrics Report, attached as Appendix B.

Section 3

CAPITAL ASSET MANAGEMENT PLAN

3.1 BACKGROUND

The Airfield Facilities Capital Asset Management Plan (“Airfield CAMP”) section of the Operations Plan will provide assurance to the Authority and the Lessee that Avports is planning and implementing appropriate and timely actions that demonstrate fiscal responsibility and maintain and preserve the Airfield Facilities while accommodating growth in aviation demand. Primary focus will remain on maintaining compliance and a state of good repair. Avports and the Lessee, as part of the cooperation and consultation efforts with respect to capital projects, will develop the Airfield CAMP as part of the Airport Development Plan.

3.2 REGULATORY COMPLIANCE

The Airfield CAMP will comply with all Legal Requirements as per Section 1.5. Avports will ensure that employees and representatives responsible for the operation of Airfield Facilities comply with the provisions of the Airfield CAMP and all Legal Requirements.

3.3 EXISTING PLANS

Avports will utilize any available existing plans and descriptions of Airport facilities, systems, and procedures provided to it in the development of the Airfield CAMP. Avports will ensure that the Airfield CAMP complies with the relevant standards within the ACM including the AEP which, in addition to the requirements described herein, shall be considered minimum standards.

3.4 REQUIREMENTS OF THE PLAN

The Airfield CAMP will identify the plan’s objectives, essential staffing, stakeholders, scope, performance schedule, and reporting requirements as described below.

3.4.1 Objectives of Airfield CAMP

The objective of the Airfield CAMP section of the Operations Plan is to preserve and provide for continuous improvement of all Airfield Facilities, including assets, facilities and systems by evaluating their conditions and planning their maintenance, rehabilitation, replacement, and/or modernization. The Airfield CAMP will also provide guidance as to the priority of capital improvement projects and maintenance, with the most critical airport assets receiving the greatest attention.

3.4.2 Essential Staffing

An organizational chart will be included in the Airfield CAMP which identifies the essential staff responsible for capital asset management and planning.

3.4.3 Stakeholders

The Airfield CAMP will identify all stakeholders (both public and private) that may be affected by the performance of the Airfield CAMP and define any necessary applicable coordination with individual stakeholders.

3.4.4 Scope of Plan

The Airfield CAMP will identify and address all major capital assets comprising the Airfield Facilities. The facility assets shall be described for the following primary airport functional areas:

- Pavement areas including runways, taxiways, and markings and signage
- Safety areas, obstructions, public protection infrastructure,
- Airfield signage, runway and taxiway lighting,
- Tidal gates and stormwater management systems;
- De-icing/Glycol systems as included in Airfield Facilities
- Public protection measures: fence line, barriers, etc.
- Aircraft fueling storage and distribution systems as included in the airfield, except those managed by others;
- Ground equipment fueling facilities as included in the airfield area;
- Electrical systems, including communications systems, lighting, and back up;
- Other utility systems; not limited to; natural gas, wireless communications, etc.

The Airfield CAMP will outline asset management actions that are based on regularly scheduled conditions assessments, self-inspection routines, preventative and coordinated maintenance, capital improvements, expansion, modernization, and rehabilitation projects. The Airfield CAMP will define the process for conducting regular condition assessments, reporting of results, and accounting for emerging trends at the Airport that could affect asset management.

3.4.5 Performance Schedule

The Airfield CAMP will be submitted by Avports to the Lessee in conjunction with the draft ACIP in accordance with Section 4.1.2 (b)(i) of the Facility Development Agreement.

3.4.6 Reporting Requirements

The Airfield CAMP will specify the following reports as described below in greater detail: Facilities Condition Assessment (“FCA”), and a Master Equipment Replacement Plan (“MER”) covering smaller assets and equipment. In addition, as described below, the Airfield CAMP shall require the preparation of an Air Traffic Summary (“ATS”) monthly, which shall be limited to the information received from airlines pursuant to an airport use agreement. The Airfield CAMP will include the findings of a pavement condition index (PCI) study, if completed.

Facilities Condition Assessment

The Airfield CAMP should outline the process for preparing an FCA and the FCA will be completed in accordance with the following schedule:

- The FCA will be completed annually.
- As required by the Authority, Avports will perform a self-inspection of the Airfield Facilities, with such cost being an Airfield Operating Expense. The Lessee has the right to hire an independent and licensed professional consulting engineer or engineering firm (“Engineering Firm”) to conduct such assessment pursuant to Section 3.4.7, at the Lessee’s cost and expense.
- Notwithstanding anything to the contrary herein, at any time during the Term, the Authority may elect to retain an Engineering Firm to prepare the FCA at the Authority’s cost and expense. For the avoidance of doubt, this cost will not be an Airfield Operating Expense. The Authority shall provide notification to Lessee no later than 120 days after receiving the Lessee’s or Avports’ FCA, or 90 days after providing to Lessee the FCA completed by the Authority retained Engineering Firm that it intends to retain an Engineering Firm for the following year.
- For the years in which the Authority engages an Engineering Firm, Avports will not be obligated to prepare the FCA.

The FCA will generally include, but not be limited to the following:

- Review of the prior FCA findings;
- Assessment of applicable Airfield Facilities relative to current codes and regulations from a safety and operational perspective (all health and safety issues must be identified for resolution by Avports in accordance with the findings of appropriate studies and investigations, and to be followed by appropriate mitigation as soon as practical);
- Assessment of applicable major equipment assets (e.g. tools and vehicles);

- Assessment of mechanical, electrical, communication, and plumbing systems;
- Field inspection of critical on-Airport utilities, including storm sewer, sanitary sewer, electrical, water, and communication;
- Field inspection of above and below ground storage tanks and maintenance recommendations;
- Field inspection of airfield pavements, including runways, taxiways, and vehicle service roads outside the Terminal Facilities;
- Recommendations in terms of capital improvements that should be carried out immediately due to safety concerns, including, where appropriate, a reference to the applicable regulation regarding such improvements;
- Recommendations in terms of near-, intermediate- and long-term capital improvements.

The FCA will be governed by a manual to be mutually developed and agreed by the Authority and Avports. The manual will specify the scope of the assessment, safety requirements for execution of the assessment, and the reporting standards for the deliverable. The findings of the FCA will be communicated to the Lessee.

The FCA will classify the condition of the facilities assessed using the following categories:

- Excellent – no operational deficiencies, minimum standards exceeded;
- Good – minor operational deficiencies, minimum standards exceeded or met;
- Fair – minor operational deficiencies, most minimum standards met, some capital improvements or corrective actions should be considered, intermediate-term improvements should be identified;
- Poor – significant operational deficiencies, facility is failing to meet minimum standards, capital improvements or corrective actions must be taken in near-term;
- Critical – major operational deficiencies, urgent corrective action must be undertaken, and/ or safety issues are present. This category may also include improvements mandated by new laws or regulations. Any items identified as critical will be included in monthly updates provided to the Lessee until resolved.

Avports will, to the best of its ability, and subject to Section 3.9.2(a) of the Facility Development Agreement, maintain each facility or system in “good” condition or better in the appropriate rating system used for assessment or self-assessment (as permitted) of that facility or system.

At a minimum, the inspection or self-inspection component of the FCA will include the facilities and their respective major systems and elements as outlined in Table 3-1.

Table 3-1

FUNCTIONAL AREAS FOR -INSPECTION

Functional Area	Major Systems and Elements
Airfield	Electrical systems, including airfield lighting, controls, and other automated systems
	Mechanical systems
	Utility systems
	Communications systems
	Security systems
	Pavement
	Aircraft and vehicle fueling systems and associated storage facilities
	Triturator
	Architectural elements and systems
	Airport owned navigational aids
	Safety areas
	Protected zones
	Systems for public protection
Flood mitigation systems and tidal gates	

Air Traffic Summary (“ATS”). As required, the Authority will provide the engineering firm engaged to conduct a FCA, a summary of the current year’s capital improvements, as well as the ATS to inform the firm of emerging trends that could affect capital expenditures. The ATS will provide access to monthly data regarding passenger enplanements, passenger deplanements, international passengers, domestic passengers, connecting passengers, origin-destination passengers, and passenger load factors. The ATS will also include a monthly accounting of commercial aircraft operations, general aviation aircraft operations, and military aircraft operations, provided this information is available from the FAA Air Traffic

Control Tower or other sources including TSA and airline reports. The ATS will provide access to year-over-year and month-over-month comparisons for each of the data accounted therein.

Airport Development Plan (“ADP”) The FCA and ATS will form the basis of the ADP and be prepared in accordance with Section 4.1.2 of the Facility Development Agreement. The ADP will outline the near-, intermediate-, and long-term projects planned to address the findings of the FCA and any other planning studies (e.g. master plan) conducted by Lessee or the Authority through Avports. The ADP should prioritize the projects, identify projects that are eligible for FAA funding, and identify the environmental requirements necessary for project implementation.

- For all facilities assessed within the FCA as fair, poor, or critical, a corrective action plan will be identified within the ADP. The improvements recommended as part of the action plan will be prioritized, using the following categories:
- Critical – capital improvements will be executed immediately or as soon as practical;
- High – capital improvements will be executed in the near-term;
- Low – capital improvements may be warranted in the near-term to realize operational efficiencies, but may be elective to some extent.

The ADP will provide a brief description of the planned capital improvements for the near-term (0-5 years), including the project justification. It will also generally include a probable cost estimate for each of the planned capital improvements for all projects for the near- and intermediate-terms (0-10 years); including identification of probable funding sources. For the long-term, potential capital improvement projects (as they are identified) will be listed along with order of magnitude cost estimates and ranked in terms of their priority.

The ADP will include the following:

- Executive summary;
- Introduction and background;
- Summary of the methodology used to prioritize the capital improvements and identification of the studies or work done to identify the capital improvements;
- Recommendations for planned capital improvements for the next five years with the greatest detail regarding projects to be completed in the first year of the ADP.
- Funding sources and financial impact to the Authority – if any

3.4.7 Retention of Engineering Firm for the FCA When Required

Pursuant to Section 3.4.6 above, the Authority or Lessee may retain an Engineering Firm not associated, owned, or partnered with the Authority or Lessee, to perform the services associated with the preparation of the FCA.

The same Engineering Firm can be retained for a maximum six-year duration. The purpose of these requirements is to develop a fair, impartial, independent, and objective assessment of the condition of the Airfield Facilities.

Section 4

ENVIRONMENTAL SUSTAINABILITY PLAN

4.1 BACKGROUND

Planning for sustainability generally means meeting the needs of the present without compromising the ability of future generations to meet their own needs.

4.2 REGULATORY COMPLIANCE

The Environmental Sustainability Plan (“ESP”) will identify all Legal Requirements relevant to sustainability planning. Avports will ensure that employees and representatives responsible for the sustainability planning comply with the provisions of the ESP and all Legal Requirements.

4.3 EXISTING PLANS

Avports will utilize any available existing plans and descriptions of environmental sustainability standards in the development of the ESP section of the Operations Plan.

4.4 REQUIREMENTS OF THE PLAN

The ESP will identify the plan’s objectives, essential staffing, stakeholders, scope, performance timeframe, and reporting requirements as described below.

4.4.1 Objectives of ESP

The objective of the ESP section of the Operations Plan is to define responsibilities, procedures, and minimum requirements for the staff dedicated to sustainability, thereby reducing the Airport’s environmental footprint. The ESP will also provide guidance regarding staff training targeted at sustainability.

4.4.2 Essential Staffing

An organizational chart will be included in the ESP which identifies the essential staff responsible for each of the facilities covered under the ESP.

4.4.3 Stakeholders

The ESP will identify all stakeholders (both public and private) that may be affected by the performance of the ESP and define any necessary applicable coordination with individual stakeholders.

4.4.4 Scope of Plan

Airport development and operations can become more sustainable by incorporating the following considerations into everyday practices: economic sustainability, operational efficiency, natural resource conservation, and social improvement.

Consistent with those considerations, the ESP will cover the following topics:

- Goal definition;
- Sustainability assessment;
- Program evaluation;
- Development / redevelopment;
- Staff training;
- Airport recycling plan.

Goal definition: This section of the ESP will identify the Avports' sustainability policies, including goals and objectives associated with the ESP. Goals and objectives for the Airfield Facilities may include (but are not limited to): reducing emissions and noise exposure, water conservation, sustainable land use planning, disposal of hazardous materials, minimizing vehicular traffic, sustainable construction practices, maximizing renewable energy, sustainable waste disposal, and encouraging public participation. The goals definition should be informed by a baseline assessment of the existing condition. Potential goals include:

- "Net zero" waste management;
- "Net zero" carbon footprint;
- Facility and building related goals;
- Use of green building materials and reuse and recycling of building materials;
- Landscaping and erosion control;
- Alternative energy and fuel sources;
- Ground handling, vehicle, and equipment related goals.

Sustainability assessment: This section of the ESP will document current Airfield Facilities operations, sustainability practices, and environmental practices related to waste, recycling, energy use and conservation, water recycling, and materials procurement. The assessment will document all Avports and tenant practices relevant to sustainability planning, including (but not limited to) aircraft movements, vehicle movements, and maintenance activities.

Program evaluation: This section of the ESP will define requirements for reviewing and evaluating all new Airport programs and projects. These requirements will ensure all four sustainability elements are addressed in a balanced, holistic, and measurable approach.

Development / redevelopment. The ESP will identify criteria for reviewing tenant development/redevelopment projects and methods for providing incentives to encourage sustainable design features. This section will also include standards for all new leases, agreements, and contracts that support the Airport’s sustainability goals.

Staff training. This section of the ESP will identify the minimum training program for the employees responsible for sustainability management and acceptable certifications if required. The goal of the training is to establish a work environment that supports innovation, productivity, pride, and a personal commitment to sustainability.

Recycling Plan. This section of the ESP will provide the details of a recycling plan for waste disposal campus wide. The plan should be developed consistent with the guidelines provided in “Developing and Implementing an Airport Recycling Program,” authored by U.S. Environmental Protection Agency.

4.4.5 Performance Schedule

From time to time the ESP will be reviewed and revised as needed by Avports to reflect a good faith effort to make improvements in areas where sustainability goals have not been met to the standards of Avports, as identified in the annual reporting described in the following section.

4.4.6 Reporting Requirements

Reporting on sustainability performance allows Avports to measure performance of the Airfield Facilities. Reporting on environmental, economic, and social sustainability performance annually demonstrates a commitment to accountability and ongoing improvement.

Avports will prepare a Sustainability Report as part of the overall Annual Report. This report will document the Airport’s environmental goals and achievements, and measure progress against environmental goals, historical performance and compliance.

Section 5

HEALTH AND SAFETY PLAN (HSP)

5.1 BACKGROUND

The Safety Plan section of the Operations Plan will provide the Authority and Lessee the assurance that Avports will conduct all operations in a healthy and safe manner, protecting both employees and the general public. The Safety Plan should be developed and executed by Avports and submitted to the Lessee for its reference.

5.2 REGULATORY COMPLIANCE

The HSP will identify and comply with all Legal Requirements as per Section 1.5. Avports will ensure that employees and representatives responsible for the operation of airport facilities comply with the provisions of the HSP and all Legal Requirements.

5.3 EXISTING PLANS

Avports will utilize any available applicable plans and descriptions of Airport facilities, systems, and procedures provided to it in the development of the Safety Plan. Avports must ensure that the Safety Plan complies with the relevant standards within the ACM, ASP and AEP which, in addition to the requirements described herein, should be considered the minimum standard.

5.4 REQUIREMENTS OF THE PLAN

The HSP shall identify the plan's objectives, essential staffing, stakeholders, scope, performance schedule, training, certification if required, and reporting requirements as described below.

5.4.1 Objectives of the Safety Plan

The objective of the HSP is to ensure that Avports practices prevent unsafe conditions for the general public and all airport employees and to provide the framework for identifying and mitigating health and safety issues as they arise.

The HSP will be modified or revised by Avports as appropriate to address specific issues, needs, or concerns related to the Airport that develop over time and as required by relevant authorities with jurisdiction.

The HSP shall include scheduled meetings with stakeholders and incorporate findings from other safety efforts including but not limited to the Runway Safety Action Team meetings (RSAT) SMS, CFR part 139 self-inspections and insurance audits.

5.4.2 Essential Staffing

An organizational chart will be included in the Safety Plan which identifies the essential staff responsible for various components of its execution.

The organizational chart will be supplemented by a summary of the levels of staffing, minimum training and the acceptable certification if required for those responsible for each component of the HSP.

5.4.3 Stakeholders

The Safety Plan will identify all stakeholders (both public and private) that may be affected by the performance of the Safety Plan and define any necessary applicable coordination with individual stakeholders.

5.4.4 Scope of plan

The Safety Plan will provide:

- Guidance as to the necessary health and safety training that various Airport employees shall receive, including first aid training;
- A plan for implementation of a health and safety management framework addressing the safety of both the general public and Airport employees within the airport property;
- Best practices for Avports employees to increase awareness of potential safety issues before they arise;
- Development and implementation of appropriate letters of agreement or other means of establishing appropriate safety practices and policies;
- A policy manual for Avports construction zones and other potentially hazardous areas, including guidance as to the use of information signage, physical barriers, traffic control infrastructure and other equipment to maintain a safe environment for the general public;
- A manual for self-inspection of facilities for safety issues in accordance with FAA Advisory Circular 150/5200-18C;
- Additional health and safety measures as included for example in the ACI Airport Health Accreditation framework;
- A process for reporting and monitoring safety issues.

The Safety Plan shall also provide a graphical depiction of the areas that will be subject to execution of the plan.

Staff Training and Education

Avports will conduct training to establish a safety culture and educate employees regarding safety issues. The training shall address the requirements and workplace standards of the OSHA.

The HSP will include the following at a minimum:

- Training that incorporates findings from the execution of the framework;
- General training that covers OSHA standards and overall safety awareness for all Avports employees, including executives;
- Training specific to the responsibilities of the employee, including identification of equipment required to execute specific tasks safely, safe driving of vehicles, and safe operation of equipment;
- Provision of safety training for new employees and the provision of recurrent safety training for all employees along with a typical schedule for such training;
- Provision of a lessons learned/case histories component;
- Establishment of procedures aimed at ensuring employees understand the safety policies and adhere to safe work practices;
- How to document safety issues in the reporting system.

The training will also provide background regarding anticipated work activities and hazards, and the protocol that shall be followed should an incident occur.

5.4.5 Performance Schedule

The HSP will be reviewed annually and revised as needed by Avports to reflect a good faith effort to make improvements in any areas which have been subject to safety incidents throughout the applicable time frame. The revisions will be made to prevent the same type of incident from recurring.

5.4.6 Reporting Requirements

Avports will prepare a summary of safety performance on an annual basis for inclusion in the Annual Report. The reporting shall indicate the rate of safety incidents relative to historical data as well as identify any deficiencies that need to be corrected and projects undertaken during the year to correct any safety issues

Values to be observed include but not limited to: workman's compensation claims awarded, insurance claims awarded, and reports of non-compliant conditions.

APPENDIX A

AVAILABLE GUIDANCE AND STANDARDS

Airport Operation Guidance Documents	
Number	Title
General Reference: (Airfield, Security, Safety, Emergency)	
150/5000-15A	Announcement of Availability of Airport-Related Research and Development Products
150/5070-6B	Airport Master Plans
150/5100-14D	Procurement of Professional Services
150/5190-4A	A Model Zoning Ordinance to Limit Height of Objects Around Airports
150/5190-7	Minimum Standards for Commercial Aeronautical Activities
150/5200-12C	First Responders_ Responsibility for Protecting Evidence at the Scene of an Aircraft Accident/Incident
150/5200-18C	Airport Safety Self-Inspection
150/5200-28D	Notices to Airmen (“NOTAMS”) for Airport Operators
150/5200-29A	Announcement Of Availability Of Airport Self-Inspection DVD
150/5200-30C	Airport Winter Safety And Operations
150/5200-31C	Airport Emergency Plan (Consolidated AC includes Change 2)
150/5200-32A	Reporting Wildlife Aircraft Strikes
150/5200-33B	Hazardous Wildlife Attractants On or Near Airports
150/5200-34A	Construction or Establishment of Landfills near Public Airports
150/5200-35A	Submitting the Airport Master Record in Order to Activate a New Airport
150/5200-36	Qualifications for Wildlife Biologist Conducting Wildlife Hazard Assessments and Training Curriculums for Airport Personnel Involved in Controlling Wildlife Hazards on Airports

Airport Operation Guidance Documents	
Number	Title
150/5200-37	Introduction to Safety Management Systems (“SMS”) for Airport Operators
150/5210-13C	Airport Water Rescue Plans and Equipment
General Reference: (Airfield, Security, Safety, Emergency) (continued)	
150/5210-14B	Aircraft Rescue Fire Fighting Equipment, Tools and Clothing
150/5210-15A	Aircraft Rescue and Firefighting Station Building Design
150/5210-17B	Programs for Training of Aircraft Rescue and Firefighting Personnel
150/5210-18A	Systems for Interactive Training Of Airport Personnel
150/5210-19A	Driver's Enhanced Vision System (“DEVs”)
150/5210-20	Ground Vehicle Operations on Airports
150/5210-22	Airport Certification Manual (“ACM”)
150/5210-23	ARFF Vehicle and High Reach Extendable Turret (“HRET”) Operation, Training and Qualifications
150/5210-24	Airport Foreign Object Debris (“FOD”) Management
150/5210-5D	Painting, Marking, and Lighting of Vehicles Used on an Airport
150/5210-6D	Aircraft Fire and Rescue Facilities and Extinguishing Agents
150/5210-7D	Aircraft Rescue and Fire Fighting Communications
150/5220-10D	Guide Specification for Aircraft Rescue and Fire Fighting Vehicles
150/5220-17B	Aircraft Rescue and Fire Fighting (“ARFF”) Training Facilities
150/5220-21B	Guide Specification for Devices Used to Board Airline Passengers with Mobility Impairments
150/5220-22A	Engineered Materials Arresting Systems (“EMAS”) for Aircraft Overruns
150/5220-25	Airport Avian Radar Systems

Airport Operation Guidance Documents	
Number	Title
150/5220-4B	Water Supply Systems for Aircraft Fire and Rescue Protection
150/5220-9A	Aircraft Arresting Systems
150/5230-4A	Aircraft Fuel Storage, Handling, and Dispensing on Airports
150/5300-13	Airport Design
Various	Applicable and supporting Airport Cooperative Research Program reports.

Airport Operation Guidance Documents	
Number	Title
General Reference: (Airfield, Security, Safety, Emergency) (continued)	
150/5300-16A	General Guidance and Specifications for Aeronautical Surveys: Establishment of Geodetic Control and Submission to the National Geodetic Survey
150/5300-17B	General Guidance And Specifications For Aeronautical Survey Airport Imagery Acquisition And Submission To The National Geodetic Survey
150/5300-18B	General Guidance And Specifications For Submission Of Aeronautical Surveys To NGS: Field Data Collection And Geographic Information System ("GIS") Standards
150/5320-6E	Airport Pavement Design and Evaluation
150/5340-18F	Standards for Airport Sign Systems
150/5340-1K	Standards for Airport Markings
150/5370-2E	Operational Safety on Airports During Construction
70/7460-2K	Proposed Construction or Alteration of Objects That May Affect the Navigable Airspace
Wildlife Hazard Management	
Certalert No. 09-10	Wildlife Hazard Assessments in Accordance with Part 139 Requirements
Certalert No. 98-05	Grasses Attractive To Hazardous Wildlife
Certalert No. 04-09	Relationship Between FAA And Wildlife Services
Certalert No. 04-16	Deer Hazard to Aircraft and Deer Fencing
Certalert No. 06-07	Requests by State Wildlife Agencies to Facilitate and Encourage Habitat for State-Listed Threatened and Endangered Species and Species of Special Concern on Airports

Airport Operation Guidance Documents	
Number	Title
150/5200-32A	Reporting Wildlife Aircraft Strikes
150/5200-33B	Hazardous Wildlife Attractants On Or Near Airports
150/5200-34A	Construction or Establishment of Landfills Near Public Airports
150/5200-36	Qualifications for Wildlife Biologist Conducting Wildlife Hazard Assessments and Training Curriculum for Airport Personnel Involved in Controlling Wildlife Hazards on Airport

Airport Operation Guidance Documents	
Number	Title
Environmental Management and Public Relations	
150/5020-1	Noise Control and Compatibility Planning for Airports
150/5050-4	Citizen Participation in Airport Planning
150/5050-8	Environmental Management Systems for Airport Operators
Additional Reference Documents (if applicable)	
ICAO Annex 14 – Aerodromes	
IATA Airport Development Reference Manual, 12th Edition	
Federal Regulations and Orders	
49 CFR Parts 1540 and 1542, Airport Security	
FAR Part 139, Certification of Airports	
FAR Part 150, Noise Compatibility Program	
FAR Part 161, Noise Compatibility Program	
FAR Part 77, Objects Affecting Navigable Airspace	
FAA Order 405, Standards for Aeronautical Surveys	
FAA Order 5100.38C, Airport Improvement Program Handbook	
FAA Order 1050.1E, Environmental Impacts: Policies and Procedures	
FAA Order 5050.4B, National Environmental Policy Act (NEPA)	
23 CFR Part 772, Procedures for Abatement of Highway Traffic Noise and Construction Noise	
29 CFR Part 1926 (Originally CFR Part 1518) Safety and Health Regulations for Construction of the Williams Steiger Occupational Safety and Health Act of 1970 (Federal, OSHA)	
29 Code of Federal Regulations (CFR) Parts 1910 and 1926	
29 CFR Part 1926, Construction Safety and Health Regulations	

Airport Operation Guidance Documents	
Number	Title
29 CFR 1926.62,	Lead Exposure in Construction
Federal Regulations and FAA Orders (continued)	
40 CFR Part 280,	Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (USTs)
40 CFR 763	Asbestos
49 U.S.C. Section 44718	
Americans with Disabilities Act of 1990	
Atomic Energy Act (42 U.S.C. Sec. 2011, et seq.)	
Aviation and Transportation Security Act of 2001	
Clean Air Act (42 U.S.C. ' 7401 et seq.)	42 U.S.C. 87401
Clean Water Act (33 U.S.C. ' 1251 et seq.)	
Comprehensive Environmental Response and Compensation and Liability Act (42 U.S.C. ' 9601 et seq.)	
Council of Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended	
Determining Conformity of Federal Actions to State or Federal Implementation Plans, 40 C.F.R. Part 93	
Emergency Planning and Community Right-to-Know Act (42 U.S.C. ' 11001 et seq.)	
Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 59 Fed. Reg. 7629, Feb. 16, 1994	
Federal Insecticide Fungicide and Rodenticide Act (7 U.S.C. Sec 136, et seq.)	
Federal requirements for the use of ULSD fuel for both on-road (2007) and off-road (2010) vehicles	
Federal Trade Commission's "Guide for the Use of Environmental Marketing Claims," 16 CFR 260.7(e)	

Airport Operation Guidance Documents	
Number	Title
	Federal Transit Act, 40 C.F.R. Part 51, Subpart T Hazardous Material Transportation Act (49 U.S.C. ' 1801 et seq.)
	National Emission Standards for Hazardous Air Pollutants (NESHAP), under Section 112 of the Clean Air Act
	Occupational Safety and Health Act of 1970 (29 U.S.C. ' 651 et seq.)
	OSHA's lead-in-construction rule, contained in 29 CFR 1926.62 33 U.S.C. 8651
	Federal Regulations and FAA Orders (continued)
	Resource Conservation and Recovery Act of 1976 (42 U.S.C. ' 6901 et seq.)
	Safe Drinking Water Act (42 U.S.C. ' 300f)
	Toxic Substances Control Act of 1976 (15 U.S.C. ' 2601 et seq.) 8261
	U.S. DOT regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622
	U.S. DOT statutory requirements on environmental matters at 49 U.S.C. § 5324(b)
	U.S. EPA regulations, Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C.
	Worker's Compensation Act
	Asbestos Hazard Emergence Response Act, 15 U.S.C. 82641

APPENDIX B

FORM OF OPERATIONAL PERFORMANCE METRICS REPORT (OPR)

This appendix provides outlines for the various reports required by these Airfield Facilities Operating Standards. The reports may include material beyond that listed, but they should at a minimum address the items listed in the following tables.

The standard targets will be determined by the following process:

- For those aspects included in specific FAA, TSA or other Federal, State or Local regulation, the targets considered will be the same as the ones required in the regulations
- For those aspects where published industry benchmarks applicable to the operational conditions of the Airport exist, these would be considered as targets
- For those aspects where there are no existing benchmarks, the parties will determine by mutual agreement the targets applicable after the first round of reports for the first year of operation
- Every year, Airports will propose an analysis and evolution of the performance standard targets based on the evolution of industry benchmarks and internal measurements, together with a plan to meet these new targets in case a change or modification is necessary

The performance measures will include all information required on the FAA 5010 form and the following:

- Number of aircraft operations (yearly, monthly, peak hour);
- Number of aircraft operations by types of aircraft;
- Number of based aircraft;
- Peak hour operations/departures by commercial service aircraft;
- Operational delay statistics for departures and arrivals, including cause of delay and cancellation; irregular operations.
- Commercial aircraft diversions or other notable events, such as disabled aircraft;
- Identification of runway closures, including duration and cause;
- Summary of major airfield maintenance conducted, with special attention for any unforeseen maintenance.

- List of winter weather emergencies.
 - Type and quantity of precipitation
 - Number of closures and duration.

The OPR may also provide:

- Comparison of past performance to current performance;
- Comparison of current performance to established minimum standards;
- Documentation of operational or procedural changes made to improve performance of airfield facilities; measured by percentage of out of service periods.
- Recommendations as to those facilities that require capital improvements to expand, modernize or otherwise reconfigure the facility for improved efficiency and through-put (i.e. taxiway improvements) or enhancements in response to disaster planning efforts.

The OPR will be used in concert with the Facilities Condition Assessment (FCA) to develop a capital improvement program.

Operational Performance Report		
Category	Metric	Standard Targets
Airfield		
Airfield / Airport operations	Visual airfield inspections	As required by FAR Part 139
	Visual terminal / landside inspections	Per TSR 1542
	Fueling inspections	Per FAR Part 139
	Field condition reports—standard day	Per FAR Part 139
	Pavement friction testing—standard day	Per FAR Part 139
	Airfield lighting and signs maintenance	As per FAR Part 139

Operational Performance Report		
Category	Metric	Standard Targets
Runways	Unscheduled runway closures	As per FAA measured applicable benchmarks
	Incursions by vehicles or pedestrians	As per FAA measured applicable benchmarks

Facilities Condition Assessment	
<p>Assessed facilities should be classified using the following categories:</p> <p>Excellent – no operational deficiencies, minimum standards exceeded;</p> <p>Good – minor operational deficiencies, minimum standards exceeded or met;</p> <p>Fair – minor operational deficiencies, most minimum standards met, some capital improvements or corrective actions should be considered, intermediate-term improvements should be identified;</p> <p>Poor – significant operational deficiencies, facility is failing to meet minimum standards, capital improvements or corrective actions must be taken in near-term;</p> <p>Critical – major operational deficiencies, urgent corrective action must be undertaken, and/ or safety issues are present. This category may also include improvements mandated by new laws or regulations.</p>	
Buildings	Inspect all Airfield Facilities buildings from a safety and operational perspective: all safety issues must be identified for resolution by Avports as soon as possible.
Building systems	Inspect all Airfield Facilities building systems from a safety and operational perspective. Building systems include mechanical, electrical, communication, and plumbing systems.
Equipment	Inspect all Airfield Facilities equipment (e.g. maintenance equipment) from a safety and operational perspective: all safety issues must be identified for resolution by Avports as soon as possible.
Utilities	Inspect critical Airfield Facilities utilities, including storm sewer, sanitary sewer, electrical, water, and communication.
Airfield pavements	Field inspection of airfield pavements, including runways, taxiways, aircraft aprons, and vehicle service roads.
Capital improvement recommendations (immediate)	Recommendations in terms of capital improvements that should be carried out immediately due to safety concerns.

Capital improvement recommendations (future)	Recommendations in terms of near-, intermediate- and long-term capital improvements.
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Airport Development Plan	
The Airport Development Plan (“ADP”) should outline the near-, intermediate-, and long-term projects planned to address the findings of the Facilities Condition Assessment (“FCA”) and any other planning studies (e.g. master plan) conducted by the Authority or Avports.	
Executive summary, introduction, and background	Description and summary of ADP contents.
Methodology	Summary of the methodology used to prioritize the capital improvements and identification of the studies or work done to identify the capital improvements.
Corrective action plan	<p>For all facilities assessed within the FCA as fair, poor, or critical, a corrective action plan must be identified within the ADP. The improvements recommended as part of the action plan should be prioritized, using the following categories:</p> <p>Critical – capital improvements should be executed immediately or as soon as practical;</p> <p>High – capital improvements should be executed in the near-term;</p> <p>Low – capital improvements may be warranted in the near-term to realize operational efficiencies, but may be elective to some extent.</p>
Near-term capital improvement project descriptions	Recommendations for planned capital improvements for the next five years with the greatest detail regarding projects to be completed in the first year of the CIP.
Cost estimates	<p>Probable cost estimate for each of the planned capital improvements for all projects for the near- and intermediate-terms (0-10 years); including identification of probable funding sources.</p> <p>For the long-term, potential capital improvement projects (as they are</p>

	identified) should be listed along with order of magnitude cost estimates.
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Sustainability Report	
The Sustainability Report* shall document the Airport's environmental goals and achievements, and measure progress against environmental goals and historical performance.	
Introduction	This section should describe the Airport's sustainability policy and sustainability program.
Sustainability goals and achievements	Descriptions of the Airport's goals and achievements, which may include, but are not limited to, the following categories:
Climate change	<ul style="list-style-type: none"> Goals and achievements related to reducing contributions to climate change, to be defined.
Energy conservation	<ul style="list-style-type: none"> Goals and achievements related to reducing energy use - including use of renewable resources.
Water conservation	<ul style="list-style-type: none"> Goals and achievements related to reducing consumption of water resources.
Natural resources management	<ul style="list-style-type: none"> Goals and achievements related to the protection of natural habitats and wildlife populations, to be defined.
Solid waste reduction / recycling	<ul style="list-style-type: none"> Goals and achievements related to minimizing solid waste and recycling collected waste products.
Air quality	<ul style="list-style-type: none"> Goals and achievements related to the Airport's efforts to minimize emissions.
Noise	<ul style="list-style-type: none"> Goals and achievements related to reducing aircraft noise impacts in areas surrounding the Airport, to be defined based on independent measurement and feedback.

Hazardous materials	<ul style="list-style-type: none">• Goals and achievements related to the reduction of hazardous materials use by the Airport and tenants.
Historical performance	<ul style="list-style-type: none">• Comparison of current and historical sustainability achievements.
*The Sustainability Report may be included as a subsection of an Annual Report prepared by Avports.	

Safety Report	
The Safety Report* shall document the Airport's safety performance on an annual basis.	
Introduction	Description of the Airport's safety policy and historical performance.
Safety incidents	Identification of safety incidents relative to historical data.
Safety risks	Safety deficiencies to be corrected in the upcoming period.
Self-inspection summary	Results of self-inspection program conducted in accordance with FAA Advisory Circular 150/5200-18C.
*The Safety Report may be included as a subsection of an Annual Report prepared by Avports.	

Security Assessment Report	
The Security Assessment Report* shall document the Airport's security performance on an annual basis.	
Introduction	Summary of the Airport Security Plan.
Security incidents	Summary of all security incidents occurring during the reporting period.
Proposed program changes	Identification of potential changes to the Airport Security Program to prevent or mitigate future incidents.
*The Security Assessment Report may be included as a subsection of an Annual Report prepared by Avports, but may be redacted to protect SSI or only disclosed to approved stakeholders.	

Emergency Report	
The Emergency Report* shall document the Airport's actual and simulated emergency response performance on an annual basis.	
Introduction	Summary of the Airport's Emergency Plan. This section should also include significant historical emergency incidents.
Emergency incidents	Emergency incidents occurring during the reporting period.
Training	Summary of emergency incidents, training, drills, and exercises performed during the reporting period.
Deficiencies	Deficiencies noted during emergency incidents, training, drills, and exercises.
Corrective measures	Correction of deficiencies noted, and emergency related projects to be undertaken during the next reporting period.
*The Emergency Report may be included as a subsection of an Annual Report prepared by Avports.	

Exhibit E

Airport Services

Except as otherwise excluded under Section 2 of the Sixth Amendment or otherwise, the term "Airport Services" shall mean (i) the operation, maintenance and management, including engineering services and including capital and financial management, of the Airport Facilities and Assets, in each case in accordance with this Agreement, and (ii) all other incidental, collateral, and additional actions relating to the operation of the Airport Facilities and Assets or otherwise that are to be performed by or on behalf of Avports pursuant to this Agreement (including the Operating Standards):

(a) GENERAL OPERATIONS

- (1) Cooperate and assist the Authority in dealing with the FAA and all other federal, state, and municipal and regional agencies in all matters relating to the operation of the Airport.
- (2) Use best efforts to ensure that those utilizing the Airport as pilots or aircraft operators do so in the most noise-conscious manner possible so as to minimize any adverse noise impact to the extent possible, consistent with safe and prudent aviation practices and procedures.
- (3) Cooperate and assist the Authority in communications with the local communities regarding the utilization and operation of the Airport.
- (4) Cooperate and assist the Authority in actively encouraging investment of private capital at the Airport for general aviation facilities, concessions, and other opportunities made available by the Authority.
- (5) Use its best efforts to attract such prospective tenants, air service providers, concessionaires and contractors as may be desirable for the Airport, in the opinion and judgment of the Authority.
- (6) Develop and manage, in cooperation with the Authority, a marketing program to build public awareness and ridership on scheduled commercial air service to and from the Airport.

(b) MAINTENANCE AND REPAIR SERVICES

- (1) Maintain and repair (structurally and otherwise) in a good, workmanlike manner, and/or enforce the obligations of any tenant to maintain and repair in such manner, consistent with the requirements of the Airport's existing FAA Part 139 and Part 77 Certificates:
 - (i.) All runways, ramps and taxiways, runway and taxiway lights, markings, and striping;
 - (ii.) All navigation aids which are not maintained by the FAA;
 - (iii.) All Airport vehicles, equipment, machinery, and tools whether or not owned by Avports or provided by the Authority;
 - (iv.) All Airport grounds (including, without limitation, parking lots, roadways, perimeter fences, grass cutting, weeding, and grooming, and removing or topping trees and shrubs where and when necessary); and

- (v.) All Airport buildings and structures including, without limitation roofs, glass, drainage, plumbing, electrical, sprinkler, heating and air conditioning systems, apparatus and equipment.
- (2) Provide janitorial services for the terminal building(s) and Airport maintenance buildings as required by normal use.
- (3) Periodically conduct obstruction removal surveys associated with federally-defined airspace surfaces surrounding the Airport needed for the continued safe operation of aircraft. Objects that penetrate these surfaces are classified as obstructions, and should be removed to safely accommodate approaching and departing aircraft.

(c) AVIATION SUPPORT FUNCTIONS

- (1) Consistent with FAA standards and the requirements of the Airport's Part 139 Certificate, provide crash, fire and rescue services to the Airport adequate and sufficient to protect the airport users and the general public;
- (2) Prepare documents for Executive Director signature, e.g. PFC applications, FAA grant submittals, Part 139 compliance, permits, or any other certification or compliance forms;
- (3) Preparing Form 126/127 filings of airport revenues – landing fees, rental cars, expenses, headcount, etc.
- (4) Consistent with FAA standards and the terms of pertinent leases, contracts, and obligations, operate or cause the aircraft ramp areas to be operated for the benefit of users thereof;
- (5) Operate and manage the Airport's parking facilities, unless otherwise directed by the Authority;
- (6) Expeditiously remove or cause snow and ice to be removed from all runways, taxiways, ramps, parking lots and access roads; and
- (7) Clean and remove all foreign objects from all runways, taxiways, ramps and parking areas.

(d) CONTINGENCY PLANS, RULES AND REGULATIONS

- (1) Provide such facilities, training, supervision and coordination as may be reasonably required to implement the Emergency Contingency Plan from time to time in effect.
- (2) Review and submit to the Authority, from time to time, proposed revisions, if any, to the existing Airport Rules and Regulations. Avports shall enforce such Airport Rules and Regulations as may from time to time be in effect.

(e) CONTRACTS WITH THIRD PARTIES

In connection with agreements with third parties at or concerning the Airport and at the direction of the Authority:

- (1) Perform all Authority obligations existing or arising pursuant to existing and future agreements with fixed base operators and other tenants and concessionaires at the Airport.

Avports will advise the Authority of recommended changes to the form and content of said agreements.

- (2) Perform the obligations of the Authority pursuant to leases with the FAA.
- (3) Develop and prepare written specifications and/or public bidding documents, in accordance with applicable federal, state, and local laws, rules and regulations, including but not limited to 2 CFR Part 200, for the procurement of such aviation and related services, equipment, materials and supplies as may be necessary or desirable for proper operation of the Airfield.
- (4) Recommend specific programs and courses of action to the Authority in connection with leases, concessions, and other agreements necessary or desirable for the operation of the Airport and implement such programs and courses of action in conformity with applicable law and Authority procedures.
- (5) Administer and review performance of agreements between the Authority and Airfield concessionaires, tenants and contractors (including construction contractors), monitor compliance with the terms and conditions of such agreements, in a manner which is consistent with the proper operation of the Airfield, provide coordination of the work to avoid or minimize disruption of Airfield operations and services and, perform or cause to be performed all obligations imposed on the Authority pursuant to such agreements.
- (6) Monitor all Authority agreements with construction contractors and general contractors at or concerning the Airfield to ensure that the daily operation of the Airfield is not unduly impacted.
- (7) Provide notice to the Authority at least three (3) months in advance of the forthcoming expiration, change or other deadline relative to leases, contracts, and agreements at or concerning the Airport.

(f) REPORTS, GRANTS, AND PFC APPLICATIONS

- (1) In connection with Airport operations and funding, prepare and submit such reports and statistical data as may from time to time reasonably be requested by the Authority, including to but not limited to a monthly report of enplaned passengers.
- (2) Develop, prepare, and assist the Authority in the submission of all applications and supporting documentation for federal and state grants, PFC applications (and amendments thereto), and assistance for Airport development, planning, maintenance, management and operation, and attend such conferences with federal, state and local officials as may be appropriate to assist the Authority in obtaining such assistance or as requested by the Authority. Avports may retain consultants and subcontractors as required to meet this obligation.

(g) ACCOUNTING AND FINANCIAL SERVICES

- (1) On behalf of the Authority and in a timely manner, bill third parties (and perform accounting entries for) for all monies due to the Authority in connection with the Airport, including but not limited to monies due pursuant to leases, contracts (including LEO and utility contracts), concession agreements and arrangements (including reimbursement requests) with other persons conducting operations at the Airport (for certainty, except with respect to Authority Lease Revenue).

- (2) Receive all monies billed pursuant to this Article 2.2(g) together with all Airport fees, pursuant to the Authority's procedures for receipt thereof (except with respect to Authority Lease Revenue); provided, however, that in the event such monies and/or fees are not paid within ninety (90) days of the due date thereof, Avports shall so notify the Authority of such delinquency; and provided, further, that the costs of collection of all such monies and fees (including court costs and attorneys' fees) shall be the sole obligation of the Authority, and provided, further, that in no event shall Avports be liable for any bad debt, or the failure of any tenant, concessionaire, user or other person or entity to make payment of any monies or fees, or the costs of collecting same.
- (3) Deposit on a daily basis all monies collected from the operation of the Airport in account(s) established by the Authority for such purpose (excluding Authority Lease Revenue).
- (4) Prepare Airport invoices and accounts receivable reports, excluding Authority administrative invoices (legal, accounting, and other administrative). Process for payment by the Authority all direct Airport operating expenses incurred in connection with the operation of the Airport and provided for in the approved Annual Operating Budget. Payments for said expenses shall be made from a bank account established and funded by Avports.
- (5) Prepare monthly Airport trial balances and monthly and year-end income and expense statements in a manner acceptable to the Authority, excluding Authority administrative income and expense statements (legal, accounting, and other administrative). Prepare trial balances and general ledger entries to Authority accountant in suitable format and work with the Authority's accountant and auditor as requested by the Authority to prepare financial reports.
- (6) Balance and reconcile the Airfield, capital, PFC, and loan accounts and complete quarterly PFC reporting requirements.
- (7) Keep and maintain all Airport records and accounts in accordance with generally accepted accounting principles, consistently applied, and with the requirements of federal, state, and other granting agencies.
- (8) Prepare and maintain capital control inventories (including performing accounting entries) of all Authority equipment, vehicles, machinery, tools, and personal property situated at the Airfield which is either pre-existing or purchased or acquired with approval of the Lessee.

(h) OPERATING BUDGET AND PLAN; ACIP

- (1) By March 1st of each year, prepare and submit to the Authority for approval a written Annual Operating Budget and a written Annual Plan of Operation of the Airport in compliance with Part 139.
 - (i) The Annual Operating Budget for the Airport shall itemize all anticipated revenues and operating expenses in accordance with the existing Airport chart of accounts and shall provide detailed information on revenues and expenses with supporting records and documents in accordance with Authority procedures.
 - (ii) The Annual Plan of Operation for the Airport shall include, but not be limited to: (i) maintenance and repair schedule; (ii) schedule of proposed Airport fees; (iii) list of all aviation and aviation-related concessionaires, contractors and tenants; (iv) schedule of all leases, concessions, contracts and agreements to be negotiated or

renegotiated; (v) recommendations, if any, for non-capital improvements of Airport facilities and acquisition of equipment; (vi) schedule of proposed staffing levels of full, part-time and seasonal employees. Appropriate modification of the Airport Plan of Operation shall be made as required to conform to the Annual Operating Budget as approved.

(iii) The Annual Operating Budget will present Avports best estimate of the cost to the Authority for the performance of Avports' obligation under this Article 2, and Avports agrees to use its best efforts to perform its obligations hereunder within such budget estimate. If at any time during a Fiscal Year of this Agreement Avports has reason to believe that the costs which it expects to incur in the performance of its obligations under this Agreement for the balance of such Fiscal Year will exceed the Annual Operating Budget, Avports will promptly notify the Authority in writing to that effect. The notice shall state the estimated amount of additional funds required for the annual budget period, together with appropriate supporting documentation and evaluation of alternatives in accordance with the Authority's budget procedures. The Authority shall respond as promptly as practicable with respect to any such notice by designating the alternative plan or program to be followed and, if the cost of the designated alternative exceeds the amount budgeted, authorizing and providing such of its funds as are necessary to pay such increased costs.

(iv) No provision of this Article Two shall be construed to require Avports to expend funds beyond the level approved by the Authority in the Annual Operating Budget or amendments thereto.

- (2) Prepare and submit annually to the Authority a written Airfield portion of the ACIP ("ACIP") for the next ensuing three (3) consecutive Fiscal Years. Such ACIP shall address (by way of example and not limitation) (i) projection of the total and annual cost of each project; (ii) evaluation of the availability of federal, state or private financing for each such project; (iii) evaluation of the effects of each such project on the Airport Master Plan and on Airport operations; (iv) preliminary data to provide "order of magnitude" cost estimates for each project; and (v) statement of all major actions required to implement each such project.

(i) ATTENDANCE AT CONFERENCES AND MEETINGS

- (1) Confer with the Authority when requested and attend meetings with Authority officials and other persons and make presentations to the Authority and other persons, in each case as reasonably requested to discuss matters relating to the Airport.
- (2) Confer and co-operate with the Authority's Neighborhood Liaison Committee and meet with said Committee no less than quarterly throughout the term of this Agreement.
- (3) Confer and cooperate with other user groups and interested parties, including but not limited to the South Central Regional Council of Governments, the Greater New Haven Chamber of Commerce, the East Haven Chamber of Commerce and the Regional Growth Partnership.

(i) PERSONNEL

- (1) Avports shall employ an Airport staff (hereinafter the "Airport Operating Staff") composed of full-time qualified persons who shall perform their duties at the Airport in accordance with this Agreement. Sufficient staff shall be available and present to carry out Avports'

obligation under this Agreement, including staffing for the 7 days per week, 24 hour per day operations contemplated hereby, or such other schedule as may from time to time be set by the Parties. Avports may employ, on a full, part-time or seasonal basis, such other additional personnel as may be reasonably necessary to carry out its obligations hereunder; provided, however, that in the event the cost of such additional personnel has not been provided in the applicable Airfield Operating Budget, Authority approval must be obtained prior to employment of such additional personnel.

- (2) The Airport Manager, as Avports' on-site agent, shall supervise all on-site personnel and shall manage and supervise the operation of the Airport in order to carry out the objectives of this Agreement. Avports agrees that the Airport Manager shall have no less than three years' experience in airport management.
- (3) The Airport Operating staff shall be selected by Avports on the basis of training and experience of the available candidates for positions on the staff. Notwithstanding the foregoing sentence, Avports shall timely submit to the Authority the resumes of all candidates for the position of Airport Manager, should there be a vacancy in such position, and shall schedule such interviews for such candidates as may be reasonably requested by the Authority so that the Authority may participate in the selection process. Avports, with the consent of the Authority (which consent shall not be unreasonably withheld or delayed), shall determine which candidates shall be hired for the position of Airport Manager and hired to fill any vacancies in such position during the term of this Agreement.
- (4) In the event the staffing level decreases below the level set forth in the Annual Operational Plan due to vacancies in such positions, which persist for more than ninety (90) consecutive days, and provided such vacancy is not the result of the unreasonable withholding of consent by the Authority in the case of the Airport Manager, then:
 - (a) Avports shall not be paid for the Labor Costs, as herein defined, for the position involved during the applicable period of vacancy; and
 - (b) In no event will the decreased staffing level be construed or interpreted to be a material breach of this Agreement, so long as Avports is fulfilling its obligations in a satisfactory, safe and prudent manner.
- (5) Avports shall establish a jobs pipeline in coordination with New Haven Works.

(k) AIR SERVICE DEVELOPMENT

- (1) In addition to any Additional Services performed from time to time by Avports under Article 4 hereof, Avports shall retain outside services for air service development and marketing of commercial air services at the Airport. Subject to Paragraphs (3) and (4) of this Section, the annual ASD Fee shall cover the following services for which Avports shall be responsible:
 - (a) Quarterly attendance at Authority Board Meetings by Avports for an ASD update;
 - (b) Monthly airline schedule updates;
 - (c) Preparation for airline meetings and attendance by one Avports personnel at one major air service industry conference;
 - (d) On-call consulting services in connection with new and existing air service;

- (e) A leakage study update and report at least once every three years; and
- (f) Response to airline inquiries for additional data analysis and information.

Any additional requested services by the Authority beyond those outlined above, such as preparation for an airline HQ meeting or additional industry conference preparation and representation, shall be paid/reimbursed by the Authority in a fashion comparable to all other third-party services, and by first drawing down on any existing balances in the ASD Fund.

- (2) Staff support from Avports shall be available to assist the Airport Manager in overseeing and directing the outside services listed in Paragraph (1) of this Section at no additional cost to the Airport.
- (3) Outside services for the tasks set forth in Paragraph (1) of this Section, and similar tasks substituted pursuant to Paragraph (4), shall be provided each year of this Amended and Restated Agreement having actual cost to Avports of approximately \$100,000 in the first fiscal year, escalated at 3% per annum thereafter, which amount is hereinafter referred to as the "ASD Fund." The ASD Fund shall be part of and included in the Fixed Fee paid to Avports annually in accordance with Schedule 1 hereof and shall be paid to Avports monthly for actual expenditures from the ASD Fund in that month. Avports shall provide an accounting of the use of the ASD Fund as part of its monthly invoices hereunder, specifically identifying the balance remaining in the ASD Fund for that fiscal year.
- (4) Funds not expended from the ASD Fund during each fiscal year of this Agreement shall roll over to the following fiscal year, except that the ASD Fund shall never exceed two full years of outside service fees or \$200,000, appropriately escalated.
- (5) After the second fiscal year of this Amended and Restated Agreement, the Authority may substitute, in consultation with Avports, other appropriate marketing and air service development services for any of the services specified in Paragraph (1) of this Section, as air industry circumstances require.

(I) OPERATING STANDARDS

- (1) Avports will, and will cause the Airport Services to, comply with and implement the Operating Standards in all material respects as such apply to the Airport Services at all times during the Term (including any changes or modifications to the Operating Standards made pursuant to the following).
- (2) The Authority and Avports acknowledge and agree that the Operating Standards shall be construed flexibly in light of their objectives.
- (3) To the extent that any term or provision of the Operating Standards conflicts with Law, including any term or provision otherwise specified in Title 14 CFR Federal Aviation Regulations, FAA Orders, FAA Directives, Advisory Circulars, other FAA guidance, the Airport Certification Manual (including any subsequently-issued amendments thereto as issued by the FAA or the TSA-approved Airport Security Program (including any subsequently issued requirements thereunder as issued by the TSA)), the Part 139 Airport Certification Manual (including any subsequently-issued amendments thereto as issued by the FAA), Chapter XII of Title 49 CFR, or the TSA-approved Airport Security Program (including any subsequently-issued requirements thereunder as issued by the TSA), as reasonably determined by Avports, then such term or provision of the foregoing, as

applicable, shall govern and shall supersede any such conflicting term or provision in the Operating Standards.

- (4) Avports will: (i) institute and maintain procedures that are reasonably designed to achieve compliance with the Operating Standards; and (ii) perform all work required to comply with and implement the Operating Standards as part of the Airport Services.
- (5) Notwithstanding anything contained in this Section, Avports will not be deemed to be in violation of its obligations under this Agreement by occasional or incidental, and otherwise immaterial, acts or omissions, including any occasional or incidental, and otherwise immaterial, failure to comply with specific requirements set forth in the Operating Standards, and any immaterial failure to meet specific time limits, durations or frequencies set forth in the Operating Standards will not constitute a violation of the Operating Standards; provided that any such failure: (i) is not inconsistent with procedures that are reasonably designed to achieve compliance with the requirements set forth in the Operating Standards; and (ii) does not violate an express provision of this Agreement (other than the Operating Standards).

(m) SECURITY

Notwithstanding any other provision of this Agreement, Avports will at all times:

- (1) ensure that the Airport Facilities and any site at which construction work is being performed are adequately secured in compliance with TSA requirements and the Airport Security Program;
- (2) provide the Authority and other Governmental Authorities with jurisdiction access to all video and audio security feeds monitoring the Airport Facilities as reasonably necessary to perform its functions as the sponsor or as required by Law; and
- (3) establish and maintain safeguards against the theft, or unauthorized access, destruction, loss, or alteration of Authority data, airline or other third-party data, or Privacy Records that Avports may gain access to or be in possession of from time to time.

(n) ENVIRONMENTAL

- (1) To the extent permitted by applicable Law and not inconsistent with FAA policies concerning wetlands in the vicinity of airports, Avports will work with Lessee, the Authority and the relevant Governmental Authorities to review and consider coastal wetlands mitigation within the watershed of Tuttle Brook.
- (2) During the Term of this Agreement, Avports will operate and maintain the existing Morris Creek tide gates. The Authority and Avports, to the extent practicable, will work cooperatively with the City to implement recommendations associated with new stormwater model together with ongoing maintenance of the Morris Creek tide gates and environmental initiatives associated with the New Terminal Project with the aim of enhanced coastal flood resiliency, revisions to FEMA flood maps due to a reduced flood risk for the Airport and the surrounding neighborhood and to reduce the flood insurance premiums for homes and businesses within the flood zone.

- (3) If required by Environmental Laws and/or environmental approvals of a Governmental Authority received in connection with the Runway Extension Project, Avports shall upgrade and/or install remote monitors and real-time water level measuring systems, as necessary.
- (4) In connection with the New Terminal Project, Avports will work with the FAA, and will seek FAA grant funding (with the Authority's cooperation), to develop comprehensive sustainability planning documents as appropriate for the character of the Airport. If FAA funding can be obtained, Avports will prepare a sustainability master plan in accordance with FAA guidance. The Authority will, to the extent practicable, seek to adopt planning policies that are in accordance with the principles set forth in Airport Cooperative Research Program Synthesis 10, "Airport Sustainability Practices" (2008) (or similar publications describing industry best practices). The Authority shall cooperate with Avports with respect to its obligations under this Section.
- (5) In the event of any Release of Hazardous Materials during the Term, but only to the extent caused or permitted by Avports, and in all events not related to actions required of Avports by the Authority or a Governmental Authority, and only to the extent in violation of Environmental Laws, Avports shall be responsible for the investigation, management and/or remediation of such Hazardous Materials to the extent required by Environmental Laws for the continued airport and airport-related uses as well as related Claims (including third-party bodily injury, property damage, or other toxic tort Claims). For the avoidance of doubt, and without limiting Avports liability hereunder or under Environmental Laws, such responsibility shall include, without limitation, manifests, transport, disposal, recordkeeping, handling and remediation, investigation and mitigation of soil vapor exposure in structures, restrictions on groundwater use, measures to avoid preferential pathways of migration along utility corridors or other requisite measures to assure the health and safety of workers, passengers and other users of the Authority Property. To this end, Avports shall retain an environmental professional licensed under Section 22a-133v of the Connecticut General Statutes to oversee and appropriately document any environmental investigation or remediation associated with a Release under this Section, including the design and implementation of remedial measures, in accordance with Environmental Laws.

(o) DIVERSITY AND INCLUSION

Avports shall (i) create, publicize, and implement a diversity, equity and inclusion program in providing Airport Services and (ii) seek participation in such program by other entities operating at the Airport.

EXHIBIT F

REQUIRED FEDERAL PROVISIONS

The following provisions apply to this Agreement and Avports shall insert in any subcontracts the clauses set forth in this Exhibit F and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. Avports must also incorporate the applicable requirements of these provisions by reference for work done under any purchase orders, rental agreements, and other agreements for supplies or services. Avports shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth this Exhibit F.

In each instance where Avports issues a solicitation for bid under this Agreement or a subcontractor of Avports issues a solicitation for bid under this Agreement, it must incorporate any applicable solicitation notice language mandated by the FAA in the document titled Required Contract Provisions for AIP and Obligated Sponsors, as amended from time to time, which may be found at:

https://www.faa.gov/airports/aip/procurement/federal_contract_provisions.

In each instance where Avports enters into a subcontract or other agreement to which these requirements apply, the subcontractor or service provider name must be substituted for Avports.

A. Compliance with Nondiscrimination Provisions. During the performance of this Agreement, Avports for itself, its assignees, and successors in interest, agrees with the Authority as follows:

1. **Compliance with Regulations:** Avports will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. **Non-discrimination:** Avports, with regard to the work performed by it during the term of this Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of contractors, including procurements of materials and leases of equipment. Avports will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Agreements, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by Avports for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential contractor or supplier will be notified by Avports of Avports's obligations under this Agreement and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

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4. **Information and Reports:** Avports will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of Avports is in the exclusive possession of another who fails or refuses to furnish the information, Avports will so certify to Authority or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of Avports's noncompliance with the Non-discrimination provisions of this contract, Authority will impose such sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to cancelling, terminating, or suspending the Agreement, in whole or in part.
6. **Incorporation of Provisions:** Avports will include the provisions of paragraphs one through six of this Schedule 5, Section (A) in every contract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Avports will take action with respect to any contract or procurement as Authority or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Avports becomes involved in, or is threatened with litigation by a contractor, or supplier because of such direction, Avports may request Authority to enter into any litigation to protect the interests of Authority. In addition, Avports may request the United States to enter into the litigation to protect the interests of the United States.

B. Real Property Acquired or Improved Under the Airport Improvement Program. Avports for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Agreement for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Avports will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

C. Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program. Avports for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and

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the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that Avports will furnish its services in compliance with all other requirements imposed by or pursuant to the List of Nondiscrimination Acts And Authorities.

D. Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this Agreement, Avports, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- ii. 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- iii. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- iv. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- v. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- vi. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- vii. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- viii. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
- ix. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

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- x. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- xi. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); and
- xii. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

E. General Civil Rights Provision. Avports agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If Avports transfers its obligation to another, the transferee is obligated in the same manner as Avports. This provision obligates Avports for the period during which the property is owned, used or possessed by Avports and the airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

F. Right of Re-entry. In the event of breach of any of the above Nondiscrimination covenants, Authority will have the right to terminate the Agreement and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Agreement had never been made or issued.

G. Subcontracts. Avports agrees that it shall insert the above six provisions (Section (A) through Section (F)) in any agreement by which Avports grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public under this Agreement.

H. Required Federal Provisions for Applicable Construction Projects. Should Avports engage in construction on the Airport, or otherwise engage in construction in its role as Avports under the Agreement, that is funded in any part with grant funds from the Federal Airport Improvement Program or otherwise subject to FAA regulatory requirements, Avports shall comply with all provisions of the Required Federal Provisions for Applicable Construction, attached to the Agreement as Exhibit F-1, and, to the extent applicable, include the Required Federal Provisions for Applicable Construction Projects, without alteration or limitation, in all of its subcontracts pertaining to such construction.

EXHIBIT F-1

**REQUIRED FEDERAL PROVISIONS FOR APPLICABLE CONSTRUCTION
PROJECTS**

The following provisions apply to this Agreement and any construction project that is funded in any part with grant funds from the Federal Airport Improvement Program or otherwise subject to FAA regulatory requirements, including but not limited to 49 CFR Part 26 (“Applicable Construction Projects”). Avports shall insert in any subcontracts for Applicable Construction Projects the clauses set forth in this Exhibit F-1 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The subcontractor or lower tier subcontracts to which these provisions shall be incorporated include not only those with construction contractors, but also with construction planners, engineers and consultants for the Applicable Construction Project. Avports must also incorporate the applicable requirements of these provisions by reference for work done under any purchase orders, rental agreements, and other agreements for supplies or services for Applicable Construction Projects. Avports shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth this Exhibit F-1.

In each instance where Avports issues a solicitation for bid under for an Applicable Construction Project or a subcontractor of Avports issues a solicitation for bid for an Applicable Construction Project, it must incorporate any applicable solicitation notice language mandated by the FAA in the document titled Required Contract Provisions for AIP and Obligated Sponsors, as amended from time to time, which may be found at: https://www.faa.gov/airports/aip/procurement/federal_contract_provisions.

In each instance where Avports enters into a subcontract or other agreement to which these requirements apply, the subcontractor or service provider name must be substituted for Avports.

A. Compliance with Nondiscrimination Requirements. During the performance of this Agreement, Avports for itself, its assignees, and successors in interest, agrees with the Authority as follows:

1. **Compliance with Regulations:** Avports will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. **Non-discrimination:** Avports, with regard to the work performed by it during the term of this Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of contractors, including procurements of materials and leases of equipment. Avports will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

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3. **Solicitations for Agreements, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by Avports for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential contractor or supplier will be notified by Avports of Avports's obligations under this Agreement and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** Avports will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of Avports is in the exclusive possession of another who fails or refuses to furnish the information, Avports will so certify to Authority or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of Avports's noncompliance with the Non-discrimination provisions of this Agreement, Authority will impose such sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to (a) withholding payments to Avports under the Agreement until Avports complies, or (b) cancelling, terminating, or suspending the Agreement, in whole or in part.
6. **Incorporation of Provisions:** Avports will include the provisions of paragraphs one through six of this Schedule 5A, Section (A) in every contract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Avports will take action with respect to any contract or procurement as Authority or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Avports becomes involved in, or is threatened with litigation by a contractor, or supplier because of such direction, Avports may request Authority to enter into any litigation to protect the interests of Authority. In addition, Avports may request the United States to enter into the litigation to protect the interests of the United States.

B. Real Property Acquired or Improved Under the Airport Improvement Program. Avports for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Agreement for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Avports will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national

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origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

C. Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program. Avports for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that Avports will furnish its services in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.

D. Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this Agreement, Avports, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- ii. 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- iii. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- iv. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- v. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- vi. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- vii. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

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- viii. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
- ix. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- x. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- xi. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); and
- xii. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

E. General Civil Rights Provision. Avports agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds Avports and its subcontractors from the bid solicitation period through the completion of this Agreement. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

F. Right of Re-entry. In the event of breach of any of the above Nondiscrimination covenants, Authority will have the right to terminate the Agreement and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Agreement had never been made or issued.

G. Subcontracts. Avports agrees that it shall insert the above six provisions (Section (A) through Section (F)) in any agreement by which Avports grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public under this Agreement.

H. Fair Labor Standards Act. This Agreement incorporates by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers. Avports has full responsibility to monitor its own and its subcontractors’ compliance with the referenced statute or regulation. Avports must address

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any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

I. Occupational Safety and Health Act. This Agreement incorporates by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Avports and its subcontractors must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Avports retains full responsibility to monitor its compliance and any subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Avports must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

J. Access to Records and Reports. Avports must maintain an acceptable cost accounting system. Avports agrees to provide Authority, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of Avports which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. Avports agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

K. Clean Air and Water Pollution Control. Avports agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC §§ 740-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). Avports agrees to report any violation to Authority immediately upon discovery. Authority assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration. Avports must include this requirement in all subcontracts that exceeds \$150,000.

L. Contract Workhours and Safety Standards Act Requirements.

i. No contractor or subcontractor contracting for any part of Services which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

ii. In the event of any violation of the clause set forth in paragraph (a) of this Section (L), Avports and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Avports and its subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (i) of this Section (L), in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (i) of this Section(L).

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iii. FAA or Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Avports or its subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (ii) of this Section (L).

iv. Avports and its subcontractors shall insert in any subcontracts the clauses set forth in paragraphs (a) through (d) of this Section (L) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. Avports shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (i) through (iv) of this Section (L).

M. Debarment and Suspension. Avports, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, must verify each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. Avports will accomplish this by:

i. Checking the System for Award Management at the following website:
<http://www.sam.gov>.

ii. Collecting a certification statement similar to the Certification of Offerer /Bidder Regarding Debarment, above.

iii. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

N. Texting When Driving. In accordance with Executive Order 13513, “Federal Leadership on Reducing Text Messaging While Driving”, (10/1/2009) and DOT Order 3902.10, “Text Messaging While Driving”, (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant. In support of this initiative, Authority encourages Avports to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with this Agreement. Avports must include the substance of this clause in all sub-tier contracts exceeding \$3,500 that involve driving a motor vehicle in performance of work activities associated with this Agreement.

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O. Energy Conservation Requirements. Avports agrees to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201, *et seq.*).

P. Equal Opportunity Clause.

During the performance of this Agreement, Avports agrees as follows:

i. Avports will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Avports will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Avports agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

ii. Avports will, in all solicitations or advertisements for employees placed by or on behalf of Avports, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

iii. Avports will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of Avports's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

iv. Avports will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

v. Avports will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

vi. In the event of Avports's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and Avports may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

vii. Avports will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (vii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to

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section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Avports will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency Avports may request the United States to enter into such litigation to protect the interests of the United States.

Q. Equal Employment Opportunity Specifications.

i. As used in these specifications:

1. “Covered area” means the geographical area described in the solicitation from which this contract resulted;

2. “Director” means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;

3. “Employer identification number” means the Federal social security number used on the Employer’s Quarterly Federal Tax Return, U.S. Treasury Department Form 941;

4. “Minority” includes:

(A) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(B) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);

(C) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(D) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

ii. Whenever Avports, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

iii. If Avports is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and

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timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Guidelines for Contract Provisions for Obligated Sponsors and Airport Improvement Program Projects contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

iv. Avports shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization Avports should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. Avports is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

v. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom Avports has a collective bargaining agreement to refer either minorities or women shall excuse Avports's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

vi. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by Avports during the training period and Avports shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.

vii. Avports shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of Avports's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. Avports shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

1. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which Avports's employees are assigned to work. Avports, where possible, will assign two or more women to each construction project. Avports shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out Avports's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

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2. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when Avports or its unions have employment opportunities available, and maintain a record of the organizations' responses.

3. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to Avports by the union or, if referred, not employed by Avports, this shall be documented in the file with the reason therefore along with whatever additional actions Avports may have taken.

4. Provide immediate written notification to the Director when the union or unions with which Avports has a collective bargaining agreement has not referred to Avports a minority person or female sent by Avports, or when Avports has other information that the union referral process has impeded Avports's efforts to meet its obligations.

5. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to Avports's employment needs, especially those programs funded or approved by the Department of Labor. Avports shall provide notice of these programs to the sources compiled under 7b above.

6. Disseminate Avports's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting Avports in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

7. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions, including specific review of these items, with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

8. Disseminate Avports's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing Avports's EEO policy with other contractors and subcontractors with whom Avports does or anticipates doing business.

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9. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving Avports's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, Avports shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

10. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.

11. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

12. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

13. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and Avports's obligations under these specifications are being carried out.

14. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

15. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

16. Conduct a review, at least annually, of all supervisor's adherence to and performance under Avports's EEO policies and affirmative action obligations.

viii. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations. The efforts of a contractor association, joint contractor union, contractor community, or other similar groups of which Avports is a member and participant may be asserted as fulfilling any one or more of its obligations under (vii)(1) through (vii)(16) of these specifications provided that Avports actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in Avports's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of Avports. The obligation to comply,

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however, is Avports's and failure of such a group to fulfill an obligation shall not be a defense for Avports's noncompliance.

ix. A single goal for minorities and a separate single goal for women have been established. Avports, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though Avports has achieved its goals for women generally), Avports may be in violation of the Executive Order if a specific minority group of women is underutilized.

x. Avports shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

xi. Avports shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

xii. Avports shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

xiii. Avports, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If Avports fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.

xiv. Avports shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

xv. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

R. Disadvantaged Business Enterprises.

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i. **Contract Assurance (§ 26.13)** - Avports or its subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Avports shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-assisted contracts. Failure by Avports to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as Authority deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying Avports from future bidding as non-responsible.

ii. **Prompt Payment (§26.29)** - Avports agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than 30 days from the receipt of each payment Avports receives from Authority. Avports agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of Authority. This clause applies to both DBE and non-DBE subcontractors.

S. Trade Restriction Certification. By submission of an offer and entering into this Agreement, Avports certifies that with respect to this solicitation and the resultant Agreement, Avports –

i. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);

ii. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and

iii. has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC Section 1001.

Avports must provide immediate written notice to Authority if Avports learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. Avports must require subcontractors to provide immediate written notice

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to Avports if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to Avports or any subcontractor:

i. who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or

ii. whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or

iii. who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Avports agrees that it will incorporate this provision for certification without modification in all lower tier subcontracts. Avports may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless Avports has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that Avports or its subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Authority cancellation of this Agreement for default at no cost to Authority or the FAA.

T. Certification Regarding Lobbying.

Avports certifies, to the best of his or her knowledge and belief, that:

i. No Federal appropriated funds have been paid or will be paid, by or on behalf of Avports, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

ii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement,

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Avports shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

iii. Avports shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

U. Veteran's Preference. In the employment of labor (excluding executive, administrative, and supervisory positions), Avports and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC § 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

V. Buy American Preference Statement. Avports agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

W. Davis-Bacon Requirements.

i. Minimum Wages.

1. All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between Avports and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred

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during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by Avports and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

2. The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(A) The work to be performed by the classification requested is not performed by a classification in the wage determination;

(B) The classification is utilized in the area by the construction industry; and

(C) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

3. If Avports and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

4. In the event Avports, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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5. The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (i)(3) or (4) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

6. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

7. If Avports does not make payments to a trustee or other third person, Avports may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program: Provided that the Secretary of Labor has found, upon the written request of Avports, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require Avports to set aside in a separate account assets for the meeting of obligations under the plan or program.

ii. Withholding. The Federal Aviation Administration or the sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from Avports under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by Avports or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to Avports, Sponsor, Applicant, or Authority, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

iii. Payrolls and Basic Records

1. Payrolls and basic records relating thereto shall be maintained by Avports during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, Avports shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to

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the laborers or mechanics affected, and that show the costs anticipated or the actual costs incurred in providing such benefits. Avportss employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

2. Avports shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, Avports will submit the payrolls to the applicant, Sponsor, or Authority, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at www.dol.gov/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Avportss and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, Avports will submit them to the applicant, sponsor, or Authority, as the case may be, for transmission to the Federal Aviation Administration, Avports, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Authority).

3. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by Avports or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(A) The payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

(B) Each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;

(C) Each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

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4. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (iii)(3) of this section.

5. The falsification of any of the above certifications may subject Avports or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

6. Avports or subcontractor shall make the records required under paragraph (iii)(1) of this section available for inspection, copying, or transcription by authorized representatives of the sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If Avports or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to Avports, Sponsor, applicant, or Authority, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

iv. Apprentices and Trainees

1. Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in Avports's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the

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Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, Avports will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

2. Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, Avports will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

3. Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

v. Compliance with Copeland Act Requirements. Avports shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

vi. Subcontracts. Avports or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR Part 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

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vii. Contract Termination: Debarment. A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

viii. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

ix. Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between Avports (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

x. Certification of Eligibility.

1. By entering into this contract, Avports certifies that neither it (nor he or she) nor any person or firm who has an interest in Avports's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

2. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

3. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001.

X. Copeland "Anti-Kickback" Act. Avports must comply with the requirements of the Copeland "Anti-Kickback" Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Avports and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. Avports and each Subcontractor must submit to the Authority, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Authority must report any violations of the Act to the Federal Aviation Administration.

Y. Prohibition of Segregated Facilities.

i. Avports agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. Avports agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.

ii. "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or

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entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

iii. Avports shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.

Z. Right to Inventions. Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Authority in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within 37 CFR §401.14. Avports must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

AA. Seismic Safety. Avports agrees to ensure that all work performed under this contract, including work performed by subcontractors, conforms to a building code standard that provides a level of seismic safety substantially equivalent to standards established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety.

BB. Procurement of Recovered Materials. Avports and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, Avports and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever: (1) the contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or (2) the contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is: (1) not reasonably available within a timeframe providing for compliance with the contract performance schedule; (2) fails to meet reasonable contract performance requirements; or (3) is only available at an unreasonable price.

CC. Tax Delinquency and Felony Convictions. Avports represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. Avports further represents that it is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

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DD. Breach of Contract Terms. Any violation or breach of terms of this contract on the part of Avports or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. Authority will provide Avports written notice that describes the nature of the breach and corrective actions Avports must undertake in order to avoid termination of the contract. Authority reserves the right to withhold payments to Avports until such time Avports corrects the breach or the Authority elects to terminate the contract. The Authority's notice will identify a specific date by which Avports must correct the breach. Authority may proceed with termination of the contract if Avports fails to correct the breach by the deadline indicated in the Authority's notice. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.