

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Aviation

AGENDA DATE: August 8, 2017

CONTACT PERSON NAME AND PHONE NUMBER: Monica Lombraña, (915) 212-7301

DISTRICT(S) AFFECTED: District 2

CITY STRATEGIC GOAL 1: Create an Environment Conducive to Strong, Sustainable Economic Development.

SUBJECT:

This item is a Resolution to authorize the City Manager be authorized to sign an Air Cargo Building Lease Agreement between the City of El Paso ("Lessor") and Pteris Global (USA), Inc. ("Lessee") for office and warehouse space, common space, loading dock and vehicle parking space, and the ground service equipment parking apron at the Air Cargo Center #2 located at 6411 Convair Road, El Paso, Texas.

BACKGROUND / DISCUSSION:

The Department of Aviation requests approval of a lease for Pteris Global (USA), Inc. Pteris currently serves as one of the subcontractors to Hensel Phelps, the general contractor hired to complete the construction of the El Paso International Airport's Checked Baggage Inspection System (CBIS). Pteris is the subcontractor that will be installing the baggage belt system and has requested to lease space so that they can receive, store and assemble portions of the belt system.

The terms of the lease are as follows:

Term: Month-to-month Options: None

Rental fees:

Office/warehouse 5,873 SF x \$6.51 per SF per year = \$41,111.00

Common Area 376 SF x \$7.00 per SF per year = \$2,632.00

Utilities and Common Area Maintenance 6,249 x \$1.00 per SF per year = \$6,249.00

Vehicle parking 1,378 SF x \$0.726 per SF per year = \$1,000.50

Cargo ground service equipment parking 1,378 SF x \$0.726 per SF per year = \$1,000.50

Total Annual Rental Fees \$51,993.00

Monthly Rental Fees \$4,332.75

Lessee is expected to lease space t early 2019, when the CBIS project is scheduled to be completed.

PRIOR COUNCIL ACTION:

None, this is a new lease and lessee.

AMOUNT AND SOURCE OF FUNDING:

N/A: This is a revenue generating item.

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



Monica Lombraña, A.A.E.
Director of Aviation

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign an Air Cargo Building Lease Agreement between the City of El Paso ("Lessor") and Pteris Global (USA), Inc. ("Lessee") for office and warehouse space, common space, loading dock and vehicle parking space, and the ground service equipment parking apron at the Air Cargo Center #2 located at 6411 Convair Road, El Paso, Texas.

Dated this ____ day of _____ 2017.

CITY OF EL PASO

Dee Margo
Mayor

ATTEST:

Laura D. Prine
Interim City Clerk

APPROVED AS TO FORM:



Theresa Cullen
Deputy City Attorney

APPROVED AS TO CONTENT:

Monica Lombraña, A.A.E.
Director of Aviation

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign an Air Cargo Building Lease Agreement between the City of El Paso ("Lessor") and Pteris Global (USA), Inc. ("Lessee") for office and warehouse space, common space, loading dock and vehicle parking space, and the ground service equipment parking apron at the Air Cargo Center #2 located at 6411 Convair Road, El Paso, Texas.

Dated this ____ day of _____, 2017.

CITY OF EL PASO

Dee Margo
Mayor

ATTEST:

Laura Prine
Interim City Clerk

APPROVED AS TO FORM:

Theresa Cullen
Deputy City Attorney

APPROVED AS TO CONTENT:



Monica Lombraña, A.A.E.
Director of Aviation

AIR CARGO BUILDING LEASE AGREEMENT
6411 Convair Road

El Paso International Airport
El Paso, Texas

Pteris Global (USA), Inc.

_____, 2017
Effective Date

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I	PREMISES AND PRIVILEGES.....1
Section 1.01	Description of Premises Demised1
Section 1.02	Right of Ingress and Egress2
Section 1.03	Restrictions of Privileges, Uses and Rights2
Section 1.04	Conditions of Granting Agreement.....4
Section 1.05	Exterior Fencing and Storage.....4
ARTICLE II	OBLIGATIONS OF LESSOR.....5
Section 2.01	Quiet Enjoyment5
Section 2.02	Lessor's Right of Entry5
Section 2.03	Condition and Maintenance of Premises5
ARTICLE III	OBLIGATIONS OF LESSEE5
Section 3.01	Net Agreement5
Section 3.02	Condition and Maintenance of Premises5
Section 3.03	Internal Improvements5
Section 3.04	Compliance With Laws.....9
Section 3.05	Maintenance9
Section 3.06	Utilities.....9
Section 3.07	Trash, Garbage, and Other Refuse9
Section 3.08	Permitted Uses9
Section 3.09	Signage.....9
Section 3.10	Approval of Plans10
Section 3.11	Authorization To Enter Restricted Area10
Section 3.12	Penalties Assessed By Federal Agencies10
ARTICLE IV	TERM OF LEASEHOLD11
Section 4.01	Term11
Section 4.02	Termination by Lessee11
Section 4.03	Holding Over11
Section 4.04	National Emergency11
ARTICLE V	RENTALS.....11
Section 5.01	Rental11
Section 5.02	Commencement of Rental.....12
Section 5.03	Security Deposit.....12
Section 5.04	Time of Payment.....12
Section 5.05	Unpaid Rent, Fees and Charges12
Section 5.06	Place of Payment.....12

TABLE OF CONTENTS (Continued)

	<u>Page</u>
ARTICLE VI	INSURANCE AND INDEMNIFICATION13
Section 6.01	Liability Insurance13
Section 6.02	Fire and Extended Coverage Insurance13
Section 6.03	Authorized Insurance Companies.....13
Section 6.04	Indemnification14
ARTICLE VII	CONDEMNATION15
Section 7.01	Definitions.....15
Section 7.02	Notice of Condemnation16
Section 7.03	Rights of Parties During Condemnation Proceeding16
Section 7.04	Taking of Leasehold16
Section 7.05	Total Taking.....16
Section 7.06	Partial Taking.....17
Section 7.07	Obligations of Lessee Under Partial Taking17
Section 7.08	Taking of Temporary Use of Premises and Improvements17
ARTICLE VIII	ENCUMBRANCES17
Section 8.01	Encumbrance.....17
Section 8.02	Mortgagee's Rights18
Section 8.03	Rights on Foreclosure18
Section 8.03	Estoppel Certificates18
ARTICLE IX	EXPIRATION, CANCELLATION, ASSIGNMENT AND TRANSFER.....19
Section 9.01	Expiration.....19
Section 9.02	Events of Default and Cancellation19
Section 9.03	Repossessing and Reletting.....20
Section 9.04	Assignment and Transfer20
Section 9.05	Subleasing20
Section 9.06	Rights Upon Expiration20
Section 9.07	Lessor's Lien21
ARTICLE X	GENERAL PROVISIONS.....21
Section 10.01	Right of Flight.....21
Section 10.02	Time is of the Essence22
Section 10.03	Notices22
Section 10.04	Attorney's Fees.....22
Section 10.05	Agreement Made in Texas22
Section 10.06	Nondiscrimination Covenant22
Section 10.07	Affirmative Action.....23
Section 10.08	Cumulative Rights and Remedies24
Section 10.09	Interpretation.....24
Section 10.10	Agreement Made in Writing24
Section 10.11	Paragraph Headings24

TABLE OF CONTENTS (Continued)

ARTICLE X	GENERAL PROVISION (Continued)	Page
Section 10.12	Severability	24
Section 10.13	Successors and Assigns.....	24
Section 10.14	Taxes and Other Charges	24
Section 10.15	Waiver of Warranty of Suitability	25
Section 10.16	Survival of Certain Provisions	25
Section 10.17	Authorization To Enter Agreement	25
Section 10.18	FAA Order 1400.11	25
Section 10.19	Effective Date	27

LESSOR'S SIGNATURE AND ACKNOWLEDGMENT	28
LESSEE'S SIGNATURE AND ACKNOWLEDGMENT	29

EXHIBIT "A" - The Premises
EXHIBIT "B" - Office, Warehouse and Parking Spaces

AMA

EL PASO INTERNATIONAL AIRPORT
AIR CARGO BUILDING LEASE AGREEMENT

THIS AIR CARGO BUILDING LEASE AGREEMENT ("Agreement" or "Lease") is entered into this ____ day of ____, 2017, between the **CITY OF EL PASO, TEXAS** ("Lessor") and **PTERIS GLOBAL (USA), INC.** ("Lessee").

WITNESSETH:

WHEREAS, the Municipal Airports Act of the State of Texas authorizes municipal airports, as governmental entities, to assess charges, rentals or fees for the privilege of supplying goods, commodities, things, services or facilities at municipal airports, with due regard to the property and improvements used and the expenses of operation to the municipality; and

WHEREAS, Lessor owns and operates the El Paso International Airport ("Airport") located in the County of El Paso, Texas which is managed by the Director of Aviation for the City of El Paso ("Director"); and

WHEREAS, Lessor has constructed an Air Cargo Building facility, Air Cargo Building #2, ("Air Cargo Building") located on Airport property and has space therein and appurtenances thereto available for lease; and

WHEREAS, Lessee is a subcontractor on the City of El Paso's EPIA Checked Baggage Inspection System (CBIS), Contract No. 2016-963, and has submitted a request to lease space in the Air Cargo Building; and

WHEREAS, Lessee has indicated a willingness and ability to properly operate, keep and maintain such space in the Air Cargo Building leased hereunder in accordance with the standards established by Lessor; and

WHEREAS, in furtherance of its authority, Lessor desires to lease to Lessee certain facilities located at said Airport in accordance with the terms, covenants, and conditions hereinafter set forth in this Agreement;

NOW THEREFORE, for and in consideration of the mutual covenants, agreements, and conditions contained herein, the parties hereto agree as follows:

ARTICLE I
PREMISES AND PRIVILEGES

Section 1.01 Description of Premises Demised. Subject to and on the terms, conditions, covenants, agreements and undertakings hereinafter set forth, Lessor does hereby demise and lease to Lessee and Lessee does hereby lease from Lessor the following described premises

located at 6411 Convair Rd, El Paso, El Paso County, Texas all of which will hereinafter be referred to as the "Premises":

- A. That certain office and warehouse space containing 5,873 square feet, more or less, in the Air Cargo Building, as shown on **EXHIBIT "A"** attached hereto, and for Lessee's exclusive use as detailed on **EXHIBIT "B"**, attached hereto; and
- B. The non-exclusive right to use 1,493 square feet of common space in the Air Cargo Building as more fully described on **EXHIBIT "B"**; and
- C. The non-exclusive right to use 1,378 square feet of the vehicle parking and loading dock g space directly in front of the Air Cargo Building as more fully described on **EXHIBIT "B"**; and
- D. The non-exclusive right to use 1,378 square feet, more or less, of the ground service equipment parking apron directly behind the Air Cargo Building as more fully described on **EXHIBIT "B"**; and
- E. The non-exclusive right to use the vehicle parking area, and the roadway, located in front of and adjacent to the Air Cargo Building, such portion to be commensurate with Lessee's share of warehouse and office space leased to all lessees that share common use of this vehicle parking area.

Section 1.02 Right of Ingress and Egress. Lessor hereby grants to Lessee the rights of ingress to and egress from the Premises over and across the public roadways serving the Airport for Lessee, its agents and servants, patrons and invitees, suppliers of service and furnishers of material. Said right shall be subject to such ordinances, rules and regulations as now or may hereafter have application at the Airport.

Section 1.03 Restrictions of Privileges, Uses and Rights. Lessee covenants and agrees that it shall use the Premises for Aviation Related Operations only. "Aviation Related Operations" is hereby defined as any activity related to aviation, including, but not limited to, its identified scope of work in its subcontract for the CBIS Project.

Lessee shall not offer, or permit to be offered, retail services, sales or repairs of any type from the Premises, other than may be incidental to the conduct of Lessee's Operations. Fuel sales are specifically prohibited.

In connection with the exercise of its rights under this Agreement, Lessee:

- A. Shall not do or permit to be done anything at or about the Airport that may interfere with the effectiveness or accessibility of the water system, drainage and sewage system, fire protection system, security system, fire hydrants and hoses.

electrical system, natural gas, or other Airport systems installed or located on or within the Premises or the Airport.

- B. Shall not do or permit to be done any act or thing upon the Airport that will invalidate or conflict with any fire or other casualty insurance policies covering the Airport or any part thereof.
- C. Shall not dispose of and shall prohibit any employee, agent, contractor, or other person from disposing of any waste material taken from, or products used with respect to, its aircraft, equipment or otherwise related to Lessee's operations into the sanitary or storm sewers at the Airport or any other approved location on the Airport (whether liquid or solid), including but not limited to Hazardous Materials as defined herein, unless such waste material or products first be properly treated by equipment installed with the approval of Lessor and all other administrative bodies having appropriate jurisdiction or may remain untreated if wastewater guidelines limitation of the El Paso Water Utilities Public Service Board are not exceeded.
- D. Shall not keep or store Hazardous Materials or articles including, without limitation, flammable liquids and solids, corrosive liquids, compressed gasses, and magnetized or radioactive materials on the Airport in excess of Lessee's working requirements during any twenty-four (24) hour period, except when the following conditions are met: (1) in accordance with standards established by the National Board of Fire Underwriters, any such liquids having a flash point of less than one hundred degrees Fahrenheit (100°F) shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories; (2) said material shall be under the control and care of designated Lessee personnel; (3) said material shall be packaged and handled in compliance with applicable U. S. Department of Transportation, Environmental Protection Agency, or other such applicable regulations for transport and pre-transport of hazardous articles and materials; (4) said materials shall be stored in special storage areas designated by the Director or other authorized representative of Lessor while on the Airport.
- E. Shall not install fuel storage tanks or pumping facilities for use in fueling any aircraft, vehicles or other equipment on the Premises.
- F. Shall not maintain or operate on the Premises or elsewhere at the Airport a cafeteria, restaurant, bar or cocktail lounge for the purpose of selling or dispensing food or beverages to the public or to its employees; nor shall Lessee provide for the sale or dispensing of food and beverages at the Airport except that the Lessee may provide vending machines solely for the sale of hot and cold beverages, food, and confections to Lessee's employees in areas not accessible to the general public.

- G. The rights and privileges granted Lessee under this Agreement with respect to the performance of ground support services and activities in connection with its Operation at the Airport may be exercised by Lessee only for and on behalf of Lessee for regularly scheduled or unscheduled service. Lessee may, subject to the prior written approval of Lessor, and, where applicable, perform ground support services for other air cargo operators conducting Operations at the Air Cargo Building provided said air cargo operators are signatories to an Air Cargo Use Agreement or Airline Operating Agreement with Lessor. It is understood and agreed that Lessor reserves the right to charge a fee or commission associated with controlling access to restricted areas, and to collect reasonable fees or commissions for ground transportation, ground support services for other Air Cargo operator(s), and other services or facilities provided by or for Lessee in competition with concessionaires and operators operating under an agreement with the Lessor.

Section 1.04 Conditions of Granting Agreement. The granting of this Agreement and its acceptance by Lessee is conditioned upon the following covenants:

- A. That no functional alteration of the Premises shown on **EXHIBIT "A"** or functional change in the uses of such Premises shall be made without the specific written consent of Lessor herein: said consent to be at Lessor's sole discretion.
- B. That the right to use said public Airport facilities in common with others authorized to do so shall be exercised only subject to and in accordance with the laws of the United States of America and the State of Texas; the rules and regulations promulgated under their authority with reference to aviation and air navigation; and all applicable rules, regulations and ordinances of Lessor now in force or hereafter prescribed or promulgated by charter authority or by law.
- C. That Lessee will utilize only the roadways or other direction, path, route, or form of travel Lessor may designate, from time to time, for Lessee's operation and movement on or about the Airport.

Section 1.05 Exterior Fencing and Storage. Lessee may store stock, materials, and supplies on the Premises, however all stock, materials, and supplies located outside must be completely enclosed by fence. The placement and design of any exterior fencing and storage on the Premises shall be in accordance with plans and specifications prescribed by Lessor and shall be uniform throughout the entire Air Cargo Building, ramp, and associated areas.

ARTICLE II

OBLIGATIONS OF LESSOR

Section 2.01 Quiet Enjoyment. Lessor agrees that upon Lessee's paying rent and performing all of the covenants, conditions, and agreements herein set forth, Lessee shall and may peaceably and quietly have, hold, and enjoy the Premises hereby demised for the term hereby provided.

Section 2.02 Lessor's Right of Entry. Lessor reserves the right to enter into and upon the Premises at all times during business hours for the purpose of inspecting the condition thereof, or to perform maintenance or repairs as may be necessary in accordance with the provisions of this Agreement, or for the purpose of exhibiting the same to prospective Lessees, purchasers or others. The exercise of this right to enter the Premises shall not be deemed an eviction or disturbance of Lessee's use or possession, provided that Lessor shall exercise its best efforts not to interfere with Lessee's normal operations on the Premises.

Section 2.03 Condition and Maintenance of Premises. Lessor shall bear responsibility for only repairs and maintenance to the Structural Elements of the Air Cargo Building. "Structural Elements" shall mean only the roof, foundation, load bearing columns and walls, exterior walls (but not the doors), exterior paint, and the ramp.

ARTICLE III

OBLIGATIONS OF LESSEE

Section 3.01 Net Agreement. This Agreement in every sense shall be without cost to Lessor for the development, maintenance and improvement of the Premises except as explicitly set forth in this Lease. It shall be the sole responsibility of Lessee to keep, maintain, repair and operate the entirety of the Premises and all improvements and facilities placed thereon at Lessee's sole cost and expense.

Section 3.02 Condition and Maintenance of Premises. LESSEE ACCEPTS THE PREMISES IN "AS IS" CONDITION. Lessor has no responsibility as to the condition of the Premises and shall not be responsible for maintenance, upkeep, or repair necessary to keep the Premises in a safe and serviceable condition. Lessee shall be solely responsible for repairs and maintenance of the Premises except those required for the Structural Elements referenced in Section 2.03, and shall not cause any damage or impairment to any part of the Structural Elements.

Section 3.03 Internal Improvements. Lessee shall not make internal improvements, additions and alterations to the Premises.

Section 3.04 Compliance With Laws. Lessee, at Lessee's expense, specifically agrees to comply with the Americans with Disabilities Act of 1990 and any other laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal

authorities, now in force or which may hereafter be in force, which relate to the use or occupation of the Premises by disabled persons ("Disabilities Laws").

Lessee shall, at Lessee's expense, comply with all present and hereinafter enacted Environmental Laws and any amendments thereto, affecting Lessee's use, operation, and occupation or alteration of the Premises including any improvements thereon.

A. Definitions.

- (1) "Environmental Laws" means any one or all of the following as the same are amended from time to time: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6941 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300h et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; and the regulations promulgated thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereinafter enacted that deal with the regulation or protection of the environment, including the ambient air, ground water, surface water, and land use, including sub-strata land.
- (2) "Hazardous Material" shall mean all substances, materials and wastes that are, or that become, regulated under or classified as hazardous or toxic under any Environmental Law and all petroleum products, such as gasoline, kerosene, diesel fuel, and the like.
- (3) "Release" shall mean any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping into the environment.

B. Compliance.

- (1) Lessee shall not cause or permit any Hazardous Material to be used, generated, manufactured, produced, stored, brought upon, or released, on, under or about the Premises, or transported to and from the Premises, by Lessee, its agents, employees, contractors, invitees, or a third party in violation of any Environmental Law. **Lessee shall indemnify, defend and hold harmless Lessor, its successors and assigns, its officers, directors, employees, agents and attorneys from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, breach of warranty or representation, or**

damage to persons or property and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of, or adverse effects on, the environment or violation of any Environmental Law or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity which are incurred or assessed as a result (whether in part or in whole) of any activity or operation on or discharge from the Premises or any improvements thereon. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the Premises, improvements, land, soil, underground or surface water as required under the law. Lessee's obligations and liabilities under this paragraph shall continue so long as Lessor bears any liability or responsibility under the Environmental Laws for any action that occurred on the Premises or any improvements thereon. This indemnification of Lessor by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material located on the Premises or any improvements thereon, or present in the soil or ground water on, under or about the Premises. The parties agree that Lessor's right to enforce Lessee's promise to indemnify is not an adequate remedy at law for Lessee's violation of any provision of this Section. Lessor shall also have all other rights and remedies provided by law or otherwise provided in this Agreement.

- (2) Without limiting the foregoing, if the presence of any Hazardous Material on, under or about the Premises or in any improvements thereon or permitted by Lessee results in any contamination of the Premises or any improvements thereon, Lessee shall promptly take all actions at its sole cost and expense as are necessary to return the Premises or any improvements thereon to the condition existing prior to the introduction of any such Hazardous Material to the Premises or in any improvements thereon; provided that Lessor's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Premises or on any improvements thereon.
- (3) Lessee shall, at Lessee's own cost and expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Government") under the Environmental Laws. Should the Government determine that site characterization, site assessment and/or a cleanup plan be prepared or that a cleanup should be undertaken on the Premises or in any improvements

thereon, then Lessee shall, at Lessee's own cost and expense, prepare and submit the required plans and financial assurances, and carry out the approved plans. At no cost or expense to Lessor, Lessee shall promptly provide all information requested by Lessor to determine the applicability of the Environmental Laws to the Premises or to respond to any governmental investigation or to respond to any claim of liability by third parties which is related to environmental contamination.

- (4) Lessee shall immediately notify Lessor of any of the following: (a) any correspondence or communication from any governmental entity regarding the application of Environmental Laws to the Premises or Lessee's operation on the Premises, and (b) any change in Lessee's operation on the Premises that will change or has the potential to change Lessee's or Lessor's obligations or liabilities under the Environmental Laws.
- (5) Lessee shall insert the provisions of this Section 3.04 in any agreement or contract by which it grants a right or privilege to any person, firm or corporation under this Agreement.

Notwithstanding any other provision in this Agreement to the contrary, Lessor shall have the right of "self-help" or similar remedy in order to minimize any damages, expenses, penalties and related fees or costs, arising from or related to a violation of any law on, under or about the Premises, the cost of which shall be borne by Lessee.

The failure of Lessee, its agents, employees, contractors, invitees, or a third party to comply with any of the requirements and obligations of this Section shall constitute a material default of this Agreement and shall permit Lessor to pursue the remedies as set forth in Article IX herein, in addition to all other rights and remedies provided by law or otherwise provided in the Agreement, to which Lessor may resort cumulatively, or in the alternative.

C. Reporting.

- (1) At any time that Lessee submits any filing pertaining to its property, operations, or presence on the Airport with any governmental entity (other than the Internal Revenue Service) by way of example but not in limitation, the FAA, the Environmental Protection Agency or the Texas Commission on Environmental Quality, Lessee shall, upon request of Lessor, provide duplicate copies of the filing(s) made, along with any related documents, to Lessor.
- (2) Upon expiration, termination or cessation of this Agreement for any reason, Lessee shall provide current environmental inspection and

inventory reports on the Premises acceptable to Lessor; and if, in the opinion of Lessor, the Premises shall require environmental remediation, Lessee shall perform same to return the Premises into a (like new) condition equal of better to that as of the date Lessee took possession of the Premises.

Section 3.05 Maintenance. Lessee shall, at its sole cost and expense, maintain the Premises and the buildings, improvements and appurtenances thereto, in a presentable condition consistent with good business practice and equal in appearance and character to other similar improvements on said Airport. Lessee shall repair all damage to said Premises caused by its employees, patrons or its operation thereon. Lessee shall be responsible for the upkeep and cleanliness of the Premises. Lessee shall maintain and repair all equipment thereon excluding any heating and cooling equipment; and shall repaint the interior of the Premises as necessary. Lessee agrees not to paint the exterior of the improvements or anywhere on the Premises without the written consent of Lessor; said consent to be at Lessor's sole discretion. Lessor shall also be the sole judge of the quality and content of any painting submitted by Lessee for consideration.

Lessor shall be the sole judge of the quality of maintenance and, upon written notice by Lessor to Lessee, Lessee shall be required to perform whatever maintenance Lessor deems necessary. If said maintenance is not undertaken by Lessee within thirty (30) days after receipt of written notice, Lessor shall have the right to enter on the Premises and perform the necessary maintenance, the cost of which shall be borne by Lessee.

Section 3.06 Utilities. Lessee shall pay for its share of costs or charges for utility services furnished to Lessee during the term hereof as outlined in Article V Rentals.

Section 3.07 Trash, Garbage, and Other Refuse. Lessee shall provide a complete and proper arrangement for the adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse caused as a result of the operation of its business. Lessee shall provide and use suitable covered commercial type receptacles for all such garbage, trash and other refuse, and will maintain these receptacles, screened from view of adjoining properties or public streets in an attractive, safe, and sanitary manner. Piling of boxes, cartons, barrels or other similar items in an unsightly or unsafe manner, on or about the Premises shall not be permitted.

Section 3.08 Permitted Uses. Lessee covenants and agrees that in no event will it enter into any business activity on the Airport other than those specified in Article I.

Section 3.09 Signage. The following regulations shall apply to all signs displayed for observation from outside a building whether displayed on, near or within a building:

- A. **Permitted Signs.** Signs on the Premises shall be limited to those identifying the uses conducted on the site and to those necessary for directional purposes. The size, design and location of all signs shall require the written approval of the Lessor prior to installation. Said written approval shall be at Lessor's sole

discretion. Outdoor advertising, billboards or flashing lighting shall not be permitted.

- B. **Lighting and Construction.** All signs shall comply with all current or future building codes of the City of El Paso and with all current or future rules and regulations of the Federal Aviation Administration (FAA) and its successor agencies. Lessee is solely responsible for obtaining all necessary permits and licenses.

Section 3.10 Approval of Plans. Approval of any and all improvements, plans, signs, or documents by the Director does not constitute approval of the City of El Paso or any other local, state, or federal agency. It is specifically understood that Airport is only one of numerous departments of the City of El Paso and that, in addition to obtaining approval of Director, Lessee shall be required to obtain the approval in accordance with the City of El Paso City Code.

Section 3.11 Authorization to Enter Restricted Area. Lessee understands that the Premises include access to a restricted area of the Airport and that Lessee and its agents, employees, servants or independent contractors must be authorized by the Lessor to enter restricted areas of the Airport prior to their entry thereon. The authorization to enter restricted areas of the Airport is not granted by this Agreement, but shall be granted to Lessee upon Lessee's completion of security clearance and identification badging requirements necessary of all persons entering restricted areas of the Airport. As Lessee is required to comply with all applicable rules and regulations, any violation of this provision or those security rules and regulations applicable to the restricted areas of the Airport, shall be considered to be a material violation of this Agreement and grounds for termination.

Section 3.12 Penalties Assessed by Federal Agencies. Lessee understands and agrees that in the event any federal agency assesses a civil penalty against the Lessor or the Airport for any security violation as a result of or related to any act or failure to act on the part of Lessee, its agents, employees or independent contractors, Lessee shall reimburse the Lessor in the amount of the civil penalty assessed. Failure to reimburse the Lessor within thirty (30) calendar days of receipt of written notice shall constitute an event of default hereunder.

Lessee acknowledges that it is familiar with the restrictions imposed on Lessor by the Federal Aviation Regulations (FAR) Part 1542 and any amendments, and agrees to assume responsibility for compliance with said regulation as it relates to access and identification procedures on the Premises. To accomplish this compliance, Lessee agrees to develop a security plan and will submit same to the Transportation Security Administration (TSA) security office for required approval.

Lessee agrees to cause its employees, vendors, subcontractors, visitors, and all parties with whom it does business on the Premises to comply with the various airport security plans of the El Paso International Airport, as amended from time to time.

ARTICLE IV
TERM OF LEASEHOLD

Section 4.01 Term. The term of this Agreement shall be month-to-month commencing on the Effective Date, which is first noted on the title page.

Section 4.02 Termination by Lessee. This Agreement may be terminated by Lessee without cause by thirty (30) days prior written notice to Lessor.

Section 4.03 Holding Over. It is agreed and understood that any holding over by Lessee of the Premises at the expiration or cancellation of this Agreement shall operate and be construed as a tenancy from month to month at a rental of one and one-half (1½) times the current monthly rental, and Lessee shall be liable to Lessor for all loss or damage on account of any holding over after the expiration or cancellation of this Agreement, whether such loss or damage may be contemplated at this time or not. No receipt or acceptance of money by Lessor from Lessee after the expiration or cancellation of this Agreement or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the Premises, shall reinstate, continue or extend the terms of this Agreement, or affect any such notice, demand or suit or imply consent for any action for which Lessor's consent is required or operate as a waiver of any right of the Lessor to retake and resume possession of the Premises.

Section 4.04 National Emergency. In the event the rights and privileges hereunder are suspended by reason of war or other national emergency, the term of this Agreement shall be extended by the amount of the period of such suspension.

ARTICLE V
RENTALS

Section 5.01 Rental. For the purpose of computing the rental payments, Lessor and Lessee agree that the Premises comprise the following:

5,873 Sq. ft. of Office and Warehouse Space:

\$7.00 per Sq. Ft. per annum = \$41,111.00 per year.

376 Sq. ft. of Common Area Use:

\$7.00 per Sq. Ft. per annum = \$2,632.00 per year.

6,249 Sq. ft. for Utilities and Common Area Maintenance:

\$1.00 per Sq. Ft. per annum = \$6,249.00 per year.

1,378 Sq. ft. of Vehicle Parking and Loading Dock at \$0.726/Sq. Ft. per annum = \$1,000.50/vr.

1,378 Sq. ft. of Ground Service Equipment Parking Apron at \$0.726/Sq. Ft. per annum = \$1,000.50/yr.

The Annual Rental shall be \$51,993.00 per year or \$4,332.75 per month.

Section 5.02 Commencement of Rental. Payment of rental by Lessee to Lessor as aforesaid shall commence on the Effective Date of this Agreement, which is first noted on the title page.

Section 5.03 Security Deposit. Prior to the commencement of this Lease, Lessee shall tender a Security Deposit in an amount equal to three (3) months of Rentals. The purpose of the Security Deposit is to guarantee Lessee's performance of its obligations under this Lease and the payment of all rentals due hereunder. Lessee shall be obligated to maintain the Security Deposit for eighteen (18) consecutive months from the Effective Date of this Lease. The Security Deposit shall be in such form acceptable to the Director in his/her reasonable discretion. Within twenty (20) days after expiration of the eighteen (18) period, if Lessee has not defaulted under the Lease, Lessor will return the Security Deposit to Lessee. Lessor's rights under this Section shall be in addition to all other rights and remedies provide to Lessor under this Lease.

If Lessee provides Lessor with an irrevocable Letter of Credit for the Security Deposit, the Letter of Credit, in a form acceptable to the Director in his/her reasonable discretion and approved by the City Attorney, shall be issued by a national banking association. Such Letter of Credit shall be payable upon presentment accompanied by an affidavit by an authorized representative of Lessor indicating that the proceeds to be paid will be used by Lessor to pay sums due and owing pursuant to Lease.

5.04 Time of Payment. All rental due hereunder shall be paid in twelve (12) equal monthly installments. Said monthly rental payments shall be paid in advance on or before the first day of each and every month during the term or any extension of this Agreement.

Section 5.05 Unpaid Rent, Fees and Charges. Any installment of rentals, fees, or other charges or monies accruing under any provisions of this Agreement that are not received by Lessor by the 20th day of the month in which payment is due, shall bear interest at the rate equal to the maximum allowed by law from the date when the same was due according to the terms of this Agreement until paid by Lessee.

Section 5.06 Place of Payment. All rental and other payments required herein shall be paid to Lessor at the following address:

Accounting Department
El Paso International Airport
P.O. Box 971278
El Paso, Texas 79997-1278.

Payment by electronic transfer in lieu of mail is encouraged via any transfer system acceptable to the Director.

ARTICLE VI
INSURANCE AND INDEMNIFICATION

Section 6.01 Liability Insurance. Lessee, at its sole cost and expense shall, throughout the term of this Agreement, provide and keep in force for the benefit of Lessee with the Lessor as an additional insured, comprehensive general liability insurance in such amounts as specified by the Director but not less than One Million Dollars (\$1,000,000.00) for bodily injury to one person for each occurrence, Two Million Dollars (\$2,000,000.00) for bodily injuries to more than one person arising out of each occurrence and One Hundred Thousand Dollars (\$100,000.00) for property damage arising out of each occurrence, or in amounts equal to the maximum liability for damages for municipalities for claims arising under governmental functions, provided for under the Texas Tort Claims Act, whichever is greater.

Section 6.02 Fire and Extended Coverage Insurance. Lessor agrees that, at all times throughout the term of this Agreement, it will keep the Air Cargo Building insured under a Standard Policy of Fire and Extended Coverage Insurance for an amount equivalent to ninety percent (90%) of the replacement cost, such replacement cost to be re-determined every three (3) years. Upon receipt of a statement therefore, Lessee shall reimburse Lessor for Lessee's pro rata share thereof plus ten percent (10%) for administrative overhead. Said share shall be calculated on a pro rata basis utilizing the square footage of each Lessee's occupancy divided by the total square footage of the Air Cargo Building.

If the operations conducted by Lessee, or anyone holding under Lessee, on the Premises should require the payment of a greater premium for fire and extended coverage insurance than would customarily be payable for the conduct of the Air Cargo Operations permitted hereunder, then the amount of such additional premium cost shall also be reimbursed by Lessee to Lessor.

6.03 Authorized Insurance Companies. All such policies of insurance shall be written by insurance companies authorized to do business in the State of Texas and shall be written by companies approved by Lessor, such approval not to be unreasonably withheld.

Certificates of insurance shall be delivered to Lessor at least ten (10) days prior to the effective date of the insurance policy for which the certificate is issued. Each such certificate shall contain:

- A. A statement of the coverage provided by the policy;
- B. A statement of the period during which the policy is in effect;
- C. A statement that the annual premium or the advance deposit premium for such policy has been paid in advance;

- D. An agreement by the insurance company issuing such policy that the policy shall not be canceled or reduced in any amount for any reason whatsoever without at least thirty (30) days' prior written notice to Lessor; and
- E. A statement certifying the Lessor has been listed as an additional named insured on the policy.

Section 6.04 INDEMNIFICATION

- A. **INDEMNITY. LESSEE AGREES TO INDEMNIFY AND HOLD LESSOR AND ITS OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS HARMLESS AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, COSTS, AND EXPENSES, INCLUDING INVESTIGATION EXPENSES AND REASONABLE ATTORNEY'S FEES FOR THE DEFENSE OF SUCH CLAIMS AND DEMANDS, ARISING OUT OF OR ATTRIBUTED DIRECTLY, OR INDIRECTLY TO THE OPERATION, CONDUCT OR MANAGEMENT OF LESSEE'S BUSINESS ON THE PREMISES, ITS USE OF THE PREMISES, OR FROM ANY BREACH ON THE PART OF LESSEE OF ANY TERMS OF THIS LEASE, OR FROM ANY ACT OR NEGLIGENCE OF LESSEE, ITS AGENTS, CONTRACTORS, EMPLOYEES, SUBLESSEES, CONCESSIONAIRES, OR LICENSEES IN OR ABOUT THE PREMISES, INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE, OR IN PART, FROM THE NEGLIGENCE OF LESSOR. IN CASE OF ANY ACTION OR PROCEEDING BROUGHT AGAINST LESSOR BY REASON OF ANY SUCH CLAIM, LESSEE, UPON NOTICE FROM LESSOR, AGREES TO DEFEND THE ACTION OR PROCEEDING BY COUNSEL ACCEPTABLE TO LESSOR.**
- B. **THOSE PROVISIONS OF THIS SECTION THAT APPLY TO THE LESSEE SHALL ALSO APPLY TO ANY PARTY HOLDING BY, THROUGH, OR UNDER THE LESSEE.**
- C. **LESSOR ASSUMES NO RESPONSIBILITY FOR ANY PROPERTY PLACED IN OR ON THE PREMISES OR ANY PART THEREOF, AND LESSOR IS HEREBY EXPRESSLY RELEASED AND DISCHARGED FROM ANY AND ALL LIABILITY FOR ANY LOSS, INJURY OR DAMAGE TO PERSONS OR PROPERTY THAT MAY BE SUSTAINED BY REASON OF THE OCCUPANCY OF THE LEASED PREMISES UNDER THIS AGREEMENT.**

ARTICLE VII
CONDEMNATION

Section 7.01 Definitions. The following definitions apply in construing the provisions of this Agreement relating to the taking of or damage to all or any part of the Premises, or improvements thereon, or any interest in them by eminent domain or condemnation:

- A. "Taking" means the taking or damaging, including severance damage by eminent domain or by condemnation for any public or quasi-public use under any statute. The transfer of title may be either a transfer resulting from the recording of a final order in condemnation or a voluntary transfer or conveyance to the condemning agency or entity under threat of condemnation and avoidance proceedings are pending.
- B. "Total taking" means the taking of the fee title to all of the Premises and improvements thereon.
- C. "Substantial taking" means the taking of so much of the Premises or improvements or both that one or more of the following conditions results:
 - 1. The remaining portion of the Premises and improvements thereon after such taking would not be economically and feasibly useable by Lessee;
 - 2. The conduct of Lessee's business on the Premises would be substantially prevented or impaired;
 - 3. The portion of the Premises not so taken cannot be so repaired or reconstructed, taking into consideration the amount of the award available for repair or reconstruction, as to constitute a complete rentable structure capable of producing a proportionately fair and reasonable net annual income after payment of all operation expenses including the rent and after performance of all covenants and conditions required of Lessee under this Agreement.
- D. "Partial taking" means the taking of a fee title that is not either a total or substantial taking.
- E. "Improvements" includes, but is not limited to, all buildings, structures, fixtures, fences, utility installations, parking facilities and landscaping on the Premises.
- F. "Notice of intended taking" means any notice or notification on which a reasonably prudent person would rely and which such person would interpret as expressing an existing intention of taking as distinguished by a mere preliminary inquiry or proposal. It includes, but is not limited to, the service of a

condemnation summons and complaint on a party to this Agreement. The notice is considered to have been received when a party to this Agreement receives from the condemning agency or entity a notice of intent to take in writing containing a description or map reasonably defining the extent of the taking.

- G. "Award" means compensation paid for the taking, whether pursuant to judgment, or by agreement, or otherwise.
- H. "Date of Taking" means the date that Lessee is required to vacate the Premises pursuant to a final order of condemnation or agreement between the parties hereto.

Section 7.02 Notice of Condemnation. The party receiving any notice of the kind specified below shall promptly give the other party notice of the receipt, contents and date of the notice received:

- A. Notice of intended taking:
- B. Service of any legal process relating to condemnation of the Premises or improvements; or
- C. Notice in connection with any proceedings or negotiations with respect to such a condemnation.

Section 7.03 Rights of Parties During Condemnation Proceeding. Lessor and Lessee shall each have the right to represent its respective interest in each proceeding or negotiation with respect to a taking or intended taking and to make full proof of its claims. No agreement, settlement, sale or transfer to or with the condemning authorities shall be made without the consent of all parties. Each party agrees to execute and deliver to any other party hereto any instrument that may be required to facilitate the provisions of this Agreement relating to the condemnation.

Section 7.04 Taking of Leasehold. Upon a total taking, Lessee's obligation to pay rent and other charges hereunder together with Lessee's interest in the leasehold shall terminate on the Date of Taking. Upon a substantial taking, Lessee may, by notice to Lessor within ninety (90) days after Lessee receives notice of the intended taking, elect to treat the taking as a total taking. If Lessee does not so notify Lessor, the taking shall be deemed a partial taking. Upon a partial taking, this Agreement shall remain in full force and effect covering the balance of the Premises not so taken, except that the rent payable hereunder shall be reduced in the same ratio as the percentage of the area of the Premises taken bears to the total area of the Premises.

Section 7.05 Total Taking. All of Lessee's obligations under the Agreement shall terminate as of the Date of Taking. Upon a total taking, all sums awarded for any Lessee-owned improvements and the leasehold estate shall be disbursed to Lessee. All sums awarded for the

Premises, as unencumbered by the Lessee-owned improvements, but subject to the Agreement, shall be disbursed to Lessor.

Section 7.06 Partial Taking. Upon a partial taking, all awards shall be disbursed as follows:

- A. To the cost of restoring the improvements on the Premises; and
- B. The balance, if any, to Lessor and Lessee as follows: Lessee shall receive all sums awarded for Lessee-owned improvements and the Leasehold estate. Lessor shall receive all sums awarded for the Premises as unencumbered by the improvements but subject to the Agreement.

Section 7.07 Obligations of Lessee Under Partial Taking. Promptly after any such partial taking, Lessee, at its expense, shall repair, alter, modify or reconstruct the improvements on the Premises so as to make them reasonably suitable for Lessee's continued occupancy for the uses and purposes for which the Premises are leased. Notwithstanding the foregoing to the contrary, should there be a partial taking in the last year of the initial term or any renewal term, Lessee shall be relieved of the responsibility to so repair or reconstruct the improvements on Premises as aforesaid by notifying Lessor of its intention to that effect.

Section 7.08 Taking of Temporary Use of Premises and Improvements. Upon any taking of the temporary use of all or any part or parts of the Premises or improvements, or both, for a period of any estate less than a fee ending on or before the expiration date of the term, neither the term nor the rent shall be reduced or affected in any way and Lessee shall be entitled to any award for the use or estate taken. If a result of the taking is to necessitate expenditures for changes, repairs, alterations, modifications or reconstruction of the improvements to make them reasonably suitable for Lessee's continued occupancy for the uses and purposes for which the Premises are leased, after the termination of such taking, Lessee shall receive, hold and disburse the award in trust for such work. At the completion of the work and the discharge of the Premises and improvements from all liens or claims arising therefrom, Lessee shall be entitled to any surplus and shall be liable for any deficiency.

If any such taking is for a period extending beyond the expiration date of the term, the taking shall be treated under the foregoing provisions for total, substantial and partial takings.

ARTICLE VIII **ENCUMBRANCES**

Section 8.01 Encumbrance. As used herein the term "Mortgage" includes a deed of trust and the term "Mortgagee" includes the beneficiary under a deed of trust. Lessee may encumber its leasehold estate and its interest in the improvements constructed and to be constructed on the Premises by the execution and delivery of a Mortgage. The Mortgagee of any such Mortgage may deliver to Lessor a written notice specifying:

- A. The amount of the obligation secured by the Mortgage;
- B. The date of the maturity or maturities thereof; and
- C. The name and mailing address of the Mortgagee.

After receipt of such notice, Lessor shall serve such Mortgagee by certified mail at the latest address furnished by such Mortgagee a copy of every notice of default or demand served by Lessor upon Lessee under the terms and provisions of this Agreement so long as such Mortgage is in effect.

Section 8.02 Mortgagee's Rights. Upon receipt of a notice or demand in accordance with Section 8.01 above, Mortgagee shall have one hundred and twenty (120) days after receipt of such notice within which, at Mortgagee's election, either:

- A. To cure the default if it can be cured by the payment or expenditure of money;
- B. To perform such other action as may be necessary to cure the default;
- C. If the default cannot be cured within one hundred and twenty (120) days, to commence performance within such one-hundred-twenty day period and thereafter diligently prosecute same to completion, in which event, the default will have been deemed to have been cured; or
- D. To institute foreclosure proceedings and prosecute same diligently to conclusion.

Section 8.03 Rights on Foreclosure. In the event of foreclosure by Mortgagee, the purchaser at the foreclosure sale or the person acquiring Lessee's interest in lieu of foreclosure shall succeed to all of Lessee's rights, interests, duties and obligations under this Agreement.

Section 8.04 Estoppel Certificates. Upon request, Lessor, acting through the Director, may provide to Lessee or Lessee's Mortgagee an estoppel certificate containing the following information and no more: confirmation that Lessor remains owner of the Premises and lessor under this Lease; that this Lease contains the full agreement between Lessor and Lessee with regard to the Premises; that Lessee is current in its obligations under this Lease as of a certain date; that, to the best knowledge of Lessor, Lessee is not in default under the terms of the Lease nor is Lessor aware of any condition which with notice or the passage of time would constitute default under this Lease if uncured; and the beginning date, expiration date, length of term and number and length of any option terms under this Lease.

ARTICLE IX
EXPIRATION, CANCELLATION, ASSIGNMENT AND TRANSFER

Section 9.01 Expiration. This Agreement shall expire at the end of the term or any extension thereof.

Section 9.02 Events of Default and Cancellation. Subject to the provisions of Article VIII above, the following shall be events of default and this Agreement shall be subject to cancellation by Lessor in the event Lessee shall:

- A. Be in arrears in the payment of the whole or any part of the amounts agreed upon hereunder for a period of ten (10) days after Lessor has notified Lessee in writing that payment was not received when due.
- B. File in any court a petition in bankruptcy or insolvency or for the appointment of a receiver or trustee of all or a portion of Lessee's property:
- C. Make any general assignment for the benefit of creditors:
- D. Abandon the Premises:
- E. Default in the performance of any of the covenants and conditions required herein (except rental payments) to be kept and performed by Lessee, and such default continues for a period of thirty (30) days after receipt of written notice from Lessor to cure such default, unless during such thirty-day period, Lessee shall commence and thereafter diligently perform such action as may be reasonably necessary to cure such default;
- F. Be adjudged bankrupt in involuntary bankruptcy proceedings; or
- G. Be made a party to any receivership proceeding in which a receiver is appointed for the property or affairs of Lessee where such receivership is not vacated within sixty (60) days after the appointment of such receiver.

In any of the aforesaid events, Lessor may take immediate possession of the Premises including any and all improvements thereon and remove Lessee's effects, forcibly if necessary, without being deemed guilty of trespassing.

Failure of Lessor to declare this Agreement canceled upon the default of Lessee for any of the reasons set out shall not operate to bar or destroy the right of Lessor to cancel this Agreement by reason of any subsequent violation of the terms of this Agreement.

No receipt or acceptance of money by Lessor from Lessee after the expiration or cancellation of this Agreement or after the service of any notice, after the commencement of any

suit, or after final judgment for possession of the Premises, shall reinstate, continue, or extend the terms of this Agreement, or affect any such notice, demand or suit or imply consent for any action for which Lessor's consent is required or operate as a waiver of any right of the Lessor to retake and resume possession of the Premises.

Section 9.03 Repossessing and Reletting. In the event of default by Lessee hereunder which shall remain uncured after the required notices have been given pursuant to this Agreement, and for such time as provided herein, Lessor may at once thereafter, or at any time subsequent during the existence of such breach or default:

- A. Enter into and upon the Premises or any part thereof and repossess the same, expelling therefrom Lessee and all personal property of Lessee (which property may be removed and stored at the cost of and for the account of Lessee), using such force as may be necessary; and
- B. Either cancel this Agreement by notice or without canceling this Agreement, relet the Premises or any part thereof upon such terms and conditions as shall appear advisable to Lessor. If Lessor shall proceed to relet the Premises and the amounts received from reletting the Premises during any month or part thereof be less than the rent due and owing from Lessee during such month or part thereof under the terms of this Agreement, Lessee shall pay such deficiency to Lessor immediately upon calculation thereof, providing Lessor has exercised good faith in the terms and conditions of reletting. Payment of any such deficiencies shall be made monthly within ten (10) days after receipt of notice of deficiency.

Section 9.04 Assignment and Transfer. Lessee is not permitted to assign this Agreement; provided, that Lessee may assign this Agreement to its parent company upon Lessor's prior written consent. The foregoing notwithstanding, any person or entity to which this Agreement is assigned pursuant to the Bankruptcy Code, 11 U.S.C. 101 et seq., shall be deemed without further act or deed to have assumed all the obligations arising under this Agreement on or after the date of such assignment. Any such assignee shall, upon demand, execute and deliver to Lessor an instrument confirming such assumption.

Section 9.05 Subleasing. Lessee is not permitted to sublease all or any part of the Premises.

Section 9.06 Rights Upon Expiration. At the expiration of this Agreement, Lessor shall be entitled to have the Premises returned to Lessor clear of all improvements constructed by Lessee, or on Lessee's behalf. Lessee shall have sixty (60) days after expiration in which to remove such improvements; provided that any occupancy by Lessee for the purposes of removal shall be subject to the rental due hereunder. If Lessee fails to so remove said improvements, Lessor may remove same at Lessee's expense. Lessor may, at its option, take title to the improvements in lieu of removal by or for Lessee.

Section 9.07 Lessor's Lien. It is expressly agreed that in the event of default in the payment of rentals or any other sum due from Lessee to Lessor under the terms of this Agreement. Lessor shall have a lien upon all goods, chattels, personal property or equipment, save and except goods, chattels, personal property or equipment related to the CBIS Project and delivery vehicles or rolling stock belonging to Lessee which are placed in, or become a part of, the Premises, as security for Rent due and to become due for the remainder of the Agreement term, which lien shall not be in lieu of or in any way affect the statutory Lessor's lien given by law, but shall be in addition to that lien, and Lessee grants to Lessor a security interest in all of Lessee's personal property placed in or on the Premises for purposes of this contractual lien. Provided, however, that the terms of this provision shall have effect only to the extent they are not inconsistent with the rules and regulations of the Interstate Commerce Commission and any other laws pertaining thereto and the Railroad Commission of the State of Texas. Lessor agrees that Lessor will not levy a Lessor's lien against any delivery vehicle or rolling stock or any of the goods or personal property of third parties in the possession of Lessee, any sublessee or any assignee of the Lessee. In the event Lessor exercises the option to terminate the leasehold as provided herein, the Lessor, after providing reasonable notice to Lessee of its intent to take possession and giving an opportunity to cure the default, may take possession of all of Lessee's property on the Premises and sell it at public or private sale after giving Lessee reasonable notice of time and place of any public sale or of the time after that any private sale is to be made, for cash or credit, for such prices and terms as Lessor deems best. The proceeds of the sale shall be applied first the necessary proper expense of removing, storing and selling such property, then to the payment of any rentals or other sums due or to become due under this Agreement, with the balance, if any, to be paid to Lessee.

ARTICLE X **GENERAL PROVISIONS**

Section 10.01 Right of Flight. Lessor reserves unto itself, its successors and assigns, for the use and benefit of the public a right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for the use of said airspace for landing on, taking off from or operation on the Airport.

Lessor reserves to itself, its successors and assigns, for the use and benefit of the public, a continuing right and easement over the Premises to take any action it deems necessary to prevent the construction, erection, alteration or growth of any structure, tree or other object in the vicinity of the runways at the Airport which would constitute an obstruction to air navigation according to the criteria or standards prescribed in Subpart C of Part 77 of the Federal Aviation Regulations.

Lessor reserves for itself, its successors and assigns the right to prevent any use of the Premises which would interfere with aircraft landing on or taking off from the Airport and the right to prevent any other use of the Premises which would constitute an airport hazard.

Section 10.02 Time is of the Essence. Time is and shall be deemed of the essence in respect to the performance of each provision of this Agreement.

Section 10.03 Notices. All notices provided to be given under this Agreement shall be given by certified or registered mail, return receipt requested, postage fully prepaid, addressed to the proper party at the following addresses:

LESSOR: City Clerk
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

COPY TO: Director of Aviation
El Paso International Airport
6701 Convair Road
El Paso, Texas 79925-1099

LESSEE: Petris Global (USA), Inc.
2401 Whitehall Park Drive, Suite 500
Charlotte, North Carolina 28273

Any notice so given shall be deemed properly delivered, given, served, or received on the date shown for delivery or rejection on the return receipt. Any party may change the address to which notices shall thereafter be given upon five (5) days prior written notice to all other parties in the manner set forth in this Section.

Section 10.04 Attorney's Fees. If either party brings any action or proceedings to enforce, protect or establish any right or remedy under the terms and conditions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees, as determined by a court of competent jurisdiction, in addition to any other relief awarded.

Section 10.05 Agreement Made in Texas. The laws of the State of Texas shall govern the validity, interpretation, performance and enforcement of this Agreement. Venue shall be in the courts in El Paso County, Texas.

Section 10.06 Nondiscrimination Covenant. Lessee, for itself, its heirs, personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree as follows:

- A. That in the event facilities are constructed, maintained, or otherwise operated on the Premises for the purpose for which DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation and as said Regulations may be amended.
- B. That no person on the grounds of race, creed, color, sex, age, disability or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises.
- C. That in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the grounds of race, creed, color, sex, age, disability or national origin shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination.
- D. That Lessee shall use the Premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Part 21, Nondiscrimination in federally assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulation may be amended. Lessee shall also comply with the applicable provisions of Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) and 49 C.F.R Part 27.
- E. Economic Discrimination. To the extent that, under this Agreement, Lessee furnishes goods or services to the public at the Airport, Lessee agrees that it shall:
 - 1. Furnish each and every good and service on a fair, reasonable, and not unjustly discriminatory basis to all users of the Airport; and
 - 2. Charge fair, reasonable and not unjustly discriminatory prices for each unit or service, provided that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers as otherwise permitted under the law.
- F. That, in the event of breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate this Agreement and re-enter and repossess the Premises and the improvements thereon, and hold the same as if said Agreement had never been made or issued.

Section 10.07 Affirmative Action. Lessee assures that it will undertake an affirmative action program as required by 14 C.F.R. Part 152, Subpart E, and any amendments thereto, and any other federal statutes or regulations applicable to the receipt of federal assistance from the

Department of Transportation by local governments for Airport use, or otherwise applicable to persons leasing premises from the City of El Paso, to insure that no person shall, on the grounds of race, color, sex, age, disability or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered by this Subpart. Lessee assures that it will require that its covered sub-organizations (sublessees) provide assurances to Lessor, as set forth herein, that they similarly will undertake affirmative action programs, and that they will require assurance from their sub-organizations (sublessees) to the same effect.

Section 10.08 Cumulative Rights and Remedies. All rights and remedies of Lessor here enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by Lessor of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.

Section 10.09 Interpretation. Words of gender used in this Agreement shall be held and construed to include the other gender, and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires.

Section 10.10 Agreement Made in Writing. This Agreement contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any manner other than by agreement in writing signed by the parties hereto or their respective successors in interest.

Section 10.11 Paragraph Headings. The Table of Contents and the captions of the various articles and sections of this Agreement are for convenience and ease of reference only, and do not define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.

Section 10.12 Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as part of this Agreement a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

Section 10.13 Successors and Assigns. All of the terms, provisions, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon Lessor and Lessee and their successors, assigns, legal representatives, heirs, executors and administrators.

Section 10.14 Taxes and Other Charges. Lessee shall pay any and all taxes and governmental charges of any kind whatsoever that may be lawfully assessed against the Lessee or the Lessor, with respect to the Premises, any improvements, equipment, personal property or inventory thereon or Lessee's use and/or occupancy of the Premises, during the term of this Agreement including any extensions or option periods granted thereto.

By March 1 of each year during the term of this Agreement, including any extensions or option periods granted thereto and no cost to Lessor, Lessee shall provide written proof satisfactory to the Director that all taxes and governmental charges of any kind have been paid in full.

Lessee further indemnifies Lessor from all tax liability including but not limited to ad valorem real property taxes and personal property taxes that may arise in relation to Lessee's activities in furtherance of this Agreement.

Lessee in good faith may contest any tax or governmental charge; provided that Lessee may not permit such tax or governmental charge to remain unpaid during the period of such contest and any appeal therefrom.

Section 10.15 Waiver of Warranty of Suitability. LESSOR DISCLAIMS ANY WARRANTY OF SUITABILITY THAT MAY ARISE BY OPERATION OF LAW. LESSEE LEASES THE PREMISES AS-IS AND LESSOR DOES NOT WARRANT THAT THERE ARE NO LATENT DEFECTS THAT ARE VITAL LESSEE'S USE OF THE PREMISES FOR THEIR INTENDED COMMERCIAL PURPOSE.

Section 10.16 Survival of Certain Provisions. All provisions of this Agreement which expressly or impliedly contemplate or require performance after the cessation, expiration, cancellation, or termination of this Agreement hereunder shall survive such cessation, expiration, cancellation, or termination, including without limitation, provisions regarding indemnification, environmental responsibility, and the like.

Section 10.17 Authorization To Enter Agreement. If Lessee signs this Agreement as a corporation, each of the persons executing this Agreement on behalf of Lessee warrants to Lessor that Lessee is a duly authorized and existing corporation, that Lessee is qualified to do business in the State of Texas, that Lessee has full right and authority to enter into this Agreement, and that each and every person signing on behalf of Lessee is authorized to do so. Upon Lessor's request, Lessee will provide evidence satisfactory to Lessor confirming these representations.

Section 10.18 FAA Order 1400.11. Pursuant to Federal Aviation Administration Order 1400.11, effective August 27, 2013, and because the described premises are located at the El Paso International Airport which is subject to regulation by, among others, the U.S. Federal Aviation Administration, the parties specifically agree to the following:

1. A. Lessee for itself, its 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 Lease 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, Lessee will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts

and Regulations set out in Federal Aviation Administration Order 1400.11, Appendix 4, as same may be amended from time to time (the "Acts and Regulations") 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.

B. With respect to the Lease, in the event of breach of any of the above nondiscrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and repossess said Premises and the facilities thereon, and hold the same as if said easement had never been made or issued. [FAA Order 1400.11, Appendix C]

2. A. The Lessee for itself, its 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 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, (3) that the Lessee will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations.

B. With respect to the Lease, in the event of breach of any of the above nondiscrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and repossess said Premises and the facilities thereon, and hold the same as if said easement had never been made or issued. [FAA Order 1400.11, Appendix D]

3. A. During the term of this Lease, Lessee for itself, its successors in interest, and assigns, as a part of the consideration hereof, agrees to comply with the following non-discrimination statutes and authorities: including but not limited to:

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

- 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);
- 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);
- 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;
- 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);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures 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;
- 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). Grantee shall take reasonable steps to ensure that LEP persons have meaningful access to its programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination because of sex in education programs or activities (20 U.S.C. 1681 et seq).

B. In the event of breach of any of the covenants in this paragraph 3, Lessor shall have the rights and remedies set forth in paragraphs 1 and 2 above, in addition to all other rights and remedies available to it under applicable law. [FAA Order 1400.11, Appendix E].

Section 10.19 Effective Date. Regardless of the date signed, this Agreement shall be effective as of the date first noted on the title page.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

AMA

IN WITNESS WHEREOF, the parties have hereunto set their hands as of this _____ day of _____, 2017.

LESSOR: CITY OF EL PASO:

Tomás González
City Manager

APPROVED AS TO FORM:

Theresa Cullen
Deputy City Attorney

APPROVED AS TO CONTENT:



Monica Lombraña, A.A.E.
Director of Aviation

LESSOR'S ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____ 2017, by **Tomás González as City Manager of the City of El Paso, Texas (Lessor).**

My Commission Expires: _____

Notary Public, State of Texas

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)

LESSEE: PTERIS GLOBAL (USA), INC.

By: Angel M. Amadeo
Name: Angel M. Amadeo
Title: Project Manager

LESSEE'S ACKNOWLEDGMENT

STATE OF TEXAS) North Carolina
COUNTY OF TRAVIS) Mecklenburg

This instrument was acknowledged before me on this 27th day of July, 2017
by Angel Amadeo, as Project Manager of Pteris Global
(USA), Inc. (Lessee).

Takeya Barringer-Robinson
Notary Public

My Commission Expires:
4/20/19

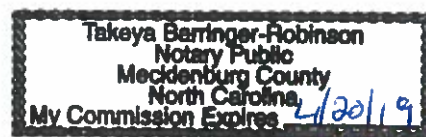


Exhibit A

 Premises



DRAWN BY: MSM

DATE: 5/25/2017

PREPARED FOR:
EPIA

FOR PLANNING
PURPOSES ONLY

**El Paso
International
Airport**

El Paso, Texas



**Cargo Building 2
Lease Area**



EL PASO
INTERNATIONAL AIRPORT

Exhibit B



CARGO BUILDING NO. 2
EL PASO, TX 79925
6409 - 6413 CONVAIR RD.

NOT ISSUED
FOR CONSTRUCTION

NO.	DATE	REVISION

A2.2
ZONE "B"
FLOOR PLAN

2019-10-18 Cargo Building No. 2 November 1, 2019



Legend

- 6411 Convair Road office/warehouse
- 6411 Convair Road vehicle parking and loading dock
- 6411 Convair Road ground service equipment parking
- Pteris Global (USA), Inc. – 5,873 SF (office/warehouse)
- Global Aviation Svcs. – 1,327 SF (office/warehouse)
- ECM – 252 SF (office)
- Common space – 1,493 SF

6409 CONVAIR RD.
EL PASO, TX. 79925
2,880 SQ. FT.

6411 CONVAIR RD.
EL PASO, TX. 79925
8,945 SQ. FT.

6413 CONVAIR RD.
EL PASO, TX. 79925
8,585 SQ. FT.



ZONE "B" FLOOR PLAN
CARGO BUILDING NO. 2
SCALE: 1/8" = 1'-0"

