

APPENDIX J

PROPOSED ENVIRONMENTAL/HAZMAT LEASE LANGUAGE

For inclusion in the General Provisions section of a lease:

- # Compliance with Laws. Tenant shall comply with all applicable laws, ordinances, rules, and regulations of any governmental bodies having jurisdiction over the Airport with respect to Tenant's use and occupancy of the Leased Premises and of the Airport in general. Tenant's obligations under this paragraph specifically include but are not limited to strict and timely compliance with all environmental laws. Tenant shall insure that all operations on the Leased Premises comply with all environmental laws and orders of any governmental authorities having jurisdiction under any environmental laws. Any act or failure to act by Tenant or by any subtenant, employee or agent of Tenant in violation of any applicable laws, ordinances, rules, and regulations shall be deemed a violation of this lease.

- # Airport Rules and Regulations. Tenant's obligations under Paragraph [#] shall include but not be limited to the rules and regulations of the Airport. City reserves the right to adopt additional rules and regulations and amend existing and future rules and regulations which govern the Leased Premises and the facilities at the Airport used by Tenant in connection with the Leased Premises. Tenant agrees to observe, obey and abide by all such rules and regulations currently existing or hereafter adopted or amended. Any action or failure to act by Tenant or by any subtenant, employee, invitee or agent of Tenant which is in violation of such rules and regulations shall be deemed a violation of this lease.

- # Hazardous Materials. Tenant shall use its best efforts to minimize the types and amounts of hazardous materials used on the Leased Premises and shall use extreme care in handling hazardous substances. Tenant shall undertake any and all preventive, investigatory or remedial action (including emergency response, removal, containment and other remedial action) which is either required by any applicable environmental laws or orders of any governmental authority having jurisdiction under such laws, or necessary to prevent or minimize property damage, personal injury or damage to the environment or threat of any such damage or injury, by releases of or exposure to hazardous materials in connection with the Leased Premises or operations thereon. The Tenant hereby certifies that it is not, and has not been, the subject of enforcement, investigation, cleanup, removal, remedial or response actions or other governmental or regulatory actions pursuant to any environmental laws or relating to hazardous materials. The Tenant agrees to provide the City with any notices it receives regarding alleged violations of environmental laws or any reports it is required to make regarding emissions or releases of hazardous materials on the Leased Premises or at the Airport.

- # Right of City to Act. If Tenant fails to perform any of Tenant's obligations under this Lease, City may, but shall not be required to, perform such obligations at Tenant's expense. In performing the Tenant's obligations, the City shall be deemed to be the Tenant's agent, and shall not by reason of such performance be deemed to be assuming any responsibility of Tenant under any law or to any third party.

- # Rights of Verification by Inspection and Audit.
 - # Inspection: The City retains the right to enter the Leased Premises to inspect the same, to verify compliance with this Lease, to make emergency repairs, or to do any other act which the City may be obligated or have the right to do under this Lease; provided, however, that in exercising such rights, the City shall not unreasonably interfere with the Tenant's use and occupancy of the Leased Premises.

 - # Audit: The City reserves the right to require an audit of the Tenant's records or the Leased Property, as follows: (a) if the Tenant is paying rates, fees or charges that vary according to sales or receipts, the City may inspect the Tenant's books during normal business hours in order to verify payment calculations, or may require that a financial audit be made by a third party satisfactory to City; and (b) the City may require an environmental assessment or audit be performed by a party satisfactory to City. Such audits shall be at the City's expense, if no discrepancy in records or environmental noncompliance is found, and at the Tenant's expense if a substantial discrepancy (over 10%) in records or any environmental noncompliance is found.

For inclusion in the Insurance and Indemnification section of a lease:

- # Indemnification for Environmental Liability. Tenant hereby indemnifies and agrees to defend, protect, and hold harmless, City and its officers, employees and agents, and their respective successors from and against any and all losses, liabilities, fines, damages, injuries, penalties, response costs, or claims of any and every kind whatsoever paid, incurred, asserted against, or threatened to be asserted, including, without limitation: (a) all consequential damages; (b) the reasonable costs of any investigation, study, removal, response or remedial action, as well as the preparation and implementation of any monitoring, closure or other required plan or response action; and (c) all reasonable costs and expenses incurred in connection therewith, including but not limited to, reasonable fees for attorney and consultant services; which arise out of or relate to any action by Tenant not in full accordance with environmental laws. If any such claim is brought against City, City shall notify the Tenant of the claim, and Tenant shall assume the defense thereof at the Tenant's expense, using counsel reasonably satisfactory to the City. Tenant may settle or compromise any such claim or action, except that the City may elect to use separate counsel, and if it does so, the claim shall not be settled without the City's consent. This indemnification, and Tenant's obligations hereunder, shall survive the cancellation, termination or expiration of the Term of this Lease with respect to matters arising prior thereto.

For inclusion after the Reversion provisions of a lease:

- # Post-Lease Cleanup of Leased Premises. When the Term of this Lease (and any extensions) expires, or the Lease is otherwise terminated, the Leased Premises revert to the City. Before such reversion takes effect, the City may require that an environmental assessment or audit be performed by a party satisfactory to City. This audit shall be at the Tenant's expense. Any environmental contamination revealed by this audit shall be remedied by the Tenant, and, at the City's discretion, the Tenant shall obtain a No Further Action letter or other appropriate approval from the State Department of Ecology. Because this Post-Lease Audit could reveal contamination that might pre-date the Lease, the Tenant is strongly urged to secure a baseline environmental assessment before taking possession of the Leased Premises.