

Gate Gourmet, Inc.
LEASE AGREEMENT
NO. AL-288

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AIRPORT NUMBERAL-288.....

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT
LEASE AGREEMENT

THIS LEASE, is made and entered into as of the _____ day of _____, _____ ("Agreement"), by and between The City of St. Louis, a municipal corporation of the State of Missouri, as lessor (the "City"), and Gate Gourmet, Inc., a corporation organized and existing under the laws of the State of Delaware, ("Lessee").

WITNESSETH, THAT:

WHEREAS, City now owns, operates and maintains an international airport known as "Lambert-St. Louis International Airport", located in the County of St. Louis, Missouri ("Airport");

WHEREAS, Lessee warrants and represents that it is willing to Lease the Premises from City and construct an In-Flight Catering Facility in accordance with the terms, covenants and conditions of this Agreement.

WHEREAS, an In-Flight Catering Facility is important to the operations of the Airport; and

WHEREAS, City is willing to lease the Premises to Lessee; and

WHEREAS, this Agreement is necessary to reflect current Airport and City business practices and ensure the City's and the Airport's compliance with Federal Aviation Administration orders and grant assurances;

NOW, THEREFORE, for and in consideration of the promises, and of the mutual covenants and agreements herein contained, and other valuable considerations, City and Lessee agree as follows:

ARTICLE I
DEFINITIONS

Section 101. Definitions. The following words and phrases shall have the following meanings:

"Agreement" shall mean this document and any subsequent amendments thereto, duly approved by City and Lessee.

"Airport" shall mean as stated in the preamble hereof. "City" and "Airport" are used interchangeably throughout this Agreement.

"Airport Properties Department" shall mean that department of the St. Louis Airport Authority that has as its primary responsibility

the administration of all tenant, permittee, concessionaire and other space at the Airport, and shall be Lessee's point of contact with the Airport on all issues related to this Agreement.

"Business Day" shall mean any day on which banks and the City's offices are open for business in St. Louis, Missouri (excluding Saturdays).

"City" shall mean as stated in the preamble hereof. "City" and "Airport" are used interchangeably throughout this Agreement.

"Contract Year" shall mean a consecutive twelve (12) month period commencing on the first day of the term of this Agreement.

"Director" shall mean the Director of Airports of the City of St. Louis or his/her authorized or designated representatives.

"Discharge" shall have the meaning ascribed to such term by 1001(7) of the Oil Pollution Act of 1990, 33 USC 2701(7).

"Effective Date" shall mean the first day of the month following the date of full execution of this Agreement by City and Lessee.

"Extremely Hazardous Substance" shall mean any substance designated or considered to be an extremely hazardous substance pursuant to 302(a) of the Emergency Planning and Community Right-to-Know Act of 1986, 42 USC 11002(a).

"Hazardous Substance" shall mean any substance designated or considered to be a hazard pursuant to 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC 9601(14).

"Hazardous Waste" shall mean any substance designated or considered to be a hazardous waste pursuant to either 1004(5) of the Resource Conservation and Recovery Act, 42 USC 6903(5) or 260.360(10) R.S.Mo.

"Improvements" shall mean without limitation, any buildings, structures, facilities, parking lots, lighting or other fixtures, landscaping or any appurtenances thereto now or hereafter existing on the Premises, excluding personal property or trade fixtures of Lessee.

"In-Flight Catering Facility" shall mean the buildings, structures, roadways and landscaping within the Premises necessary for the preparation and delivery of food and beverages to aircraft, including buildings, structures and roadways for receiving, storage, and preparation of food and beverage products, fueling facilities and roads for ingress and egress within the Premises in accordance with the terms, covenants and conditions of this Agreement.

"Infectious Waste" shall mean any substance designated or considered to be an infectious waste pursuant to 260.360(13) R.S.Mo.

"Initial Market Rental Rate" shall mean the annual market rental rate established at the commencement date of this Agreement, and the amount shall be Thirty-Four Thousand Dollars (\$34,000.00) and to be used as the basis on which future Ground Rates shall be established in accordance with of this Agreement.

"Lessee" shall mean as stated in the preamble hereof.

"Oil" shall mean any substance designated or considered to be an oil pursuant to 1001(23) of the Oil Pollution Act of 1990, 33 USC 2701(23).

"Other Permitted Uses" shall mean permitted uses other than an In-Flight Catering Facility to include: wholesaling or warehousing of manufactured commodities excluding live animals, explosives, flammable gases or liquids; yards for storage of contractor's equipment, materials and supplies; vehicle or equipment storage excluding junkyards and salvage yards; business, professional and technical training schools; manufacturing, fabrication, assembly, processing or packaging of any commodity excluding explosives, flammable gases or liquids; office or office building; printing and duplicating services; research laboratories and facilities; sales and renting of equipment and vehicles; terminal for trucks and buses; vehicle repair and service facility; catering of non-airline and/or off-airport entities. Commercial parking operations and facilities are expressly excluded under this definition.

"Pollutant" shall mean any substance designated or considered to be a pollutant pursuant to 502(6) of the Federal Water Pollution Act, 33 USC 1362(6).

"Premises" shall mean a location or locations described in Section 201 that has or have been designated by City for the occupancy and use by Lessee, together with all Improvements, for its conduct of business and for other uses herein specifically provided for.

"Release" shall have the meaning ascribed to such term by 101(22) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC 9601. (22).

"Reportable Quantity" ("RQ") shall mean as designated by 10CSR24-2.010.

"Special Waste" shall mean any substance as designated by 10CSR80-2.010.

"Solid Waste" shall mean any substance designated or considered as a solid waste pursuant to 260.200(25) R.S.Mo.

"Sublessee" shall mean a third party conducting business on the Premises which is incidental, necessary or customary to the proper use of the Premises as an In-Flight Catering Facility, or Other Permitted Uses, and under agreement with Lessee.

"Term" shall mean thirty-five (35) Contract Years and eight (8) months commencing on the Effective Date.

"Toxic Pollutant" shall mean any substance designated or considered to be a toxic pollutant pursuant to 502(13) of the Federal Water Pollution Control Act, 33 USC 1362(13).

ARTICLE II PREMISES

Section 201. Premises. City hereby leases and demises to Lessee and Lessee takes from City, a tract of land containing approximately 8.5 acres 370,260 sq. ft.) which final square footage shall be determined by a metes and bounds survey, together with all Improvements constructed, erected or installed thereon, hereinafter collectively referred to as the "Premises" and more fully described on **Exhibit "A"** and shown on **Exhibit "B"**, which are attached hereto and made a part hereof, subject to the reservations set forth in Section 202 hereof. Lessee acknowledges that it accepts and receives the Premises in an "AS IS" condition with no warranties or representations of any kind, expressed or implied, either oral or written, made by City or any of its agents or representatives with respect to the physical, environmental or structural conditions of the Premises or any portion thereof or otherwise including but not limited to, soil conditions of the land and structural conditions of the Improvements existing on the Premises as of the Effective Date, if any or the presence or absence of any hazardous or toxic substances, materials, gases or waste in, on or under the Premises, or any underground or above ground storage tanks or repositories, including but not limited to asbestos and asbestos-related materials, water, sewage or utilities serving the Premises or any other matter or thing affecting or relating to the Premises, except as expressly set forth in this Agreement. City and Lessee agree that the existence and definition of hazardous or toxic substances, materials, gases, oil, petroleum products or derivatives, chemicals, pollutants or waste, shall be construed herein in accordance with all applicable federal, state or local laws, statutes or regulations relating to the protection of human health or the environment. City without limitation expressly disclaims and negates, as to the Premises: a) any implied or express warranty of merchantability, b) any implied or express warranty of fitness for a particular purpose, and c) any implied warranty with respect to the condition of the Premises, its compliance with any zoning or other rules, regulations, laws or statues applicable to the Premises including but not limited to the Americans with Disabilities Act, the uses permitted on the Premises, or any other matter or thing relating to the Premises or any portion thereof.

Section 202. Reservations. The grant of lease hereunder is subject to the following reservations and conditions.

- A. City reserves the right (but shall not be obligated to Lessee) to maintain and keep in repair, the landing area of the Airport and all public-owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard as such activities relate to the landing areas and facilities of the Airport not on the Premises.
- B. City reserves the right further to develop or improve the landing area and all publicly-owned air navigation facilities of the Airport as City in its sole and absolute discretion sees fit, regardless of the desires or views of the Lessee, and without interference or hindrance of any kind.
- C. City reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on the Airport which in the sole and absolute opinion of City would limit the usefulness of the Airport or constitute a hazard to aircraft.
- D. During the time of war or national emergency City shall have the right to enter into an agreement with the Government of the United States of America (the "U.S. Government") for use of part or all of the landing area, the publicly-owned air

navigation facilities and/or other areas or facilities of the Airport including the Premises and the rights granted herein. If any such agreement is executed, the provisions of this Agreement, insofar as they are inconsistent with the provisions of the agreement with the U.S. Government, shall be suspended immediately upon receipt of written notice from City.

- E. It is understood and agreed that the rights granted by this Agreement to Lessee will not be exercised by Lessee in such a way as to interfere with or adversely affect the use, operation, maintenance, expansion or development of the Airport.
- F. There is hereby reserved to City, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the Premises herein conveyed, together with the right to cause or allow in said airspace such noise, vibration, fumes, dust, fuel particles, illuminations, interference with television, radio or any other type of transmission and other effects as may be caused in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from, or operating on or about the Airport.
- G. This Agreement shall become subordinate to provisions of any existing or future agreement between City and the United States of America or any agency thereof relative to the operation, expansion, improvement, development, or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the operation, improvement, development, expansion or maintenance of the Airport.
- H. City reserves all gas, oil and mineral rights in and under the soil; provided, however, that City, in the exercise of such rights, shall not materially interfere with the surface of the soil or with Lessee's use of the Improvements thereon.
- I. City reserves the right to grant utility and maintenance rights-of-way to itself and others over, under, through, across or on the Premises provided that such use will not unreasonably and materially interfere with Lessee's use of the Premises, and provided further that such reservation or grant of rights shall not directly result in cost or expense to Lessee.

Section 203. Access. Subject to the terms, covenants, warranties and conditions of this Agreement, Lessee has the right of free access, ingress to and egress from the Premises, for Lessee's employees, agents, guests, patrons and invitees. Subject to the terms, covenants, warranties and conditions of this Agreement, City reserves and shall have the right to access, ingress to and egress from the Premises without charge therefore, for its employees, contractors, agents, guests, patrons and invitees, its or their suppliers of materials and furnishers of service, and its or their equipment, vehicles, machinery and other property, provided that such right will not unreasonably and materially interfere with Lessee's use of the Premises. If Lessee is not present to permit entry and entry is necessary, City may, in case of emergency only, forcibly enter the Premises without rendering City liable therefore, except for any damage caused by its gross negligence or willful misconduct. Nothing contained herein shall be construed to impose upon City any duty of inspection or repair of the Premises except as expressly and specifically provided for herein.

**ARTICLE III
LEASE TERM**

Section 301. Term. The Term of this Agreement shall be for a period of thirty-five (35) Contract Years and eight (8) months commencing on the first day of the month following the date of full execution of this Agreement by City and Lessee, unless sooner terminated in accordance with other provisions of this Agreement. The Commencement or Effective Date of this Agreement and the Expiration Date shall be written by City below.

Commencement Date: _____

Expiration Date: _____

Section 302. Surrender of Possession. No notice to quit possession at the expiration date of the term of this Agreement, or at the earlier termination hereof, shall be necessary. Lessee warrants, covenants, and agrees that at the expiration date of the term of this Agreement, or at the earlier termination hereof, it will peaceably surrender possession of the Premises in as good condition, reasonable wear and tear, acts of God, and other casualties excepted, and City shall have the right to take possession of the Premises. In the event Lessee does not vacate the Premises during the prescribed time period, Lessee does hereby agree that City may use any remedy at law or in equity including but not limited to a writ of possession to carry out the transfer of possession.

City and Lessee before acceptance by City of any of the Improvements shall perform a joint inspection of the Improvements being surrendered to the City. Lessee shall perform any reasonable maintenance work requested by City so that all mechanical systems are

fully functional and the Improvements are protected from weather, normal wear and tear excepted. Said inspection shall be conducted at least thirty (30) days prior to the expiration date of the Term, or the earlier termination hereof as provided herein.

Lessee warrants, represents, covenants and agrees that at the expiration date of the Term, or at the earlier termination hereof, it shall, unless otherwise agreed to in writing by the City (i) remove all products or wastes stored in underground and aboveground storage tanks located on the Premises, which were installed or used during the Term of this Agreement (ii) remove and pull all underground and above ground storage tanks and any connected piping, tubing or other related equipment located on the Premises, and (iii) promptly remove, remediate, decontaminate, and/or restore any soil, groundwater, or surface water affected by leaks, spills, Discharges, or Releases from such storage tanks or connecting piping. Such removal, remediation, decontamination, and/or restoration shall be performed by Lessee in a manner consistent with any applicable environmental laws. Lessee shall be responsible for all compliance issues, including without limitation any permitting or licensing requirements, relating to any and all above ground or underground storage tanks as the owner of said tanks. In the event that City is required to undertake actions to bring the Premises into compliance with the foregoing provision or any applicable environmental laws, as a result of any of the above described leaks, spills, Discharges or Releases, and Lessee's failure to correct same, Lessee shall promptly reimburse the City for any expenses so incurred, including, but not limited to, reasonable attorneys' fees and expenses, litigation costs, fees for engineering and consulting services, costs of testing, removal and/or remediation, and disposal costs.

Lessee warrants, covenants and agrees that, at the expiration date of the term of this Agreement, or at the earlier termination hereof, it shall return the Premises to City free of any and all Hazardous Substances, Extremely Hazardous Substances, Hazardous Wastes, Special Wastes, Solid Wastes (unless disposal of Solid Waste on the Premises is otherwise specifically permitted by the terms of this Agreement), Oil, petroleum product or derivative, Infectious Wastes, Pollutants, Toxic Pollutants, toxic substances, or other chemical substances or materials subject to federal, state, or local regulation, which were placed, stored, used, generated, manufactured, produced, treated, Released, Discharged, disposed, and/or spilled on, under, or about the Premises by Lessee, its officers, agents, employees, consultants, contractors, subcontractors, licensees, independent contractors, guests, patrons and invitees since the time of Lessee's initial entry upon the Premises under this Agreement. Lessee shall be responsible for securing all operating permits and/or licenses or other approvals to the extent such permits and/or licenses or other approvals are required by local, state or federal officials or laws including, without limitation, air, water and waste disposal permits. In the event that City is required to undertake actions to bring the Premises into compliance with the foregoing provision or any applicable environmental or regulatory laws as a result thereof and Lessee's failure to correct same, Lessee does hereby warrant, covenant and assure that it shall reimburse City for any expenses so incurred, including, but not limited to, reasonable attorneys' fees and expenses, litigation costs, fees for engineering and consulting services, costs of testing, removal, and/or remediation, and disposal costs.

ARTICLE IV RENT AND FEES

Section 401. General. Lessee, for and in consideration of the rights and privileges granted herein, agrees to pay the rents and fees set forth in this Agreement, without demand during the term of this Agreement.

Section 402. Ground Rent. For the use and hire of the Leased Premises, Lessee warrants, covenants and agrees to pay City as follows:

- A. Pre-Paid Rental: For the period beginning at the commencement of Contract Year one (1) up to the commencement of Contract Year sixteen (16), Lessee shall pay City a Pre-Paid Rental of Three Hundred and Nineteen Thousand and Six Hundred Dollars (\$319,600), due on the Commencement Date of this Agreement.
- B. Annual Rental: From the commencement date of Contract Year sixteen (16) through the expiration date of the term of this Agreement, Lessee shall pay to City an annual rental to be paid beginning on the commencement date of each Contract Year thereafter for the Term of this Agreement in twelve equal monthly installments, due on the first day of each month. The annual rent as set forth in this Section 402 shall be reviewed on the commencement date of Contract Year sixteen (16) and on the commencement date each and every five (5) Contract Years thereafter, and shall be adjusted by the Consumer Price Index as described below:
 1. Consumer Price Index (CPI-U): Ground Rent shall be calculated in accordance with the "Consumer Price Index for all Urban Consumers" (CPI-U) relating to "U.S. City Average" and published by the Bureau of Labor Statistics of the United States Department of Labor with the index number indicated for the month that this Agreement commences shall be the base index number. Thirty (30) days prior to the end of the Pre-Paid Rental

period and each five (5) Contract Years thereafter shall be the current index number. Ground Rent increases shall be calculated by taking the current index number minus the base index number as the numerator and the base index number as the denominator and any resulting positive number and/or fraction shall be the percentage increase to the rent added to the Initial Market Rental Rate at the commencement of Contract Year sixteen (16) and to the current annual rent at the commencement date of every five (5) Contract Years thereafter. The base index number for ground rent calculations for the beginning of contract year twenty one (21) and every five contract years thereafter shall be the previous rate adjustment's current index number. All such adjustments shall be made and made only upward to the nearest one-tenth (1/10) of a percentage point. In the event that any time during the term hereof the United States Bureau of Labor Statistics shall discontinue the issuance of "Consumer's Price Index for all Urban Consumers" (CPI-U) then in such event the parties hereto agree to use any other standard nationally recognized cost of living index then issued and available, which is published by the United States Government, which is most similar to the discontinued "Consumer's Price Index for all Urban Consumers" (CPI-U).

By way of example, it is assumed that the base index number for the commencement date is 100 and the current index number 30 days before the commencement of Contract Year 16 is 109, then the CPI adjusted annual rent for Contract Years 16 through 20 would be calculated as follows: 109 (current year index) minus 100 (base year index) divided by 100 (base year index) multiplied by \$34,000 (Initial Market Rental Rate) equals \$3,060 (percentage increase) plus \$34,000 (Initial Market Rental Rate) equals \$37,060.

Likewise, by way of example, it is assumed that the current index number 30 days before the commencement of Contract Year 21 is 115, then the CPI adjusted annual rent for Contract Years 21 through 25 would be calculated as follows: 115 (then current year index) minus 109 (previous current year index) divided by 109 (new base year index) multiplied by \$37,060 (then "current annual rent") equals \$2,038 (then percentage increase) plus \$37,060 (then current annual rent) equals \$39,098

In the event the Federal Aviation Administration ("FAA") determines the payment terms under this Agreement to be unreasonable or otherwise not in compliance with federal requirements, those terms will be modified, retroactive to the Effective Date, to an amount that the FAA agrees is in compliance with federal requirements.

Section 403. Rent and Fee Payment Bond. Lessee agrees to furnish a bond or other form of security, throughout the Term, in a form acceptable to City as set forth below. For Contract Years one (1) up to the commencement date of Contract Year sixteen (16), Lessee agrees to furnish bond in the principal amount of Fifty Thousand Dollars (\$50,000). On the commencement date of Contract Year sixteen (16) through the termination or early expiration of this Agreement, City may require Lessee to increase principal amount of bond to reflect any increase in annual rent due City. Said increase to be made by Lessee upon the receipt of written notice from the Director at any time during the term of this Agreement. Such bond will guarantee the payment of all rents, fees and other terms, conditions and covenants of this Agreement. The bond will be in the form of a standard commercial guaranty bond running to City, written by a surety company authorized to do business in Missouri and (1) having a "Best" key rating of not less than A and with a "Best" Financial Size Category of not less than Class VIII and (2) shown on the most recent U.S. Treasury Circular No. 570 as having an "underwriting limitation" of at least the amount of the penal sum of the bond. The bond will be kept in full force and effect during the term hereof. City may agree to another form of security or deposit which will provide equal protection of City's interest. If City cashes the bond or other form of security, Lessee agrees to furnish a replacement bond or other form of security in the same principal amount within thirty (30) days.

Section 404. Unpaid Rent and Fees. All unpaid rent and fee payments due City hereunder shall bear a service charge of one and one-half percent (1½%) per month if same is not paid and received by City on or before the tenth day of the month in which said payments are due, and Lessee agrees that it shall pay and discharge all costs and expenses including attorneys' fees, court costs and expenses incurred or expended by City in collection of said delinquent amounts due including service charges.

Section 405. Notice, Place and Manner of Payments. Payments shall be made at the Office of Director at the address as set forth in Section 1101 below, or at such other place in the City of St. Louis, Missouri as City or by whatever payment method the City may reasonably determine may hereafter notify Lessee in writing and shall be made in legal tender of the United States.

Section 406. Additional Fees, Charges and Rents. Lessee shall pay additional fees, charges and rents under the following conditions:

A. If City has paid any sum or sums or has incurred any obligation or expense for which Lessee has agreed to pay or reimburse

City; or

- B. If City is required or elects to pay any sum or sums or incurs any obligations or expense because of the failure, neglect or refusal of Lessee to perform or fulfill any of the terms, covenants or conditions of this Agreement and City has provided Lessee with thirty (30) days written notification of such failure, neglect or refusal and Lessee has failed to cure or commence and diligently pursue cure of such failure, neglect or refusal within such thirty (30) day period.

Such payments shall include all interest, costs, damages and penalties in conjunction with such sums so paid or expenses so incurred and may be added to any installment of fees, charges and rent thereafter due hereunder. Each and every part of such payment shall be recoverable by City in the same manner and with like remedies as if it were originally a part of the basic fees, charges and rent, as set forth herein.

For all purposes under this paragraph, and in any suit, action or proceeding of any kind between the parties hereto, any receipt showing the payment of any sum or sums by City for any work done or material furnished at the Premises shall be prima facie evidence against Lessee that the amount of such payment was necessary and reasonable.

Section 407. Prompt Payment of Taxes and Fees. Lessee warrants, covenants and agrees to pay promptly all lawful general taxes, special assessments, excises, license fees, permit fees, and utility service charges of whatever nature, applicable to its operation at the Airport, and acquire and keep current all licenses, municipal, state or federal, required for the conduct of its business at and upon the Airport or the Premises.

ARTICLE V USE OF PREMISES

Section 501. Use. City hereby grants to Lessee, subject to all the terms, covenants, and conditions of this Agreement, permission to occupy and use the Premises for conduct of business as an In-Flight Catering Facility or Other Permitted Uses. City and Lessee expressly agree that the use of the Premises are to be solely for the purpose of an In-Flight Catering Facility or Other Permitted Uses and that all other uses are not permitted under this Agreement.

Section 502. Compliance with Laws and Regulations. Lessee shall comply with all Rules and Regulations which City or the Director may establish from time to time. In addition, Lessee shall comply with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, city, local and other governmental authorities, now or hereafter applicable to the Premises or to any adjoining public ways, as to the manner of use or the condition of the Premises or of adjoining public ways.

Lessee further agrees to abide by all federal, state, and local laws, regulations, and ordinances related to: (1) the transportation, storage, use, manufacture, generation, disposal, Discharge, spilling, or Release of Hazardous Substances and/or Extremely Hazardous Substances; (2) the transportation, storage, use, manufacture, generation, treatment, disposal, Discharge, Release, or spilling of Hazardous Wastes; (3) the transportation, storage, use, recovery, disposal, Discharge, Release or spilling of Oil or other petroleum products or derivatives; (4) the Discharge of effluents, Pollutants and/or Toxic Pollutants to publicly owned treatment works, storm water systems, or to waters of the United States or tributaries thereof; (5) the emission of any regulated substance into the air; (6) the transportation, storage, treatment, disposal, Discharge, Release, or spilling of Infectious Waste; (7) the transportation, storage, treatment, recycling, reclamation, disposal, Discharge, Release or spilling of Solid Wastes; (8) the transportation, storage, treatment, recycling, or disposal of waste tires, waste Oil, used Oil, and/or used lead-acid batteries; (9) and the operation, use, storage, removal, transportation, disposal, remediation, and compliance issues regarding any and all above ground or underground storage tanks as the owner of said storage tanks, until said storage tanks are removed by Lessee. In addition, Lessee shall promptly notify the appropriate governmental authorities and Director or his/her designee of any violation of any environmental laws that occur in connection with the Premises, and of which Lessee, its agents, employees, contractors, or invitees have actual knowledge. Lessee's failure to comply with any provision of this section or any environmental laws shall be considered a material breach of this Agreement for which City, at its sole option, and at any time, may terminate this Agreement and seek other remedies at law or in equity subject to the terms of Article X below.

Within ninety (90) days of Lessee taking beneficial occupancy of its In-Flight Catering Facility, or at such time as the Premises are converted to Other Permitted Uses, and within thirty (30) days of any additions, changes, occurrence of the following or required submittals, Lessee shall furnish a copy to the Director or his/her designee the following:

- A. Copies of all the Material Safety Data Sheets ("MSDS") for any Hazardous or Extremely Hazardous Substances, which

require an MSDS pursuant to the Hazard Communication Standard, found in 29 CFR 1200 and existing on or brought onto the Premises.

- B. Copies of all Emergency Planning Community Right-to-Know Act ("EPCRA") (Superfund Amendment Reauthorization Act, Title III) inventories filed with the Environmental Protection Agency ("EPA") for the Premises or written documentation showing that Lessee was not required to file an EPCRA inventory.
- C. Copies of all Hazardous and Special Waste manifests from waste originating or stored on the Premises.
- D. Copies of all reports documenting spills, leaks or Releases of hazardous materials, Hazardous or Extremely Hazardous Substances, or Hazardous or Special Wastes on the Premises including documentation of notification to federal, state, and local authorities which have jurisdiction. In addition, Lessee shall furnish copies of all sampling and characterization reports for sampling and characterization which was conducted on the Premises including but not limited to, soils, surface water, or ground water.
- E. Copies of all correspondence with regulatory agencies including federal, state, and local authorities which have jurisdiction in regard to environmental management of resources, i.e., air, soil, surface water, and ground water at the Premises.
- F. Copies of all environmental compliance and waste management plans including but not limited to Waste Management Plans, Waste Minimization and Pollution Prevention Awareness Plans, Waste Analysis Plans, Storm Water Pollution Prevention Plans, Health and Safety Plans, or any other environmental health and safety management plans.

Section 503. Repairs and Maintenance. Lessee shall, throughout the Term, at its own cost, and without any expense to City, keep, repair and maintain the interior and exterior, structural and non-structural portions of the Premises and the Improvements, including, without limitation the plumbing, heating, lighting, air conditioning, and other systems in connection therewith, in good and safe condition, sanitary and neat order, and will make all necessary repairs and maintenance thereto, ordinary and extraordinary, foreseen and unforeseen, and will make all necessary replacements thereto of like quality when beyond repair, including but not limited to offices, buildings, parking lots and fuel facility. Lessee shall restore, rehabilitate, or replace all Improvements that may be destroyed or damaged by fire, casualty or any other cause whatsoever. City shall not be obligated to perform any maintenance or make any repairs or replacements of any kind, nature or description, to the Premises or Improvements.

Lessee shall be responsible for all cleaning, custodial and janitorial services required to meet its obligations hereunder. Without limiting the generality of the foregoing, Lessee shall keep the exterior portions of the Premises and any of the Improvements in an orderly, neat, clean and safe condition and in good repair, and shall remove all dirt, trash, snow and ice therefrom.

Lessee shall, at its sole cost and expense, take such measures as may be necessary to keep the Premises secure and safe at all times. City shall have no obligation or responsibility to keep the Premises policed, secure or safe.

City shall be the sole and absolute judge of the adequacy of maintenance performed by Lessee, and may upon written notice, require specific maintenance work to be completed at Lessee's cost.

If, during the term hereof, it shall become necessary to perform repairs and/or maintenance on any part of the Premises affecting roads, streets or areas affecting other tenants, or the public, Lessee shall first obtain the written consent of Director and shall, without cost or expense to City, restore the affected area to the satisfaction of Director.

Lessee warrants, covenants and agrees, without cost or expense to City during the Term, to perform the following:

- A. Good Condition. Keep all of the Improvements in good and safe order and condition.
- B. Obstruction Lights. Provide and maintain obstruction lights and all similar equipment or devices now or at any time required by any applicable law or ordinance, or any municipal, state or federal regulation.
- C. Housekeeping of Premises. Provide for complete, proper and adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse caused as a result of the operation as an In-Flight Catering Facility or Other Permitted Uses; provide and use suitable, covered metal receptacles for all garbage, trash and other refuse on or about the Premises; and not store boxes, cartons, crates, drums or the like on the outside of any of the Improvements existing on the Premises, except in screened areas as provided in Section 503G below, or dump any waste matter of any nature, in a liquid

state or otherwise, on the Premises nor permit contamination of the sewers or the Airport's drainage control system.

- D. Maintenance of Buildings and Structures. Maintain all buildings and structures on the Premises to prevent exterior or interior damage from water or other elements. This requirement includes immediate replacement of broken windows, doors and locks with like materials.
- E. Care of Premises and Streets. Keep all papers and debris picked up from the Premises and sweep the pavements thereon as often as necessary to keep clean, and keep all grass mowed, and shrubbery and other plantings pruned, trimmed and maintained to high standards. Provide for essential street, walkways and pavement maintenance within the Premises and, in addition, provide for snow and ice removal within the Premises to allow, at a minimum, emergency or fire protection access.
- F. Drainage Facilities. Comply with the Airport's Storm Water Detention Design Criteria and Guidelines dated December 1986 as revised from time to time, as well as comply with any and all applicable federal, state, and municipal regulations. Lessee shall establish a system of periodic inspection, cleaning and maintenance to keep watercourses, catch basins and other drainage structures on the Premises functioning at full design capacity. Inspections, cleaning and maintenance intervals shall be estimated by the Director with reports to be submitted within thirty (30) days of each inspection, cleaning and maintenance. Lessee shall see that special care is taken to pile removed snow in a location that will permit the water generated by the melting of such snow piles to flow into the drainage system of the Premises.
- G. Storage. No unscreened storage will be permitted on the exterior areas of the Premises.
- H. Environmental Responsibilities. Lessee shall, in the event of a spill or Release on the Airport of a Hazardous or Extremely Hazardous Substance or Oil product in a Reportable Quantity (as defined in Section 101) notify federal, state, and local regulatory agencies which have jurisdiction and the Director or his/her designee immediately. In the event the spill or Release is less than a Reportable Quantity Lessee shall notify the Director or his/her designee immediately of all spills or Releases of Hazardous or Extremely Hazardous Substances or Oil products.

Lessee shall be responsible for defining the nature and the extent of the spill or Release and for remediation of the affected media to standards specified in *MDNR Clean Up Levels for Missouri (CALM), September, 1998* as revised or amended. Lessee shall forward copies of generated reports, notifications, and clean up verification, to the Director or his/her designee within thirty (30) days of completion.

Lessee hereby assumes all responsibility and liability related to or arising from any and all obligation for environmental protection, compatibility and responsibility related to, arising from or out of the Lessee's use of the Premises or its operations.

Section 504. Right to Enter, Inspect and Make Repairs. City and its authorized officers, employees, agents, contractors, subcontractors and other representatives shall have the right (at such times as may be reasonable under the circumstances and with as little interruption of Lessee's operations as is reasonably practicable) to enter upon and in the Premises for the following purposes:

- A. To inspect such Premises during normal business hours upon not less than forty-eight (48) hours prior notice (except during any construction being performed and then upon twenty-four (24) hours prior notice, or, alternatively, except during any emergency, and then at any time) to determine whether Lessee has complied and is complying with the terms, covenants and conditions of this Agreement.
- B. To perform any work therein that may be necessary by reason of Lessee's failure to make any repairs or perform any work or maintenance required of Lessee under this Agreement; provided, however, that except in cases of emergency, City shall give Lessee notice of such failure, and shall not perform such work unless Lessee has failed to do so within thirty (30) days after receipt of such notice. Lessee shall pay all reasonable costs and expenses related to such work plus a charge of fifteen percent (15%) for overhead to City immediately upon demand thereof. Nothing herein shall imply any duty on the part of City to perform such inspections, make any repairs or perform any work on the Premises, and the performance thereof by City shall not constitute a waiver of Lessee's default in failing to make any repairs or performing any work required of Lessee under this Agreement. City shall not in any event be liable for cessation of revenues, inconvenience, annoyance, disturbance, loss of profits or any other damage or loss whatsoever to Lessee or any other party by reason of making such repairs or performing such work or maintenance on the Premises or on account of bringing materials, supplies and equipment onto or through the Premises during the course thereof, and the obligations and duties of Lessee under this

Agreement shall not thereby be waived or affected in any manner whatsoever. City shall, however, make any such repairs or conduct any such work under this Section in a reasonable manner so as to minimize any interference with the conduct of Lessee's business at the Premises.

- C. To make inspections, testings, reports, surveys, environmental inspections, studies and assessments as City in its sole and absolute discretion may determine to make. City shall, however, make any inspections, testings, reports, surveys, environmental inspections, studies and assessments in a reasonable manner so as to minimize any interference with the conduct of Lessee's business at the Premises.

Section 505. Utilities. Lessee shall provide for and pay for all utilities used on the Premises.

Section 506. Interference to Air Navigation. Lessee agrees that no obstruction to air navigation, as such are defined from time to time by application of the criteria of FAR Part 77 or subsequent and additional regulations of the FAA, will be constructed or permitted to remain on the Premises. Any obstructions will be immediately removed by Lessee at its expense. Lessee agrees not to increase the height of any structure or objects or permit the growth of plantings of any kind or nature whatsoever that would interfere with the line of sight of the control tower and its operations. Lessee further agrees not to install any structures, objects, machinery or equipment that would interfere with operation of navigation aides or that would interfere with the safe and efficient operations of the Airport, or interfere with the operations of other tenants and users of the Airport.

ARTICLE VI LESSEE'S OPERATIONS

Section 601. Standards of Service. In regard to an In-Flight Catering Facility, Lessee shall furnish a first class, full service operation serving the needs of users of the Airport, and offer high quality, prompt and efficient services that are adequate to meet all reasonable demands thereof at the Airport on a fair, equal and nondiscriminatory basis to all categories of users and in a manner that will reflect credit upon Lessee and City. Lessee shall provide quality services and products and shall equip, organize, put into service and manage efficiently their In-Flight Catering Facility. In regard to Other Permitted Uses, Lessee will provide quality services and products on a non-discriminatory basis to its customers and in a manner that will reflect credit upon Lessee and City.

Section 602. Manager. Lessee shall at all times retain one or more qualified, competent and experienced managers who shall manage and supervise the operations and the facilities and represent and act for Lessee. The manager shall ordinarily be available during regular business hours. A responsible subordinate shall be in charge and available at all times during the manager's absence.

Section 603. Transition Period. During any future transition of the Premises to another lessee, if applicable, Lessee does hereby warrant, represent and agree to use its best efforts to assure a smooth transition. Lessee agrees to closely coordinate the planning and execution of the transition with the Director.

Section 604. Operation.

- A. Lessee shall be responsible for all aspects of the management and operation of the In-Flight Catering Facility and the management and operation of the Other Permitted Uses authorized by this Agreement. Further, Lessee will provide and is responsible for all employees and necessary components of the operation, including inventory, fixtures, equipment and supplies, as the case may be.
- B. City shall not be responsible for any goods, merchandise or equipment used, maintained or stored at the facility, nor will it be responsible for damage to such goods or merchandise resulting from flood, fire, explosion, vandalism or other causes outside the control of City.

Section 605. Communication.

- A. Lessee shall be available for meetings with Airport personnel as necessary upon forty-eight (48) hours prior written notice.
- B. Lessee shall be responsible for notifying the Airport Properties Department of any problem, which substantially impairs Lessee's operation.

**ARTICLE VII
CONSTRUCTION OR ALTERATION OF IMPROVEMENTS**

Section 701. Construction or Modification By Lessee.

- A. Lessee covenants and agrees that it shall, at its sole cost and expense, construct or cause to be constructed, and such construction to be completed on or around March 1, 2003, an In-Flight Catering Facility on the Premises in accordance with plans and specifications prepared by Lessee and approved by the Director subject to the requirements of this Article VII. Lessee may, at its sole cost and expense, following the completion of the In-Flight Catering Facility, construct or modify improvements as would be customary to an In-Flight Catering Facility or Other Permitted Uses on the Premises in accordance with plans and specifications prepared by Lessee and approved by the Director subject to the requirements of this Article VII.
- B. Lessee agrees that all such work shall be completed according to the Tenant Design Standards, which are filed of record in the Office of the Director.
- Lessee shall submit a signed Tenant Construction or Alteration Application ("TCA") including complete construction drawings and specifications, as required by Section 702 below, to the Airport Properties Department.
 - Lessee shall submit to the Airport Properties Department a building permit number from any and all municipalities, political jurisdictions and regulatory agencies not more than thirty (30) days following submission of the TCA. (A building permit number is required prior to the start of any construction or modification by Lessee.)
 - Lessee shall submit the contractor's liability insurance certificates and performance and payment bonds, required by Sections 705 and 706 below, to the Airport Properties Department not more than forty-five (45) days following the TCA approval by the Airport Properties Department and prior to beginning of work.
 - Lessee shall submit to the Airport Properties Department a copy of an occupancy permit from any and all municipalities, political jurisdictions and regulatory agencies, as required by Section 707 below, prior to occupancy.
 - Lessee shall submit to the Airport Properties Department, if applicable, an original copy of the Environmental Impact Statement from any and all municipalities, political jurisdictions and regulatory agencies not more than thirty (30) days following submission of the TCA. (An Environmental Impact Statement maybe required before the TCA can be approved.)

Section 702. Preparations of Plans and Specifications. Lessee shall submit detailed drawings, plans and specifications for improving and equipping the Premises. Lessee will begin work on proposed improvements only after it has received the written approval of its plans and specifications from the Director or his/her designee.

Section 703. Federal Aviation Administration Review. All preliminary plans, prior to commencement of working drawings and specifications, shall be submitted to the FAA for review and approval, as may be required, with a copy to the Airport Properties Department. The preliminary plans shall show plot plans, buildings and other structures and improvement locations and their elevations, and shall indicate proposed exterior materials and finishes on all structures. It shall be the responsibility of Lessee to file all necessary alteration and construction forms with the FAA for review and approval, as may be required, with a copy to the Airport Properties Department.

Section 704. Landscaping and Screening. Lessee shall provide and install appropriate landscaping and screening, including lawn, shrubbery, trees, bushes, vines and other plantings and screenings on the Premises as a part of the construction of any of the Improvements. All proposed landscaping plans and screening designs shall be submitted to Director for review and approval. Lessee further agrees to provide any further landscaping and fencing that may be required, during the term hereof, by Director, for the purposes of screening from view any area of the Premises.

Section 705. Contractor's Liability Insurance. In any construction contract appertaining to the Premises, Lessee shall require the contractor to cause City, its Board of Aldermen, Airport Commission and their respective officers, agents, and employees, to be insured against the risk of claims and demands, just and unjust, by third parties against City, its Board of Aldermen, Airport Commission and their respective officers, agents and employees, against and from all such claims and demands, with bodily injury limits of not less than \$2,000,000 as to any one person and \$3,000,000 as to any one occurrence, and with property damage limits

of not less than \$3,000,000 as to any one occurrence. Said insurance shall be in a form agreeable to City, and Certificates showing proof of coverage shall be delivered to the Director.

Section 706. Performance and Payment Bonds. In order to insure the completion of new construction or modifications, and the payment of all laborers and material suppliers of projects costing in excess of \$10,000, Lessee shall require each of its contractors and suppliers of construction materials to furnish Performance and Payment Bonds in the full amount of any contract in a form acceptable to City. The Payment Bond shall comply with the coverage requirements and conditions of Section 107.170 R.S.Mo. (1994, as amended). Copies of the bonds shall be given to City for approval before work begins. Any sum or sums derived from said Performance and Payment Bonds shall be used, as the case may be, for the completion of said construction and/or the payment of laborers and material suppliers.

Section 707. Certificates of Completion. Upon the completion of the improvements hereunder, Lessee shall submit to Director a copy of its acceptance letter certifying completion, and a copy of any certificate or permit which may be required by any federal, state or local government or agency in connection with the completion or occupancy thereof by Lessee.

Lessee at its cost shall deliver to City duplicate copies of "as constructed" plans and specifications of the new facilities on the Premises within sixty (60) days after the date on which Lessee has certified completion thereof.

Section 708. Signs. Lessee agrees that no signs or advertising display shall be painted on or erected in any manner upon the Premises without the prior written approval of Director, and that such signs shall conform to reasonable standards established by Director with respect to wording, type, size, design, color and location.

Section 709. Title to Improvements and Fixtures. Title to the Premises and all Improvements constructed or placed in or on the Premises by Lessee including all alterations, modifications and enlargements thereof shall become part of the Premises with title vesting in City upon expiration or earlier termination of this Agreement; subject however to Lessee's obligations to operate, repair, maintain, ensure, and replace and Lessee's right of possession and use and occupancy during the term in accordance with this Agreement.

Section 710. Mechanics' and Materialmen's Liens. Lessee agrees not to permit any mechanics' or materialmen's lien or any other lien to be foreclosed upon the Premises or any part or parcel thereof, or the Improvements thereon, by reason of any work or labor performed or materials furnished by any mechanic or materialman or for any other reason.

ARTICLE VIII INSURANCE AND INDEMNIFICATION

Section 801. Liability Insurance. Lessee shall obtain, at its sole expense and maintain at all times during the Term, liability insurance, on an occurrence basis, against the risk of all claims and demands by third persons for bodily injury (including wrongful death) and property damage arising or alleged to arise out of the activities of Lessee, its officers, agents, employees, consultants, contractors, licensees, independent contractors and invitees pursuant to this Agreement under the following types of coverage:

- A. Commercial General Liability- \$3,000,000 Combined Single Limit; and
- B. Comprehensive Automobile Liability (any vehicles, including hired and non-owned vehicles \$3,000,000 Combined Single Limit

The minimum limits of coverage for the above classes of insurance shall equal a combined single limit as shown above or be comprised of such primary and excess policies of insurance as Lessee finds it feasible to purchase during the Term.

Insofar as said insurance provides protection against liability for damages to a third party for bodily injury, death and property damage, City and its Board of Aldermen, Airport Commission, officers, agents and employees shall be named as "Additional Insured". Such liability insurance coverage shall also extend to damage, destruction and injury to City-owned or leased property and City personnel, and caused by or resulting from work, acts, operations, or omissions of Lessee, its officers, agents, employees, consultants, contractors, licensees, independent contractors, and invitees. In addition, such insurance shall include contractual liability insurance sufficient to cover Lessee's indemnity obligation hereunder. City, its officers, employees and agents shall have no liability for any premiums charged for such coverage, and the inclusion of City, and its Board of Alderman, Airport Commission, officers, employees and agents as Additional Insured is not intended to, and shall not, make City, its officers, employees and agents a partner or joint venture partner with Lessee in its operations hereunder.

Section 802. Property Insurance. Lessee shall, at all times during the Term, and at Lessee's sole expense, keep all insurable Improvements which are existing or may be hereafter erected on the Premises insured against loss, damage or destruction by fire, lightning, extended coverage or other casualty and vandalism hazards for one hundred percent (100%) of the full replacement value of such Improvements, with loss payable to Lessee and to City as an Additional Insured. Any loss adjustment shall require the written consent of both Lessee and City. Such property insurance shall include loss of use coverage.

Insofar as said insurance provides protection against liability for damages to a third party for bodily injury, death and property damage, City and its Board of Aldermen, Airport Commission, officers, agents and employees shall be named as "Additional Insured". Such property insurance coverage shall also extend to damage, destruction and injury to City-owned or leased property and City personnel, and caused by or resulting from work, acts, operations, or omissions of Lessee, its officers, agents, employees, consultants, contractors, licensees, independent contractors, and invitees and contractual liability. City, its officers, employees and agents shall have no liability for any premiums charged for such coverage, and the inclusion of City, and its Board of Alderman, Airport Commission, officers, employees and agents as Additional Insured is not intended to, and shall not, make City, its officers, employees and agents a partner or joint venture partner with Lessee in its operations hereunder.

Section 803. Workers' Compensation. Lessee shall obtain, at its sole expense and maintain at all times during the Term for its employees working on Airport Premises Workers' Compensation insurance coverage at least at the statutory limits applicable to Lessee's operations in the State of Missouri.

Section 804. Waiver of Subrogation. Lessee, on behalf of itself and its insurers, hereby waives any claim or right of recovery from City, its Board of Aldermen, Airport Commission, officers, employees and agents for loss or damage to Lessee or its property or the property of others under Lessee's control, to the extent that such loss is covered by valid insurance policies or could be covered by an "all risk" physical damage property insurance policy. Lessee shall provide notice of this waiver of subrogation to its insurers.

Section 805. Evidence of Insurance. Certificates, or other evidence of insurance coverage and special endorsements required of Lessee in this Article VIII., shall be delivered to Director in form and content satisfactory to City.

At least fifteen (15) days prior to the expiration of any such policy, Lessee shall submit to Director a certificate showing that such insurance coverage has been renewed. If such coverage is canceled or reduced, Lessee shall within fifteen (15) days after the date of such written notice from the insurer of such cancellation or reduction in coverage, file with Director a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies.

All policies of insurance required of Lessee herein shall be in a form and with a company or companies reasonably approved by City, and qualified to do insurance business in the State of Missouri. Each such policy shall provide that the policy may not be materially changed, altered or canceled by the insurer during its term without first giving thirty (30) days written notice to Director. Each such insurance policy shall also provide primary coverage to City when any policy issued to City provides duplicate or similar coverage and in such circumstances, City's policy will be excess over Lessee's policy.

Lessee and City understand and agree that the minimum limits of the insurance herein required may become inadequate, and Lessee agrees that it will increase such minimum limits upon receipt of notice in writing from Director. Such notices to change shall, in general, be issued with no more frequency than every fifth year of this Agreement term; however, Director may, at any time, take note of indemnification awards being granted by the courts and direct a reasonable increase in the minimum limits of the insurance requirements at any time during the term hereof. City shall provide Lessee with such written notice and Lessee shall comply within sixty (60) days without any adjustment to the rents and fees set forth in this Agreement.

Section 806. Indemnification.

- A. Lessee shall protect, defend, and hold St.Louis County, City, its Board of Aldermen, Airport Commission, officers, agents and employees completely harmless from and against all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorneys' fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this Agreement and/or the use or occupancy of the Premises or the acts or omissions of Lessee's officers, agents, employees, contractors, subcontractors, licensees, independent contractors or invitees regardless of where the injury, death, or damage may occur, unless such injury, death or damage is caused by the sole negligence or willful misconduct of City. Director or his/her designee shall give to Lessee reasonable notice of any such claims or actions. Lessee shall also use counsel reasonably acceptable to the City Counselor of City or his/her designee, after consultation with Director or his/her designee in carrying out its obligations hereunder.

- B. Lessee shall protect, indemnify, defend, and hold harmless St. Louis County, City and its Board of Aldermen and the Airport Commission and its officers, agents and employees against any lawsuits, administrative proceedings, claims, or administrative or judicial orders for any liability, cost, expenditure, injury, damage, penalty, or fine arising from or relating to Lessee's and its officers, agents, employees, consultants, contractors, subcontractors, licensees, independent contractors, guests, patrons or invitees use, manufacture, generation, production, treatment, storage, transportation, disposal, Discharge, Release, or spilling, into or onto the air, water, soil, sewer system, or similar media of any Hazardous Substance, Extremely Hazardous Substance, Hazardous Waste, Solid Waste, Oil, petroleum product or derivative, Pollutant, Toxic Pollutant, toxic substance, or other chemical substance or material subject to federal, state, or local regulation, whether accidental or intentional, which occurs on or from the Premises during the term of this Agreement or during the Lessee's occupancy, use, or entry upon the Premises. Lessee's obligations and liabilities under this paragraph shall continue so long as Lessee or City bears any liability or responsibility under any federal, state or local environmental laws, or other law, for any action or omission, and the consequences thereof, that occurred on or about the Premises during the term of this Agreement. This indemnification of City by Lessee includes, without limitation, all costs and expenses related to the sampling, testing, investigation, clean up, removal, remediation, decontamination, or restoration of the Premises and other affected areas, including, but not limited to, air, land, soil, or underground or surface water, as required by any federal, state, or local law, regulation, or ordinance, whether prompted by governmental action or private action, and also includes the costs of legal representation in connection with such sampling, testing, investigation, cleanup, removal, remediation, decontamination, or restoration of the Premises and other affected areas. Director or his/her designee shall give to Lessee reasonable notice of any such claims or actions. Lessee shall also use counsel reasonably acceptable to the City Counselor of City or his/her designee, after consultation with Director or his/her designee in carrying out its obligations hereunder.
- C. The provisions of this section shall survive the expiration or early termination of this Agreement.

Section 807. Adjustment of Claims. Lessee shall provide for the prompt and efficient handling of all claims for bodily injury, property damage or theft arising out of the activities of Lessee under this Agreement.

Section 808. Occupancy of Premises. Lessee agrees that it will not permit any act of omission or commission or condition to exist on the Premises which would increase the City's premium rate of insurance thereon or invalidate any such insurance.

ARTICLE IX ASSIGNMENT, SUBLETTING AND HYPOTHECATION OF LEASEHOLD ESTATE

Section 901. Assignment and Subletting. Lessee may assign this Agreement by first obtaining the written approval of the Director and the Airport Commission and said approvals shall not be unreasonably withheld, delayed, or conditioned. At least one hundred twenty (120) days prior to any contemplated assignment of this Agreement, Lessee shall submit a written request to the Director. The assignment request to the Director must include a copy of the proposed assignment agreement. No assignment shall be made or shall be effective unless Lessee shall not be in default on any of the terms, covenants and conditions herein contained. No assignment shall be effective as it pertains to the City until such time as the Director receives a fully executed copy of the approved assignment agreement as provided for above. The party to whom such assignment is made shall expressly assume in writing the terms, covenants and conditions contained in this Agreement, however, such assignment shall not release Lessee from any of the terms, covenants, conditions or obligations of this Agreement.

Any such assignment without the consent of City as provided for above shall constitute a default on the part of Lessee under this Agreement. No action or failure to act on the part of any officer, agent, or employee of City shall constitute a waiver by City of this provision of this Agreement.

Lessee may sublet the Premises with the prior written approval of Director. At least ninety (90) days prior to any contemplated sublease of all or any part of the Premises, Lessee must submit in writing a request to Director. This request must include a copy of the proposed sublease. Any sublease for space or granting of rights acquired hereunder shall be subject to the review and prior written approval of Director, which shall not be unreasonably withheld, delayed or conditioned. Such a sublease must require at a minimum: (1) strict compliance with all provisions of this Agreement and (2) a provision that the Sublessee will use the facilities solely for the purposes authorized in this Agreement. No sublease shall be effective as it pertains to the City until such time as the Director receives a fully executed copy of the sublease agreement.

The parties understand and agree that Lessee is responsible for the performance of its Sublessees and assigns under this Agreement. Lessee agrees to initiate and take all corrective action should a Sublessee or assignee fail to comply with its contract with Lessee or any provision of this Agreement. Notwithstanding any assignment or sublease, lessee shall not be released from the obligation to

perform each of the terms, covenants, and conditions of this Agreement whether arising before or after the date of such assignment or sublease. In the event of a default by the Lessee, the City within its sole and absolute discretion may, in writing, require that the Sublessee enter into a "Non-Disturbance and Attornment Agreement" with the City in a form reasonably acceptable to City to preserve the subtenancy.

Section 902. Hypothecation of Leasehold Estate.

- A. Lessee is hereby given the right, at any time and from time to time, to mortgage its leasehold estate in the Premises (but in no event the fee), provided that at the time such mortgage is made, Lessee is not then, or but for the passage of time would be, in default under this Agreement. All such leasehold mortgages shall be subject and subordinate to the rights of City hereunder. As used in this Section and throughout this Agreement, the noun "mortgage" shall include a deed of trust, the verb "mortgage" shall include the creation of a deed of trust, the word "mortgagee" shall include the beneficiary under a deed of trust, and the terms "foreclosure" shall include a trustee's sale under a deed of trust as well as a foreclosure by judicial process.
- B. No mortgagee of Lessee shall be deemed to be a mortgagee hereunder unless it is a bank, trust or insurance company, a savings and loan association, a pension fund, or any other monetary or lending institution authorized to make leasehold mortgage loans, unless the City otherwise so approves in writing. Nothing herein shall be deemed to restrict the right of any mortgagee to sell or assign its mortgage to a like institution. No mortgagee shall be entitled to enforce any right or remedy provided for herein or by law, or be entitled to any privileges accorded a mortgagee under this agreement, unless and until a photocopy of the executed mortgage or an executed counterpart of such mortgage shall have been delivered to City, along with the name and address to which notices are to be sent to mortgagee, notwithstanding any other form of notice, actual or constructive deemed given to the City.
- C. Notwithstanding any other provisions contained in this Agreement, there shall be no cancellation, modification, surrender or amendment of this Agreement without the written consent of the mortgagee, which consent shall not be unreasonably withheld, delayed, or conditioned, provided that nothing herein shall limit the City's right to terminate this Agreement upon the terms and conditions hereinafter set forth, subject, however, to Subsections D, E, and F of this Section.
- D. City shall not be empowered to terminate this Agreement by reason of the occurrence of any default hereunder unless City shall have served upon mortgagee a copy of the City's notice to Lessee of such default, within five (5) days after notice is given to Lessee and addressed to the mailing address last furnished by the mortgagee to the City.
- E. City hereby agrees to accept, performance by any such mortgagee of any term, covenant, agreement, provision, condition or limitation on Lessee's part to be performed as though performed and observed by Lessee, provided such performance by said mortgagee shall occur within thirty (30) days after the last date for such performance as otherwise prescribed therefore in this Agreement
- F. In the event of a default by Lessee under this Agreement which cannot be cured by a mortgagee without first obtaining possession of the Premises, then, and notwithstanding any other provision contained in this Agreement excepting only Subsection G below, City shall not terminate this Agreement, by reason of such default if (i) said mortgagee, within the grace period set forth in Subsection E, shall have commenced, and thereafter diligently proceeds with, an appropriate proceeding to foreclose such mortgage and (ii) said mortgagee shall have cured such default within thirty (30) days following mortgagee's obtaining possession of the Premises.
- G. During the pendency of any foreclosure proceedings, mortgagee shall fully perform all the obligations of Lessee under this Agreement that can be performed by such mortgagee without possession of the Premises including, but not limited to, payment of all rent and any and all other moneys due and payable by Lessee under this Agreement Upon mortgagee obtaining possession of the Premises during the time that mortgagee is enforcing its foreclosure remedy or as a result thereof, mortgagee shall fully perform all of Lessee's obligations under this Agreement and mortgagee shall be deemed to have acquired all of Lessee's rights, title, and interest in, to, and under this Agreement and shall be obligated to perform all of the Lessee's terms, covenants, agreements, provisions and conditions to be performed by Lessee hereunder.:
- H. In the event such mortgagee acquires title to the leasehold estate of Lessee, then, provided said mortgagee has cured all defaults, if any, under this Agreement, City shall, upon written request of mortgagee deliver a new lease of the Premises to mortgagee or its nominee. The new lease (whether it be granted to the mortgagee or its nominee) shall have a term equal to the remainder of the term of this Agreement and shall be at the rent then in effect and upon the terms and conditions

herein contained, except for requirements which are no longer applicable or have already been performed. Mortgagee shall have the right to a new lease as set forth above provided that mortgagee shall reimburse City for all of City's expenses, including attorneys' fees, incident to such efforts. It is understood and acknowledged that said new lease must be approved by the City's Airport Commission and the Board of Estimate and Apportionment, and authorized by the City's Board of Aldermen, and such approvals shall not be unreasonably withheld, delayed, or conditioned.

- I. Prior to commencement of any proceeding to foreclose the mortgage, the mortgagee, or any assigns of the mortgagee, shall, at least forty-five (45) days prior to any scheduled foreclosure sale, notify City in writing of the default by Lessee under the mortgage with a statement of the amount then due and shall withhold any acceleration of maturity of the indebtedness which is secured by the mortgage. City may (without any obligation to do so) pay to said mortgagee all amounts then in arrears on said mortgage; and upon such payment the mortgage shall be reinstated in all respects as if no default had occurred. City may, at its option, make such payments on said mortgage, and the amounts of such payments shall be considered additional rent due by Lessee to City under this Lease and shall be due and payable on demand. Subsequent and successive defaults by Lessee in making payments required by any mortgage shall be subject to the foregoing provisions each time any such default occurs. No judgment foreclosing the mortgage and the foreclosure sale thereunder nor a trustee's sale nor any assignment contemplated herein shall release Lessee from any of its obligations herein set forth. Nothing herein shall obligate the City to make any payments as authorized hereunder, and the City shall be permitted to cease making any such payments in its sole discretion.
- J. Upon the written request of any mortgagee or prospective mortgagee, and for the exclusive benefit of said mortgagee, the Director on behalf of the City will promptly deliver to said mortgagee a certificate setting forth: (a) that this Agreement is unmodified and in full force and effect (or if there have been modifications that the Agreement is in full force and effect, as modified, and stating the modification), (b) the dates, if any, to which Rent, additional charges and other sums payable hereunder have been paid, and (c) that there are no defaults under this Agreement by City or Lessee, as the case may be, except such defaults, and events but for the passage of time would constitute a default, as may be specified in such certificate. Any such certificate may be relied upon by any permitted purchaser or encumbrancer of Lessee's leasehold estate.

**ARTICLE X
TERMINATION OF AGREEMENT IN ENTIRETY BY REASON OF DEFAULT**

Section 1001. City's Right to Terminate. City, acting by and through its Director, may declare this Agreement terminated in its entirety, in the manner provided in Section 1003 hereof, upon the happening of any one or more of the following events:

- A. If the rent, fees, charges, or other money payments which Lessee herein agrees to pay, or any part thereof, shall be unpaid after the date the same shall become due.
- B. If, during the Term, Lessee shall:
1. Apply for, or consent to the appointment of a receiver, trustee, or liquidator of all or a substantial part of its assets;
 2. File a voluntary petition in bankruptcy, or admit in writing its inability to pay its debts as they come due;
 3. Make a general assignment for the benefit of creditors;
 4. File a petition or an answer seeking reorganization or arrangement with creditors or to take advantage of an insolvency law;
 5. File an answer admitting the material allegations of a petition filed against any Lessee, assignee or sublessee in any bankruptcy, reorganization or insolvency proceedings; or if during the Term an order, judgment or decree shall be entered by any court of competent jurisdiction, or the application of a creditor, adjudicating Lessee a bankrupt or insolvent, or approving a petition seeking a reorganization of Lessee, and such order, judgment or decree shall continue unstayed and in effect for any period of ninety (90) consecutive days.
- C. If Lessee shall have failed in the performance of any term, covenant or condition herein required to be performed by Lessee.

On the date set forth in the notice of termination, the Term and all right, title and interest of Lessee shall expire, except as otherwise provided in Section 1003 hereof.

Failure of City to take any authorized action upon default by Lessee of any of the terms, covenants or conditions required to be performed, kept and observed by Lessee shall not be construed to be or act as a waiver of default or in any subsequent default of any of the terms, covenants and conditions herein contained to be performed, kept and observed by Lessee. The acceptance of monies by City from Lessee for any period or periods after a default by Lessee of any of the terms, covenants and conditions herein required to be performed, kept and observed by Lessee shall not be deemed a waiver, or release, or estopping of any right on the part of City to terminate this Agreement for failure by Lessee to so perform, keep or observe any of said terms, covenants or conditions.

Section 1002. Lessee's Right to Terminate. Lessee, at its option, may declare this Agreement terminated in its entirety, in the manner provided in Section 1003 hereof for the following causes:

- A. If a court of competent jurisdiction issues an injunction or restraining order against City preventing or restraining the use of the Airport for Airport purposes in its entirety or substantial entirety.
- B. If City shall have abandoned the Airport for a period of at least one hundred and twenty (120) days and shall have failed to operate and maintain the Airport in such manner as to permit landings and takeoffs of airplanes.
- C. In the event of destruction of all or a material portion of the Airport or the Airport facilities, or in the event that any agency or instrumentality of the United States Government or any state or local government shall occupy the Airport or a substantial part thereof, or in the event of military mobilization or public emergency wherein there is a curtailment, either by executive decree or legislative action, of normal civilian traffic at the Airport or of the use of motor vehicles or airplanes by the general public, and any of said events shall result in material interference with Lessee's normal business operations or substantial diminution of Lessee's gross revenue from the operation at the Airport, continuing for a period in excess of one hundred and twenty (120) days.
- D. If City shall have failed in the performance of any term, covenant or condition within the control of City and herein required to be performed by City.

Section 1003. Procedures for Termination. No termination declared by either party shall be effective unless and until not less than forty-five (45) days have elapsed after notice by either party to the other specifying the date upon which such termination shall take effect, and the cause for which this Agreement is being terminated and no such termination shall be effective if such cause of default is cured within said forty-five (45) day period, or if by its nature cannot be cured within such forty-five (45) day period, and if the party at default commences to correct such default within said forty-five (45) days and corrects the same as promptly as is reasonably practicable.

In the event that suit shall be instituted by City upon the default of payment of charges and fees as provided herein, then Lessee agrees also to pay a reasonable attorneys' fee, court costs and expenses.

Section 1004. Rights Cumulative. It is understood and agreed that the rights and remedies of City and Lessee specified in this Article are not intended to be, and shall not be exclusive of one another or exclusive of any common law right of either of the parties hereto.

ARTICLE XI MISCELLANEOUS PROVISIONS

Section 1101. Notice. Except as herein otherwise expressly provided, all notices required to be given to any party hereunder shall be in writing and shall be delivered personally, or shall be sent by United States registered or certified mail, return receipt requested, postage pre-paid, or shall be sent by overnight courier or facsimile transmission confirmed by the mailing (by first class or express mail, postage prepaid) written confirmation at substantially the same time as such facsimile transmission; and shall be addressed to the parties at the respective addresses as set forth below. A party may change its address for receipt of notice by service of notice of such change in accordance herewith. Notice shall be deemed received in the case of personal delivery, when delivered, in the case of overnight courier, on the next Business Day after delivery of such service, in the case of facsimile transmission, upon transmission, and in case of mailing, on the third day after mailing (or if such days is a day on which deliveries of mail are not made, on the next succeeding day on which deliveries of mail are made).

If to City: Director of Airports
St. Louis Airport Authority
P.O Box 10212
10701 Lambert International Blvd
St. Louis, MO 63145
Fax (314) 426-1221

With a copy to: Airport Properties Division Manager
St. Louis Airport Authority
P.O Box 10212
10701 Lambert International Blvd
St. Louis, MO 63145
Fax (314) 426-8076

If to the Lessee: Mr. Carl I. Jacobson
Vice President Legal
Gate Gourmet, Inc.
5100 Poplar Ave, 11th Floor
Memphis, TN 38137
Fax (901) 766-3848

With a copy to: Edward J. Griesedieck, III, Esq.
Herzog, Crebs & McGhee, LLP
One City Centre, 24th Floor
515 North Sixth Street
St. Louis, MO 63101-2409
Fax (314) 231-4656

Section 1102. Environmental Notice. Lessee shall immediately notify the Director or his/her designee and shall provide a written summary report within thirty (30) days for 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 or affecting the Premises, (b) any change in Lessee's operation on or affecting the Premises that will change or has the potential to change Lessee's or City's obligations or liabilities under the environmental laws, (c) any disposal, Release, or spill of a Hazardous Substance, Extremely Hazardous Substance, Hazardous Waste, Solid Waste, Oil, petroleum product or derivative, Infectious Waste, Pollutant, Toxic Pollutant, toxic substance, or chemical substance or material subject to federal, state, or local regulation; and (d) any breaches, of any nature, of any environmental laws.

Lessee's failure to comply with any provision of this section shall be considered a material breach of this Agreement for which City, at its sole option, and at any time, may terminate this Agreement and seek appropriate remedies at law or in equity, subject to the terms of Article X above.

Section 1103. Condemnation.

- A. Total Take - If the whole of the demised Premises or Lessee's Improvements should be taken by the exercise of the power of eminent domain by any public entity including City, then in such case this Agreement shall terminate as of the date of vesting of title in the condemning authority.
- B. Partial Take - If less than the whole of the demised Premises should be taken in a condemnation proceeding, then this Agreement shall terminate only as to that portion of the demised Premises so taken as of the date of the vesting in the condemning authority of title to such portion, but this Agreement shall remain in full force and effect with respect to that portion of the demised Premises not so taken, provided that the Director and the Lessee, after good faith discussions, determine that the remainder of the demised Premises may be feasibly used for the purposes contemplated by this Agreement.
- C. Possession by Lessee - Notwithstanding any termination of this Agreement in whole or in part under Paragraphs A and B of this Section, Lessee may remain in possession of each portion of the demised Premises as shall be so taken at the rent herein provided, until the condemning authority shall require Lessee to surrender such possession. Any rent or charge in

the nature of rent which Lessee is required to pay to the condemning authority in consideration of such remaining in possession shall be paid by Lessee and shall reduce "pro tanto" the obligation of Lessee to payment hereunder.

Section 1104. Conditions of Default. This Agreement shall be considered in default when Lessee fails to fulfill any of the terms, conditions, or covenants of this Agreement, subject to Article X above.

Section 1105. Non-Discrimination and Affirmative Action Program.

- A. Lessee hereto understands and agrees that City in operation and use of Lambert-St. Louis International Airport will not on the grounds of race, creed, color, religion, sex, national origin or ancestry, discriminate or permit discrimination against any person or group of persons in a manner prohibited by Part 21 of the Federal Aviation Regulations of the Office of the Secretary of Transportation. Lessee hereby agrees that its Premises shall be posted to such effect as required by such regulation.
- B. Lessee agrees that in performing under this Agreement, neither he nor anyone under his control will permit discrimination against any employee, worker or applicant for employment because of race, creed, color, religion, sex, national origin or ancestry. Lessee will take affirmative action to insure that applicants are employed and that employees are treated fairly without regard to race, creed, color, religion, sex, national origin or ancestry. Such action must include, but shall not be limited to action to bar, employ, upgrade or recruit; expel, discharge, demote or transfer; layoff, terminate or create intolerable working conditions, rates of pay or other forms of compensation and selection for training including apprenticeship.
- C. Lessee will in all printed or circulated solicitations or other advertisement or publication for employees placed by or on behalf of Lessee state that all qualified applicants shall receive meaningful consideration for employment without regard to race, creed, color, religion, sex, national origin or ancestry. All advertisements or solicitations for applicants for employment must contain the phrase "An Equal Opportunity Employer". Lessee shall not make inquiry in connection with prospective employment which expresses directly or indirectly any limitation, specification or discrimination because of race, creed, color, religion, sex, national origin or ancestry.
- D. Lessee agrees that should it be determined by Lessee or City that he will be unable to conform to his approved positive employment program submitted to determine eligibility under the fair employment practices provisions of the City Code, he will notify the Fair Employment Practices Division of the Civil Rights Enforcement Agency (CREA) within ten (10) days of such determination, as to the steps to be taken by Lessee to achieve the provisions of his program.
- E. Lessee will permit reasonable access by City to such persons, reports and records as are necessary for the purpose of ascertaining compliance with fair employment practices.
- F. Lessee further agrees that these clauses (B through E) covering discrimination and equal opportunity practices in all matters of employment and training for employment will be incorporated by Lessee in all contracts or agreements he enters into with suppliers of materials or services, contractors and subcontractors, and all labor organizations, furnishing skilled, unskilled and craft union skilled labor, or who may perform any such labor or service in connection with this Agreement.
- G. Whenever Lessee is sued by a subcontractor, vendor, individual, group or association as a result of compliance with the clauses (A through F) of these provisions relating to fair employment practices, Lessee shall notify the City Counselor in writing of such suit or threatened suit within ten (10) business days.
- H. In event of Lessee's noncompliance with nondiscrimination clauses of this Agreement, or to furnish information or permit his books, records and account to be inspected within twenty (20) days from date requested, this Agreement may be canceled, terminated or suspended, in whole or in part subject to Article X above, and Lessee may be declared ineligible for further City contracts for a period of one year by option of City, provided, further, if this Agreement is canceled, terminated or suspended for failure to comply with fair employment practices, Lessee shall have no claims for any damages or loss of any kind whatsoever against City.
- I. Lessee will establish and maintain for the term of this Agreement an affirmative action program according to the Mayor's Executive Order on Equal Opportunity in Employment and City reserves the right to take such action as the City of St. Louis and the United States Government may direct to enforce the above covenants.

J. Lessee assures that it will undertake an affirmative action program as required by 14 CFR, Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Lessee assures that it will require that its covered suborganizations provide assurances to the Lessor that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

Section 1106. No Personal Liability. No Alderman, Commissioner, Director, officer, board member, employee, shareholder, partner, member, or other agent of either party shall be personally liable under or in connection with this Agreement.

Section 1107. Force Majeure. Neither City nor Lessee shall be deemed in violation of this Agreement, if it is prevented from performing any of the obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortage of materials, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellions or sabotage, or any other circumstances for which it is not responsible and which is not within its control.

Section 1108. Successors and Assigns. All of the terms, provisions, covenants, stipulations, conditions and considerations of this Agreement shall extend to and bind the legal representatives, successors, sublessees and permitted assigns of the respective parties hereto.

Section 1109. Quiet Enjoyment. Subject to the terms, covenants and conditions of this Agreement, City covenants that Lessee on paying the rents and otherwise performing its covenants and other obligations hereunder, shall have quiet and peaceable possession of the Premises.

Section 1110. Operation and Maintenance of Airport. City shall at all times operate the Airport properly and in a sound and economical manner; and City shall use reasonable effort to maintain, preserve and keep the same or cause the same to be maintained, preserved and kept, with the appurtenances in good repair, working order and condition, and shall from time to time use reasonable effort to make or cause to be made all necessary and proper repairs, replacements and renewals so that at all times the operation of the Airport may be properly and advantageously conducted in conformity with standards customarily followed by municipalities operating airports of like size and character.

Section 1111. Title to Site. The Premises from the Effective Date until the expiration or early termination of this Agreement shall be owned in fee simple title by City or in such lesser estate as in the opinion of the City Counselor is sufficient to permit the letting thereof by City as herein provided for the full term provided in this Agreement.

Section 1112. Agreements with the United States. This Agreement is subject and subordinate to the provisions of any applicable agreements heretofore made between City and the United States, relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of Federal rights or property to City for Airport purposes, or to the expenditure of Federal funds for the extension, expansion, or development of the Airport, including the expenditure of Federal funds for the development of the Airport in accordance with the provisions of the Airport and Airway Development Act as it has been amended from time to time.

Section 1113. Modifications to Maintain Federal Compliance. In the event that the FAA requires, as a condition precedent to granting funds for improvements, development, or the expansion of the Airport modifications or changes to the Agreement, or determines this Agreement to be inconsistent with City's grant assurances, current or future, Lessee agrees to either (i) consent to such reasonable amendments, modifications or changes to this Agreement as may be reasonably required for City to maintain and/or obtain said FAA funds or as required by the FAA, or (ii) consent to a cancellation of this Agreement with one (1) year prior written notice.

Section 1114. Governing Law. This Agreement shall be deemed to have been made in, and be construed in accordance with the laws of the State of Missouri and is subject to the City's Charter.

Section 1115. Headings. The headings of the Articles and Sections of this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

Section 1116. Amendments. This Agreement may be amended from time to time by written agreement, duly authorized and executed by all the signatories to this Agreement.

Section 1117. Withholding Required Approvals. Whenever the approval of City, or Director, or of Lessee is required herein, no such approval shall be unreasonably requested or withheld, conditioned or delayed. Any non-approval of a TCA by City shall set forth in detail the objections of City to the TCA.

Section 1118. Waivers. No waiver of default by either party of any of the terms, covenants or conditions hereto to be performed, kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained to be performed, kept and observed by the other party. No waiver shall be binding unless executed in writing by the party granting the waiver.

Section 1119. Invalid Provisions. In the event any term, covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such term, covenant, condition or provision shall in no way affect any other term, covenant, condition or provision herein contained, provided the invalidity of any such term, covenant, condition or provision does not materially prejudice either City or Lessee in its respective rights and obligations contained in the valid terms, covenants, conditions and provisions of this Agreement.

Section 1120. Prevailing Wage. Lessee shall, as a condition of this Agreement, include in all service contracts pertaining to this Agreement, language specifying the minimum prevailing wages to be paid and fringe benefits to be provided by the service contractor to employees of said service contractor. This section is in accordance with and is subject to City of St. Louis Ordinance No. 62124.

Section 1121. Americans with Disabilities Act ("ADA"). Lessee shall be responsible for compliance with the Federal ADA, plus any State laws and City Ordinances pertaining to the disabled individual having access to Lessee's Premises.

Section 1122. Advertising. Lessee shall have no right to use the trademarks, symbols, trade names or name of the Airport, either directly or indirectly, in connection with any production, promotion service or publication without the prior written consent of Director.

Section 1123. Conflicts Between Tenants. In the event of a conflict between Lessee and any other tenant, licensee or concessionaire, as to the respective rights of the others, Director shall review the applicable agreements and by reasonable interpretation thereof determine the rights of each party, and Lessee agrees to be bound by such decision. All determinations by Director are final.

Section 1124. Time is of the Essence. Time is of the essence in this Agreement. The parties agree that time shall be of the essence in the performance of each and every obligation and understanding of this Agreement.

Section 1125. Acknowledgment of Terms and Conditions. The parties affirm each has full knowledge of the terms, covenants, conditions and requirements contained in this Agreement. Each party acknowledges that such party and counsel, after negotiation and consultation, has received and reviewed this Agreement. As such, the terms of this Agreement shall be fairly construed and the usual rule, of construction, if applicable, to the effect that any ambiguities herein should be resolved against the drafting party, shall not be employed, in the interpretation of this Agreement or any amendments, modifications or exhibits thereto.

Section 1126. Entire Agreement. The terms, covenants, warranties, conditions, and provisions of this Agreement are intended by the parties as a final expression of this Agreement with respect to said provisions as are included in this Agreement and may not be contradicted by evidence of any prior or contemporaneous agreement. This Agreement, together with all exhibits attached hereto, constitutes the entire agreement between the parties hereto and all other representations or statements heretofore made, verbal or written are merged herein and this Agreement may be amended by written agreement duly authorized and executed by all the signatories to this Agreement.

Section 1127. Required Approvals. When the consent, approval, waiver, or certification ("Approval") of other party is required under the terms of this Agreement, such approval must be in writing and signed by the party making the Approval. Whenever the Approval of City or the Director is required, the Approval must be from the Director or his/her authorized or designated representative. City and Lessee agree that extensions of time for performance may be made by the written mutual consent of the Director and Lessee or its designee.

Section 1128. Previous Agreements. It is expressly understood by the parties hereto that the provisions of this Agreement shall in no way affect or impair the terms, covenants, conditions, or obligations of any other existing or prior agreement between the Lessee and the City

Section 1129. Binding Contracts: Counterparts. This Agreement shall become effective and binding only upon the execution and

delivery hereof by the City and Lessee. Lessee acknowledges and agrees that this Agreement is contingent upon approval of the City's Board of Estimate and Apportionment and its Board of Aldermen, and the payment of the Pre-Paid Rental due on the Commencement Date of this Agreement (see Article IV, Section 402.A.). This Agreement and any companion document or instrument referred to herein, may be executed in any number of counterparts, each of which shall be original, but all of which together shall constitute one document or instrument.

Section 1130. Memorandum of Lease. City and Lessee agree at the request of either party to execute a memorandum of this Agreement in a recordable form for the sole purpose of giving notice of this Agreement.

Section 1131. Exhibits. All exhibits described herein are fully incorporated into this Agreement by this reference as if fully set out herein. The Director of Airports (on behalf of City) and Lessee shall reasonably and in good faith finalize and attach all such exhibits to the Agreement, which may not have been in final form as of the date of this Agreement.

Section 1132. Facsimile Signatures. This Agreement may be executed via facsimile and the facsimile signatures of each of the Parties shall be valid and binding on the Parties.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement the day and year first above written.

Pursuant to City of St. Louis Ordinance _____ approved on _____,

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT:

The foregoing Agreement was approved by the Airport Commission at its meeting on _____, _____.

BY: _____
Commission Chairman Date
and Director of Airports

The foregoing Agreement was approved by the Board of Estimate and Apportionment at its meeting on _____, _____.

BY: _____
Secretary, Date
Board of Estimate & Apportionment

APPROVED AS TO FORM BY:

COUNTERSIGNED BY:

City Counselor Date
City of St. Louis

Comptroller, Date
City of St. Louis

ATTESTED TO BY:

Register, Date
City of St. Louis

GATE GOURMET, INC.

ATTEST

BY: _____

BY: _____
Secretary Date

Title: _____

Date: _____

Exhibit "A"
Legal Description
Gate Gourmet, Inc.
Lease Agreement AL-288

A TRACT OF LAND IN THE FRACTIONAL SECTION 9 AND 10, TOWNSHIP 46 NORTH, RANGE 6 EAST, ST. LOUIS COUNTY, MISSOURI AND BEING PART OF BERKELEY ACRES SUBDIVISION, AS RECORDED IN PLAT BOOK 17 PAGE 74, AND BEING PART OF KATHMAR SUBDIVISION, AS RECORDED IN PLAT BOOK 12, PAGE 16, OF THE ST. LOUIS COUNTY, MISSOURI RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE INTERSECTION OF THE SOUTHEAST CORNER OF SAID BERKELEY ACRES, AND THE SOUTHWESTERN CORNER OF SAID KATHMAR SUBDIVISION;

THENCE, LEAVING THE SOUTHWEST CORNER OF SAID KATHMAR SUBDIVISION, ALONG THE SOUTHERN LINE OF SAID BERKELEY ACRES, NORTH 83 DEGREES 13 MINUTES 06 SECONDS WEST, A DISTANCE OF 321.58 FEET TO A POINT ON THE NORTHERN LINE OF SCUDDER ROAD (50.00 FEET WIDE) SAID POINT BEING THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT OF LAND;

THENCE, LEAVING THE NORTHERN LINE OF SAID SCUDDER ROAD AND THE SOUTHERN LINE OF SAID BERKELEY ACRES, ALONG THE EASTERN RIGHT OF WAY LINE OF PROPOSED JAMES S. MCDONNELL BOULEVARD, THE FOLLOWING COURSES AND DISTANCES;

NORTH 22 DEGREES 53 MINUTES 49 SECONDS WEST, 29.79 FEET.

NORTH 02 DEGREES 44 MINUTES 06 SECONDS EAST, 990.44 FEET;

THENCE, LEAVING SOUTH 89 DEGREES 42 MINUTES 47 SECONDS EAST, A DISTANCE OF 284.83 FEET TO A POINT ON THE EASTERN LINE OF THE AFOREMENTIONED BERKELEY ACRES, SAID POINT ALSO BEING ON THE WESTERN RIGHT OF WAY LINE OF THE STATE OF MISSOURI INNER BELT ROUTE I-170 (WIDTH VARIES) AS RECORDED IN DEED BOOK 6903 PAGE 512, DEED BOOK 6942 PAGE 1308, DEED BOOK 6517 PAGE 762, DEED BOOK 6485 PAGE 64, DEED BOOK 6505 PAGE 1341, DEED BOOK 6508 PAGE 1634, DEED BOOK 6535 PAGE 453, DEED BOOK 6527 PAGE 2192, DEED BOOK 6508 PAGE 10, DEED BOOK 6899 PAGE 1636, DEED BOOK 8729 PAGE 412, DEED BOOK 6853 PAGE 763, AND DEED BOOK 6898 PAGE 1549, OF THE ST. LOUIS COUNTY, MISSOURI RECORDS;

THENCE, CONTINUING ALONG THE EASTERN LINE OF SAID BERKELEY ACRES SUBDIVISION, AND THE WESTERN RIGHT OF WAY LINE OF SAID STATE OF MISSOURI INNER BELT ROUTE I-170, SOUTH 00 DEGREES 04 MINUTES 21 SECONDS WEST, A DISTANCE OF 569.99 FEET TO A POINT;

THENCE, LEAVING THE EASTERN LINE OF SAID BERKELEY ACRES, ALONG THE SOUTHERN, EASTERN AND NORTHERN RIGHT OF WAY LINES OF SAID STATE OF MISSOURI INNER BELT ROUTE I-170, THE FOLLOWING COURSES AND DISTANCES;

Exhibit "A"
Legal Description
Gate Gourmet, Inc.
Lease Agreement AL-288

SOUTH 89 DEGREES 08 MINUTES 05 SECONDS EAST, 54.97 FEET;

SOUTH 19 DEGREES 44 MINUTES 21 SECONDS EAST, 105.73 FEET;

SOUTH 23 DEGREES 43 MINUTES 20 SECONDS EAST, 218.57 FEET;

NORTH 89 DEGREES 39 MINUTES 08 SECONDS WEST, 59.31 FEET;

SOUTH 00 DEGREES 03 MINUTES 42 SECONDS WEST, 167.10 FEET;

NORTH 82 DEGREES 19 MINUTES 10 SECONDS WEST, 36.59 FEET;

NORTH 89 DEGREES 21 MINUTES 51 SECONDS WEST, 292.91 FEET;

THENCE, NORTH 30 DEGREES 47 MINUTES 24 SECONDS WEST, 17.54 FEET TO A POINT ON THE EASTERN LINE OF BERKELEY AVENUE AS RECORDED IN THE AFOREMENTIONED BERKELEY ACRES;

THENCE, LEAVING THE EASTERN LINE OF SAID BERKELEY AVENUE, SOUTH 89 DEGREES 10 MINUTES 39 SECONDS WEST, A DISTANCE OF 39.71 FEET TO A POINT ON THE WESTERN LINE OF SAID BERKELEY AVENUE;

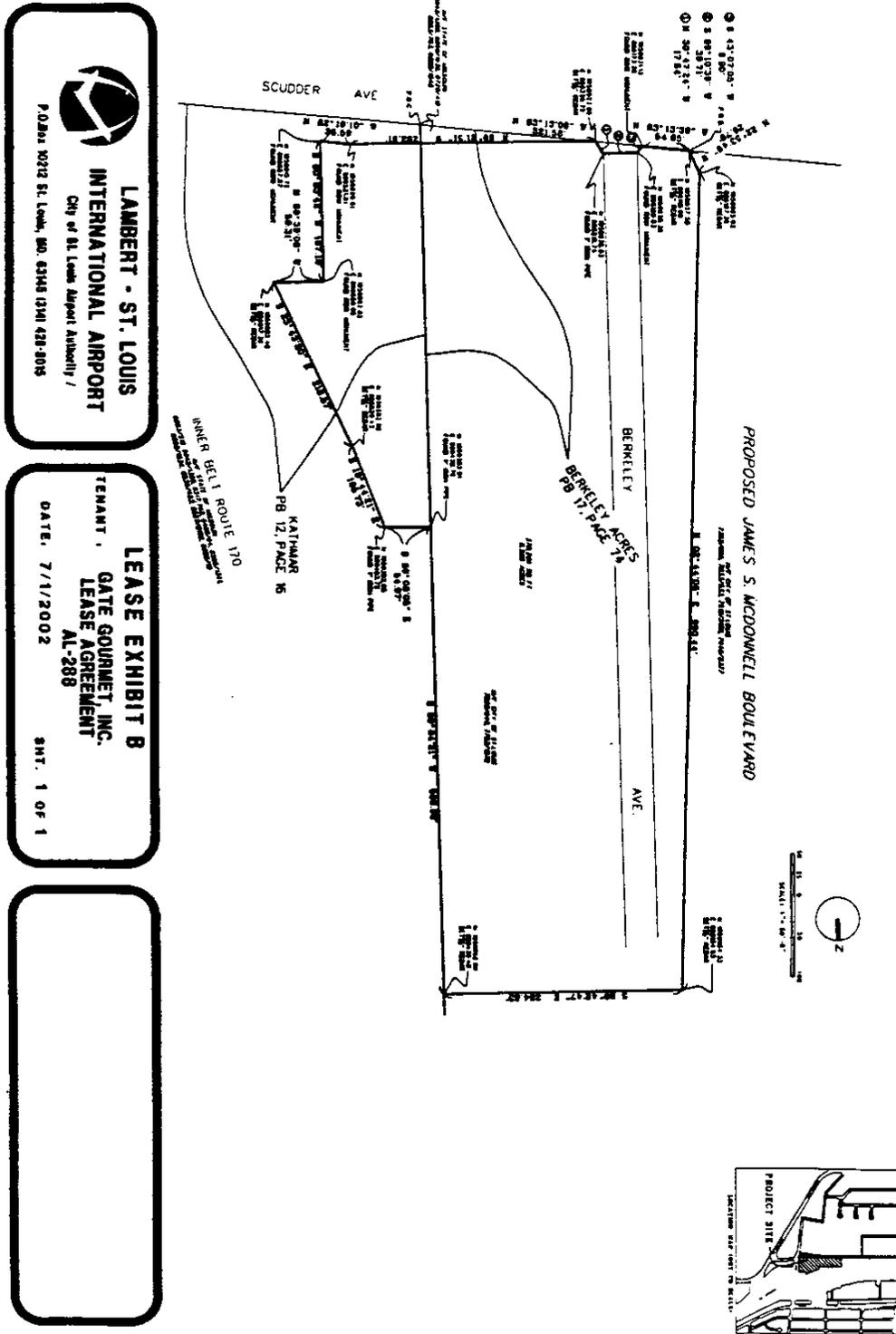
THENCE, LEAVING THE WESTERN LINE OF SAID BERKELEY AVENUE, SOUTH 43 DEGREES 07 MINUTES 05 SECONDS WEST, A DISTANCE OF 9.90 FEET TO A POINT ON THE SOUTHERN LINE OF THE AFOREMENTIONED BERKELEY ACRES;

THENCE, ALONG THE SOUTHERN LINE OF SAID BERKELEY ACRES, AND THE NORTHERN LINE OF THE AFOREMENTIONED SCUDDER ROAD, NORTH 83 DEGREES 13 MINUTES 39 SECONDS WEST, A DISTANCE OF 54.65 FEET, BACK TO THE TRUE POINT OF BEGINNING AND CONTAINING 370,260 SQUARE FEET, OR 8.500 ACRES, MORE OR LESS, ACCORDING TO SURVEYS AND CALCULATIONS PERFORMED BY HANSON PROFESSIONAL SERVICES INC. DURING THE MONTH OF JUNE, 2002.

See attached Lease Exhibit "B"

Approved: August 5, 2002

ORDINANCE NO. 65624 - LEASE EXHIBIT B




LAMBERT - ST. LOUIS
INTERNATIONAL AIRPORT
 City of St. Louis Airport Authority /
 P.O. Box 20728 St. Louis, MO 63148 (314) 428-3018

LEASE EXHIBIT B
 TENANT: **GATE GOURMET, INC.**
LEASE AGREEMENT
 AL-288
 DATE: 7/1/2002
 SHT. 1 OF 1

