

LEASE

Between

THE CITY OF CLEVELAND

And

THE UNITED STATES OF AMERICA
(GS-05P-LOH19032)

This Lease ("Lease") is made and entered into this 1st day of August, 2013 ("Effective Date") between the City of Cleveland ("City"), a municipal corporation of the State of Ohio, through its Director of Port Control ("Director"), pursuant to the authority of Ordinance No. 754-13, adopted by the Council of the City of Cleveland on September 30, 2013, a copy of which is attached hereto as Exhibit "A" and by this reference incorporated herein and the United States of America, acting through the General Services Administration ("GSA") on behalf of the [REDACTED]

RECITALS:

1. The GSA enters into this Lease under the authority of the [REDACTED] [REDACTED] Act of 2001, Pub. L. 107 – 71 ([REDACTED]). GSA has specific statutory authority under 49 U. S. C. Sections 106 (m) and 114 (m);

2. The City is the owner and operator of Cleveland Hopkins International Airport situated in the City of Cleveland, Cuyahoga County, Ohio;

3. GSA desires to lease certain City-owned property at the Airport for use by the [REDACTED] general business office operations and so that the [REDACTED] may conduct baggage and passenger screening operations under the requirements of [REDACTED] and other applicable federal laws.

4. The City is willing to lease said City-owned property to GSA for use by the [REDACTED] for such purposes in furtherance of the public purpose of providing facilities in aid of air commerce and navigation.

In consideration of the foregoing, the payments and the agreements and conditions herein set forth, the City and GSA agree as follows:

ARTICLE I - DEFINITIONS

Wherever the following terms are used in this Lease, they shall be defined as follows:

- A. "Airport" means Cleveland Hopkins International Airport.
- B. "Airport Terminal Building" or "Terminal Building" shall mean the Airport passenger terminal buildings or facilities, whether or not contiguous with the existing terminal structures or that which may hereafter be constructed or operated during the Term of this Lease.
- C. "Director" means the Director of the Department of Port Control of the City of Cleveland, or such other officer, agency or agencies of the City or other governing body as may hereafter have jurisdiction over the Airport, and shall include the Director's authorized and designated representatives
- D. "Fixtures" or "Fixed Improvements" means those general improvements or items of property, which at the time of installation are affixed to the Premises so as to become part and parcel of it.
- E. "Improvement" or "Improvements" means all Fixed Improvements, as well as all property removal, construction, Premises modifications and additional utilities installation, extension or modification.
- F. "Interior Maintenance" means the maintenance of, and keeping in good repair, the interior walls of the Premises (except work required as a result of structural defects), janitorial services, such as sweeping, dusting, mopping and waxing floors, relamping, interior washing of windows, and arrangements for sanitary removal of trash.
- G. "Operating Facilities" means furniture, furnishings, special lighting, fixtures, draperies, decorations, decorating or other special finishing work, interior signs, appliances, trade fixtures and any equipment not defined as Fixed Improvements furnished and installed or used by [REDACTED] in its operations on the Premises. Those items generally known as expendables shall not be considered Operating Facilities.
- H. "Premises" means the collective areas granted or made available to GSA for use by the [REDACTED] under this Lease.

ARTICLE II - LEASE OF PREMISES

A. The City hereby leases to GSA for use by the [REDACTED] the Premises, as described in Article III below, for general business office operations and passenger and baggage screening operations. Such use shall include the right to establish and use security checkpoints, to place and operate screening equipment and to perform such other activities and locate such other equipment, as [REDACTED] reasonably deems necessary to perform its passenger and baggage screening function under federal law. GSA shall not permit, or suffer to exist, the use of the Premises for any use not specifically granted herein by the [REDACTED] without the prior written approval of the Director, which approval may be withheld in his reasonable discretion.

B. The lease of the Premises shall be subject to any and all recorded easements and permits for public and/ or private roads and highways, public utilities, sewer mains, lines and pipelines. The City reserves to itself and others the right of ingress to, from and over such easements on the Premises for the use, repair, maintenance and preservation of such roads, highways, utilities and sewer lines; provided, however, that the City shall not unreasonably interfere with the use of the Premises by the [REDACTED] in exercising such right.

C. This Lease shall not be considered a waiver of any rights that either [REDACTED] or the GSA may assert under the [REDACTED] with respect to the acquisition of property, nor with respect to [REDACTED] authority to enter into any airport property to address national security concerns; nor shall this Lease waive any rights that the City may assert in connection with such acquisition.

ARTICLE III - PREMISES

A. The City hereby leases to GSA for the uses described above by the [REDACTED] of City-owned property at the Airport, which property comprises approximately six thousand four hundred seventy-seven (6,477) square feet of space on the ticketing level and Concourses A and B in the Terminal Building as referenced on the Plan of Premises attached hereto as Exhibit "B" and by this reference incorporated herein. Exhibit "B" may be amended at the written request of the GSA or the Director and with the written consent of the other party; in addition, temporary additions to and deletions from the Premises, or temporary adjustments thereto, may be made at the verbal request of the GSA with the verbal consent of the Director.

B. GSA acknowledges that it has examined the Premises described in Paragraph A above and that it is aware that the Premises will be made available in an "as is" condition; and GSA accepts said Premises for use by the [REDACTED] in such condition. GSA acknowledges that the City does not warrant or guarantee the suitability of the site for general business office operations, for screening passengers and their property, baggage and cargo or for any other purpose whatsoever.

ARTICLE IV - TERM

- A. The term of this Lease shall begin upon the Effective Date and, unless sooner canceled or terminated shall expire two (2) years thereafter ("Initial Term"), provided that Lessee may request to extend the term for [REDACTED] (s) ("Option Terms" and collectively with the Initial Term, the "Term"). Lessee shall request to enter into an Option Term by notifying the Director, in writing, of such election at least one hundred and eighty (180) calendar days prior to the expiration of the then applicable period. Any Option Term shall be approved or rejected at the City's reasonable discretion, based on factors set forth in Paragraph B below.
- B. The City's approval or rejection of such request shall be based on (i) the level of use by [REDACTED] of the Premises (for the avoidance of doubt, level of use means whether [REDACTED] is actively utilizing the Premises for the purposes set forth in Section III. A. hereof); (ii) [REDACTED] full compliance with all terms and conditions of this Lease, subject to all notice and cure periods; (iii) the needs of the City in its operation of the Airport; and (iv) for the first Option Term, additional legislative authority granted by the Cleveland City Council.

ARTICLE V - RENT

A. The City and GSA agree that whether GSA may be charged by the City for use of the Premises is to be determined by legal interpretation of Section 335 of the Consolidated Appropriations Resolution, 2003, Pub. Law 108- 7, including the following language: "Provided, that the prohibition of funds in this section does not apply to negotiations between the agency and airport sponsors to achieve agreement on 'below-market' rates for these items or to grant assurances that require airport sponsors to provide land without cost to [REDACTED] for air traffic control facilities and the [REDACTED] for necessary security checkpoints." Accordingly, the City and GSA agree that GSA shall pay, or cause the [REDACTED] to pay, to the City as rent for use of the Premises Nine Hundred Seventy Nine Thousand

Four Hundred Ninety-Four and 43/100 Dollars (\$979,494.43) ("Rent") per year, calculated at the rate of One Hundred Eighty-two and 61/100 Dollars (\$182.61) per square foot in the Main Terminal, \$78.13 per square foot in Concourse A and \$108.67 per square foot in Concourse B. The Rent shall be paid in monthly installments of Eighty-One Thousand, Six Hundred Twenty-Four and 54/100 Dollars (\$81,624.54), on the first day of each month of the Term. GSA shall also pay, or cause [REDACTED] to pay, utility costs as set forth in Article XVI below. Payments shall be made in lawful money of the United States, free from all claims, demands, set-offs, or counterclaims of any kind. All rent, fees and charges required by this Agreement shall be paid to:

Treasurer of the City of Cleveland
C/o Key Bank Services
Lock Box 70275
2025 Ontario Avenue
Cleveland, Ohio 44115-1028

B. The first payment is due on the Effective Date and shall be prorated if the Effective Date is on a date other than the first of a month and shall include amounts due but not yet paid for use of the Premises prior to the beginning of the term.

C. Any charges due under this Lease may be paid by electronic fund transfer, check or other means.

D. If this Lease is terminated by the City or GSA pursuant to Article IV, other than at the end of any month of the Term, GSA shall pay, or cause the [REDACTED] to pay, to the City as the Rent for the period of operation during said termination month the amount determined by multiplying the Rent due for said month by a fraction, the numerator of which is the number of days elapsed during said month prior to the effective date of termination and the denominator of which is the number of calendar days in said month.

E. GSA shall not be in default hereunder until GSA has been given written notice of such failed payment and such failure has continued for more than thirty (30) calendar days thereafter. All payments hereunder shall be made in conformance with the Prompt Payment Act, Public Law 100-177(1985), 31 U.S. Code 3901-3906. Nothing contained in this Paragraph E shall be construed to relieve GSA of its obligations under Paragraph A of this Article V.