

SECURITIES AND EXCHANGE COMMISSION

FORM 10-Q

Quarterly report pursuant to sections 13 or 15(d)

Filing Date: **2002-05-13** | Period of Report: **2002-03-31**
SEC Accession No. **0000950150-02-000477**

([HTML Version](#) on secdatabase.com)

FILER

MERCURY AIR GROUP INC

CIK: **52532** | IRS No.: **111800515** | State of Incorporation: **NY** | Fiscal Year End: **0630**
Type: **10-Q** | Act: **34** | File No.: **001-07134** | Film No.: **02644284**
SIC: **5172** Petroleum & petroleum products (no bulk stations)

Business Address
5456 MCCONNELL AVE
LOS ANGELES CA 90066
3106462994

**SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
FORM 10-Q**

(Mark One)

- Quarterly report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 for the quarterly period ended March 31, 2002.
- Transition report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 For the Transition period from to

Commission File No. 1-7134

MERCURY AIR GROUP, INC.

(Exact name of registrant as specified in its charter)

Delaware

11-1800515

(State or other jurisdiction of
incorporation or organization)

(I.R.S. Employer
Identification Number)

5456 McConnell Avenue, Los Angeles, CA

90066

(Address of principal executive offices)

(Zip Code)

(310) 827-2737

(Registrant' s telephone number, including area code)

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

YES No

Indicate the number of shares outstanding of each of the issuer' s classes of common equity, as of the latest practicable date.

Title	Number of Shares Outstanding As of May 9, 2002
Common Stock, \$0.01 Par Value	6,517,949

TABLE OF CONTENTS

CONSOLIDATED BALANCE SHEETS

CONSOLIDATED STATEMENTS OF INCOME

CONSOLIDATED STATEMENTS OF CASH FLOW

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Item 2. MANAGEMENT' S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK.

PART II – OTHER INFORMATION

Item 1. Legal Proceedings

Item 2. Change in Securities

Item 3. Default Upon Senior Securities

Item 4. Submission of Matters to a Vote of Security Holders

Item 5. Other Information

Item 6 (a) Exhibits and Exhibit List

SIGNATURES

EXHIBIT 10.26

MERCURY AIR GROUP, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(Unaudited)

	MARCH 31, 2002	JUNE 30, 2001
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	\$ 1,780,000	\$ 3,886,000
Trade accounts receivable, net of allowance for doubtful accounts of \$1,852,000 at 3/31/02 and \$1,653,000 at 6/30/01	48,438,000	53,530,000
Inventories, principally aviation fuel	2,961,000	4,069,000
Prepaid expenses and other current assets	5,013,000	2,882,000
Notes receivable from affiliate (Note 9)	1,400,000	
Net assets of discontinued operations (Note 2)		4,338,000
	<hr/>	<hr/>
Total current assets	59,592,000	68,705,000
PROPERTY, EQUIPMENT AND LEASEHOLDS, net of accumulated depreciation and amortization of \$56,210,079 at 3/31/02 and \$52,165,000 at 6/30/01 (Note 9)	64,262,000	71,779,000
NOTES RECEIVABLE	1,618,000	1,510,000
OTHER ASSETS	7,976,000	9,140,000
	<hr/>	<hr/>
	\$ 133,448,000	\$ 151,134,000
	<hr/>	<hr/>
LIABILITIES AND STOCKHOLDERS' EQUITY		
CURRENT LIABILITIES:		
Accounts payable	\$ 23,583,000	\$ 31,764,000
Accrued expenses and other current liabilities	8,367,000	10,357,000
Current portion of long-term debt	7,272,000	7,461,000
	<hr/>	<hr/>
Total current liabilities	39,222,000	49,582,000
LONG-TERM DEBT	34,313,000	44,560,000
DEFERRED GAIN (Note 9)	2,212,000	
DEFERRED INCOME TAXES	444,000	380,000
SENIOR SUBORDINATED NOTE (Note 5)	23,170,000	23,030,000
COMMITMENTS AND CONTINGENCIES (Note 4)		
STOCKHOLDERS' EQUITY:		
Preferred Stock – \$.01 par value; authorized 3,000,000 shares; no shares outstanding		
Common Stock – \$.01 par value; authorized 18,000,000 shares; outstanding 6,517,949 shares at 3/31/02; outstanding 6,576,680 shares at 6/30/01	65,000	66,000
Additional paid-in capital	21,254,000	21,442,000
Retained earnings	13,645,000	12,835,000

Accumulated other comprehensive loss (Note 8)	(344,000)	(228,000)
Notes receivable from sale of stock	(533,000)	(533,000)
	<u> </u>	<u> </u>
Total stockholders' equity	34,087,000	33,582,000
	<u> </u>	<u> </u>
	\$ 133,448,000	\$ 151,134,000
	<u> </u>	<u> </u>

See accompanying notes to consolidated financial statements

MERCURY AIR GROUP, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF INCOME
(Unaudited)

	Nine Months Ended		Three Months Ended	
	March 31,		March 31,	
	2002	2001	2002	2001
Sales and Revenues:				
Sales	\$ 216,203,000	\$ 289,624,000	\$ 66,301,000	\$ 90,493,000
Service revenues	67,558,000	69,766,000	21,617,000	23,409,000
	<u>283,761,000</u>	<u>359,390,000</u>	<u>87,918,000</u>	<u>113,902,000</u>
Costs and Expenses:				
Cost of sales	186,603,000	262,124,000	57,025,000	82,055,000
Operating expenses	74,518,000	70,119,000	24,091,000	24,175,000
	<u>261,121,000</u>	<u>332,243,000</u>	<u>81,116,000</u>	<u>106,230,000</u>
Gross Margin (Excluding depreciation and amortization)	22,640,000	27,147,000	6,802,000	7,672,000
Expenses (Income):				
Selling, general and administrative	7,391,000	6,114,000	2,957,000	1,959,000
Provision for bad debts	1,247,000	2,575,000	475,000	676,000
Depreciation and amortization	7,105,000	7,582,000	2,074,000	2,591,000
Interest expense	4,320,000	5,705,000	1,329,000	1,847,000
Costs and expenses of stock offering (Note 1)	985,000			
Loss on sale of property	71,000			
Interest income	(72,000)	(43,000)	(44,000)	(5,000)
	<u>21,047,000</u>	<u>21,933,000</u>	<u>6,791,000</u>	<u>7,068,000</u>
Income from Continuing Operations Before Provision for Income Taxes	1,593,000	5,214,000	11,000	604,000
Provision for Income Taxes	622,000	2,034,000	5,000	236,000
Income from Continuing Operations	971,000	3,180,000	6,000	368,000
(Loss) Income from Discontinued Operations net of income tax (benefit) charge of (\$27,000) in 2002 and \$36,000 and (\$44,000) in 2001	(42,000)	57,000		(69,000)

Net Income	\$ 929,000	\$ 3,237,000	\$ 6,000	\$ 299,000
Net Income Per Common Share (Note 6):				
Basic:				
From Continuing Operations	\$ 0.15	\$ 0.49	\$ 0.00	\$ 0.06
(Loss) Income from Discontinued Operations	(0.01)	0.01		(0.01)
Net income	\$ 0.14	\$ 0.50	\$ 0.00	\$ 0.05
Diluted:				
From Continuing Operations	\$ 0.14	\$ 0.47	\$ 0.00	\$ 0.05
(Loss) Income from Discontinued Operations		0.01		(0.01)
Net income	\$ 0.14	\$ 0.48	\$ 0.00	\$ 0.04

See accompanying notes to consolidated financial statements

MERCURY AIR GROUP, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOW
(UNAUDITED)

	NINE MONTHS ENDED MARCH 31,	
	2002	2001
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income	\$ 929,000	\$ 3,237,000
Less: (Loss) Income from discontinued operations	(42,000)	57,000
Income from continuing operations	971,000	3,180,000
Adjustments to derive cash flow from Operating activities:		
Loss on sale of property	71,000	
Provision for bad debts	1,247,000	2,575,000
Depreciation and amortization	7,105,000	7,582,000
Deferred income taxes	64,000	
Amortization of senior subordinated note discount	140,000	140,000
Amortization of deferred gain	(15,000)	
Changes in operating assets and liabilities:		
Trade and other accounts receivable	3,845,000	(11,310,000)
Inventories	1,108,000	195,000
Prepaid expenses and other current assets	(2,131,000)	(1,264,000)
Accounts payable	(8,181,000)	5,181,000
Accrued expenses and other current liabilities	(1,990,000)	3,239,000
Net cash provided by operating activities	2,234,000	9,518,000
CASH FLOWS FROM INVESTING ACTIVITIES:		
Decrease in other assets	479,000	1,596,000
Increase in notes receivable	(108,000)	
Acquisition of businesses		(10,400,000)
Proceeds from sale of property	4,758,000	
Additions to property, equipment and leaseholds	(2,905,000)	(4,405,000)
Net cash provided by (used in) investing activities	2,224,000	(13,209,000)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Proceeds from long-term debt	10,250,000	11,969,000
Reduction of long-term debt	(20,686,000)	(9,654,000)
Reduction of note receivable from sale of stock		75,000
Repurchase of common stock	(313,000)	
Proceeds from issuance of common stock	5,000	257,000
Net cash (used in) provided by financing activities	(10,744,000)	2,647,000

Effect of exchange rate changes on cash	(116,000)	
Net Cash provided by Discontinued Operations	4,296,000	354,000
NET (DECREASE) INCREASE IN CASH AND CASH EQUIVALENTS FROM CONTINUING OPERATIONS	(6,402,000)	(1,044,000)
CASH AND CASH EQUIVALENTS, beginning of period	3,886,000	2,143,000
CASH AND CASH EQUIVALENTS, end of period	\$ 1,780,000	\$ 1,453,000
CASH PAID DURING THE PERIOD:		
Interest	\$ 4,250,000	\$ 3,816,000
Income taxes paid (refunded)	\$ 470,000	(\$715,000)
SUPPLEMENTAL SCHEDULE OF NON-CASH INVESTING ACTIVITIES:		
Note receivable from affiliate related to the sale of property (Note 9)	\$ 1,400,000	

See accompanying notes to consolidated financial statements

MERCURY AIR GROUP, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

March 31, 2002

(Unaudited)

Note 1 – General:

Business:

Mercury Air Group, Inc., (“ the Company”) a Delaware corporation, provides a broad range of services to the aviation industry through four principal operating units: fuel sales, cargo operations, fixed base operations and U.S. government contract services. Fuel sales include the sale of fuel and delivery of fuel primarily to domestic and international commercial airlines, business aviation and air freight airlines. Cargo operations consist of cargo handling, space logistics operations and general cargo sales agent services. Fixed base operations (“FBOs”) include fuel sales, into-plane services, ground support services, aircraft hangar and tie-down facilities and maintenance at certain locations for commercial, private, general aviation and military aircraft. Government contract services consist of aircraft refueling and fuel storage operations, base operating support (“BOS”) services, air terminal and ground handling services and weather observation and forecasting services performed principally for agencies of the United States government. Additionally, the Company had a fifth operating unit, RPA Airline Automation Services, Inc. (“RPA”) which was sold on July 3, 2001 and is classified as a discontinued operation (see Note 2).

MercFuel, Inc:

On March 7, 2001, the Company announced its plan to create an independent publicly traded company, MercFuel, Inc. (“MercFuel”). MercFuel was organized in Delaware on October 27, 2000 as a wholly owned subsidiary of the Company. On January 1, 2001, the Company transferred to MercFuel, the assets and liabilities of its Fuel Sales division. On May 16, 2001 and amended twice thereafter, MercFuel filed a registration statement related to the proposed sale of 1,200,000 shares of common stock (“the Offering”). On April 30, 2001, MercFuel agreed to sell 239,942 shares of common stock in a private placement at a per share price of \$4.35. Due to market conditions, the Company was not able to complete the Offering and the proceeds of the private placement have been returned. The Company incurred \$985,000 of expenses associated with the Offering and private placement which were expensed in the quarter ended December 31, 2001. The Company has also elected to withdraw MercFuel’ s application for registration of its common stock; depending on market conditions and other factors, the Company may re-file a registration statement at a later point in time. The Company may pursue various financing options with respect to MercFuel.

Basis of Presentation:

The accompanying unaudited financial statements reflect all adjustments (consisting of normal, recurring accruals only) which are necessary to fairly present the results for the interim periods. Such financial statements have been prepared in accordance with the instructions to Form 10-Q and Rule 10-01 of Regulation S-X and, therefore, do not include all the information or footnotes necessary for a complete presentation. They should be read in conjunction with the Company's Annual Report on Form 10-K for the year ended June 30, 2001 and the notes thereto. The results of operations for the nine months ended March 31, 2002 are not necessarily indicative of results for the full year.

New Accounting Pronouncements:

In July 2001, the Financial Accounting Standards Board ("FASB") issued SFAS No. 141, "Business Combinations." SFAS No. 141 requires the purchase method of accounting for business combinations initiated after June 30, 2001 and eliminates the pooling-of-interest method. The adoption of SFAS No. 141 did not have an impact on the Company's financial statements.

In July 2001, the FASB issued SFAS No. 142, "Goodwill and Other Intangible Assets." The Company has elected to adopt SFAS No. 142 on July 1, 2002. SFAS No. 142 requires, among other things, the discontinuance of goodwill amortization. In addition, the standard includes provisions for the reclassification of certain existing recognized intangibles as goodwill, reassessment of the useful lives of existing recognized intangibles, reclassification of certain intangibles out of previously reported goodwill and the identification of reporting units for purposes of assessing potential future impairments of goodwill. SFAS No. 142 also requires the Company to complete a transitional goodwill impairment test six months from the date of adoption. The Company has not yet determined what impact the adoption will have on its financial statements.

In August 2001, the FASB issued SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets", which supersedes FASB Statement No. 121, "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to be Disposed Of." This new statement also supersedes certain aspects of APB Opinion No. 30, "Reporting the Results of Operations-Reporting the Effects of Disposal of a Segment of a Business, and Extraordinary, Unusual and Infrequently Occurring Events and Transactions," with regard to reporting the effects of a disposal of a segment of a business and will require expected future operating losses from discontinued operations to be reported in discontinued operations in the period incurred (rather than as of the measurement date as presently required by APB Opinion No. 30). In addition, more dispositions may qualify for discontinued operations treatment. The provisions of this statement are required to be applied on July 1, 2002. The Company has not yet determined what effect this statement will have on its financial statements.

Note 2 – Discontinued Operations:

On July 3, 2001, the Company completed the sale of the net assets of its subsidiary, known as RPA Airline Automation Services, Inc. (“RPA”), which provides airline revenue accounting and management information software consisting of proprietary software programs which are marketed to foreign and domestic airlines. The Company has reclassified its consolidated financial statements to reflect the sale of RPA and to segregate the revenues, direct costs and expenses (excluding allocated costs), assets and liabilities, and cash flows of RPA. The net operating results, net assets and net cash flows of this business have been reported as “Discontinued Operations” in the accompanying consolidated financial statements. Summarized income statement information for the nine months ended March 31, 2001 and balance sheet information as of June 30, 2001 are as follows:

Income Statement Information:	Nine Months Ended March 31, 2001
Service revenues	\$ 4,049,000
Operating expense	3,723,000
Gross margin	326,000
Other expense	233,000
Income before income taxes	93,000
Income tax charge	36,000
Net income	\$ 57,000

Balance Sheet Information:	June 30, 2001
Current assets	\$ 4,324,000
Total assets	5,292,000
Current and total liabilities	954,000
Net assets of discontinued operations	4,338,000

During the quarter ended September 30, 2001, the Company recorded a loss of \$42,000 related to sale of a building that had previously been RPA’s corporate headquarters. At March 31, 2002, the Company no longer retained any significant assets or liabilities related to RPA.

Note 3 – Income Taxes:

Income taxes have been computed based on the estimated annual effective income tax rate for the respective periods.

Note 4- Commitments and Contingencies:

In April 2000, Mercury filed a collection action against AER Global Logistics (“AER”) in the state of New York. AER filed a counterclaim for \$1.0 million alleging among other things, tortious interference with contract. Mercury believes that this claim is without merit, and accordingly, does not believe this matter will have a significant impact on its financial position or operating results.

On April 3, 2001 Mercury received notice of an action filed by Skylink Express, Inc. in the Superior Court of Justice Ontario, Canada against Excel Cargo, Inc. and others for damages to aircraft occurring on November 30, 1999 and January 10, 2000 at Mirabel International Airport Quebec for a total amount of \$2.5 million Canadian (\$1.65 million U.S.) plus interest and fees. Mercury does not believe the outcome of this claim will have a significant impact on its financial position or operating results.

On November 30, 2001, the Company received notice of a counter-complaint filed by UPS against the Company and a third party seeking indemnification and reimbursement in the amount of \$470,000 for the costs incurred as a result of a fuel spill at the Ontario, CA Airport. The Company has provided a response to UPS denying such claim and on September 28, 2001, filed a lawsuit seeking reimbursement for damages. Mercury does not believe the outcome of this claim will have a significant impact on its financial position or operating results.

On June 7, 2000, Jupiter Airline Automation Services, Inc. formerly known as RPA Airline Automation Services, a wholly owned subsidiary of the Company, filed an action in the Circuit Court of the 11th Judicial Circuit in Miami-Dade County, Florida against Challenge Air Cargo, Inc., seeking damages for breach of contract. In August 2000, the Company received notice that Challenge Air Cargo, Inc. had filed a counter-claim seeking damages for breach of contract. Mercury does not believe the outcome of this claim will have a significant impact on its financial position or operating results.

On May 1, 2002, Mercury received a Notice of Violation (“NOV”) for its Fort Wayne, Indiana facility alleging that Mercury’s Spill Prevention, Control and Countermeasure Plan (“SPCC”) does not meet certain federal regulatory guidelines. Specifically, the EPA alleged that Mercury’s SPCC failed to provide for proper parking, secondary containment, and proper drainage of its refueler trucks. The EPA has requested that Mercury submit a written response to its allegations no later than May 31, 2002. Mercury intends to fully comply with all EPA requirements.

The Company is also a defendant in certain litigation arising in the normal course of business. In the opinion of management, the ultimate resolution of such litigation will not have a significant effect on its financial position or operating results.

Note 5- Debt:

On September 10, 1999, the Company issued, in a private placement, a \$24.0 million senior Subordinated 12% Note (“the Note”) due 2006 with detachable warrants to purchase 503,126 shares of the Company’s common stock exercisable at \$6.50 per share for seven years. On November 16, 2001, the agreement was amended to reduce the exercise price to \$5.50 per share. The reduction in the exercise price of the warrants resulted in an insignificant change in the value of warrants. The Note agreement contains covenants that, among other matters, limit senior indebtedness, the disposition of assets and unfunded capital expenditures. The covenants also included a ratio test for interest coverage, leverage, fixed charge coverage and debt service. On November 16, 2001 and effective September 30, 2001, the Company received a waiver pertaining to the interest coverage test and the agreement was amended by reducing the ongoing interest coverage test. The Company was in compliance with the debt covenants at March 31, 2002.

Note 6- Earnings Per Share:

Basic earnings per common share is computed by dividing net income by the weighted average number of common shares outstanding during the period. Diluted earnings per share is computed by dividing net income by the weighted average number of common shares and potential common shares. Potential common shares include stock options and shares resulting from the assumed conversion of subordinated debentures, when dilutive.

	Nine Months Ended				Three Months Ended			
	March 31, 2002		March 31, 2001		March 31, 2002		March 31, 2001	
	Diluted	Basic	Diluted	Basic	Diluted	Basic	Diluted	Basic
Weighted average number of common shares outstanding during the period	6,557,000	6,557,000	6,521,000	6,521,000	6,518,000	6,518,000	6,531,000	6,531,000
Common share equivalents resulting from the assumed exercise of stock options	142,000	–	171,000	–	151,000	–	167,000	–
Common shares resulting from the assumed conversion of debentures	28,000	–	44,000	–	28,000	–	44,000	–
Weighted average number of common and common equivalent shares outstanding during the period	6,727,000	6,557,000	6,736,000	6,521,000	6,697,000	6,518,000	6,742,000	6,531,000

Note 7- Segment Reporting:

The Company operates and reports its activities through four principal units: 1) Fuel Sales, 2) Fixed Based Operations, 3) Cargo Operations and 4) Government Contract Services. Additionally, the Company had a fifth operating unit, RPA, which was sold on July 3, 2001. As a result, RPA historical operating results have been reclassified as discontinued operations. The segment data for the quarter and nine months ended March 31, 2001 included below has been restated to exclude amounts related to the RPA business unit.

(Dollars in Thousands)	Fuel Sales	Fixed Base Operations	Cargo Operations	Government Contract Services	Corporate or Unallocated	Total
Quarter Ended March 31, 2002						
Revenues	\$ 52,243	\$ 22,491	\$ 6,400	\$ 6,784		\$ 87,918
Gross Margin	1,833	3,301	(6)	1,674		6,802
Depreciation and Amortization	16	1,489	275	171	123	2,074
Capital Expenditures	11	661	45	5	14	736
Segment Assets	30,635	47,565	32,347	24,275	(1,374)	133,448
Quarter Ended March 31, 2001						
Revenues	\$ 74,965	\$ 24,082	\$ 7,936	\$ 6,919		\$ 113,902
Gross Margin	1,318	3,523	1,541	1,290		7,672
Depreciation and Amortization	186	1,334	861	210		2,591
Capital Expenditures	0	838	244	9	46	1,137
Segment Assets	23,297	40,158	35,311	21,424	29,370	149,560
Nine Months Ended March 31, 2002						
Revenues	\$ 171,353	\$ 69,575	\$ 21,086	\$ 21,747		\$ 283,761
Gross Margin	5,090	10,690	1,449	5,411		22,640
Depreciation and Amortization	31	4,301	1,755	384	634	7,105
Capital Expenditures	22	2,718	142	5	18	2,905
Segment Assets	30,635	47,565	32,347	24,275	(1,374)	133,448
Nine Months Ended March 31, 2001						
Revenues	\$ 239,870	\$ 74,417	\$ 23,664	\$ 21,439		\$ 359,390
Gross Margin	5,852	11,332	5,612	4,351		27,147
Depreciation and Amortization	559	3,918	2,467	638		7,582
Capital Expenditures	11	13,138	1,576	(34)	114	14,805
Segment Assets	23,297	40,158	35,311	21,424	29,370	149,560

Gross margin is used as the measure of profit and loss for segment reporting purposes as it is viewed by key decision makers as the principal operating indicator in measuring segment profitability. The key decision makers also view bad debt expense as an important measure of profit and loss. The predominant component of bad debt expense relates to Fuel Sales. Bad debt expense for Fuel Sales was approximately \$402,000 and \$651,000; total bad debt expense was \$475,000 and \$676,000 for the quarter ended March 31, 2002 and March 31, 2001, respectively. Bad debt expense for fuel sales was approximately \$1,021,000 and \$2,350,000; total bad debt expense was \$1,247,000 and \$2,575,000 for the nine months ended March 31, 2002 and March 31, 2001, respectively.

Note 8 – Comprehensive Income:

For the periods presented, adjustments to derive comprehensive income (loss) from net income are as follows.

	Nine Months Ended March 31,		Three Months Ended March 31,	
	2002	2001	2002	2001
Net Income	\$ 929,000	\$ 3,237,000	\$ 6,000	\$ 299,000
Foreign Currency Adjustment	(116,000)	–	(116,000)	–
Comprehensive Income (Loss)	\$ 813,000	\$ 3,237,000	\$ (110,000)	\$ 299,000

Note 9 – Sales Leaseback Related Party Transaction:

In January 2002, the Company sold land and building which comprise its corporate headquarters to CFK Realty Partners, LLC (“CFK Partners”) for \$4.1 million, consisting of \$2.7 million in cash and a note receivable of \$1.4 million. The note receivable accrues interest at 5% and is due on December 31, 2002, however, CFK Partners has options to extend the note through December 31, 2004. Concurrently, the Company also entered into a ten-year lease for the property. The lease payments currently approximate \$37,000 per month. The excess of the sales price over the net book value of the property of \$2,227,000 was recorded as a deferred gain. Of this gain, \$827,000 (the amount of cash received in excess of net book value) is being amortized as an offset to rent expense over the ten year term of the lease agreement. The remaining deferred gain will be amortized over the remaining term of the lease beginning at such time as it meets the criteria for gain recognition.

CFK Partners is a partnership consisting of three of the Company’s directors, one of whom also serves as the Company’s Chief Executive Officer. In addition, CFK Partners also owns approximately 30% of the Company’s outstanding shares.

Item 2.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

Results of Operations- Comparison of the Three Months Ended March 31, 2002 and March 31, 2001 and Comparison of the Nine Months Ended March 31, 2002 and March 31, 2001.

The following tables set forth, for the periods indicated, the revenues and gross margin for each of the Company's four operating units, as well as selected other financial statement date.

(\$ in millions)	Nine Months Ended March 31,				Three Months Ended March 31,			
	2002		2001		2002		2001	
	Amount	% of Total Revenues	Amount	% of Total Revenues	Amount	% of Total Revenues	Amount	% of Total Revenues
Revenues:								
Fuel sales	\$ 171.4	60.4%	\$ 239.9	66.7%	\$ 52.2	59.4%	\$ 75.0	65.8%
FBOs	69.6	24.5	74.4	20.7	22.5	25.6	24.1	21.1
Cargo operations	21.1	7.4	23.7	6.6	6.4	7.3	7.9	7.0
Government contract services	21.7	7.7	21.4	6.0	6.8	7.7	6.9	6.1
Total Revenue	\$ 283.8	100 %	\$ 359.4	100 %	\$ 87.9	100 %	\$ 113.9	100 %
	Amount	% of Total Revenues	Amount	% of Total Revenues	Amount	% of Total Revenues	Amount	% of Total Revenues
Gross Margin(1):								
Fuel sales	\$ 5.1	3.0 %	\$ 5.8	2.4 %	\$ 1.8	3.5 %	\$ 1.3	1.8 %
FBOs	10.7	15.4	11.3	15.2	3.3	14.7	3.5	14.6
Cargo operations	1.4	6.9	5.6	23.7	-	-	1.5	19.4
Government contract services	5.4	24.9	4.4	20.3	1.7	24.7	1.3	18.6
Total Gross Margin	\$ 22.6	8.0 %	\$ 27.1	7.6 %	\$ 6.8	7.7 %	\$ 7.7	7.6 %
	Amount	% of Total Revenues	Amount	% of Total Revenues	Amount	% of Total Revenues	Amount	% of Total Revenues
Selling, general and administrative	\$ 7.4	2.6 %	\$ 6.1	1.7 %	\$ 2.9	3.4 %	\$ 2.0	1.7 %
Provision for bad debts	1.2	0.4	2.5	0.7	0.5	.5	0.7	0.6
Depreciation and amortization	7.1	2.5	7.6	2.1	2.1	2.4	2.6	2.3
Interest expense and other	5.3	1.9	5.7	1.6	1.3	1.5	1.8	1.6
Income before income taxes	1.6	0.6	5.2	1.5	-	-	0.6	0.5

Provision for income taxes	0.6	0.2	2.0	0.6	-	-	.2	.2
	—	—	—	—	—	—	—	—
Income from continuing operations before tax	1.0	0.3	3.2	0.9	-	-	0.4	0.3
(Loss) Income from discontinued operations	(0.1)	-	0.1	-	-	-	(0.1)	0.1
	—	—	—	—	—	—	—	—
Net income	\$ 0.9	0.3 %	\$ 3.2	0.1 %	\$ -	- %	\$ 0.3	0.3 %
	—	—	—	—	—	—	—	—

(1) Gross margin as used here and throughout Management' s Discussion excludes depreciation and amortization and selling, general and administrative expense

Three Months ended March 31, 2002 Compared to March 31, 2001

Revenue decreased by 22.8% to \$87.9 million in the current period from \$113.9 million in the prior year primarily due to lower fuel prices and fuel volume in the current period. Gross margin decreased 11.3 % to \$ 6.8 million in the current period from \$7.7 million a year ago, primarily due to declines in Cargo operations. The declines were, in part, caused by the slow down in the airline industry resulting from the events of September 11, 2001 and general economic conditions.

Revenues from fuel sales represented 59.4% of total revenues in the current period compared to 65.8% of revenues a year ago. Revenues from fuel sales decreased 30.3% to \$52.2 million from \$75.0 million last year. The decrease from fuel sales was due to a decrease of 22% in the price of fuel sold and a decrease of 11.2% in volume sold. Gross margin from fuel sales increased to \$1.8 million in the current period compared with \$1.3 million last year primarily due to higher per gallon margins in the current period caused by a change in the customer mix. The volume decline was, in part, caused by the slow down in the airline industry.

Revenues from FBOs decreased 6.6 % to \$22.5 million in the current period compared to \$24.1 million a year ago. The decrease in revenue was primarily due to a decline in fuel prices of 8% and a reduction in fuel volume of 2 % . Gross margin decreased 6.3% in the current period to \$3.3 million from \$3.5 million last year due to lower volume.

Revenues from cargo operations decreased 19.4% to \$6.4 million in the current period from \$7.9 million a year ago. Revenues were lower in cargo handling, brokerage and general sales agency (“GSA”) due to softness in worldwide trade markets causing a decline in revenues from existing customers. Cargo operations in the current period reflected a slight loss in gross margin as compared to a \$1.5 million gross margin in the year ago period primarily due to lower revenues. The Company’ s Cargo operations in Atlanta were negatively impacted during the latest period by higher lease costs associated with a new facility and lower revenues primarily caused by the loss of an account which had represented approximately 30% of its revenues in the year ago period and none in the current period. In response, the Company subleased its Atlanta warehouse facility which should result in improved financial results in future periods. Revenues from existing customers at the Company’ s LAX operations for both warehouse and GSA were lower compared to last year due to a softer marketplace. The Cargo business has been impacted by a slowdown in worldwide air cargo tonnage and shipments.

Revenues from government contract services decreased slightly in the current period to \$6.8 million from \$6.9 million in the year ago period due to the loss of the Yokota, Japan housing maintenance contract in September 2001 and lower weather observation and forecasting revenues from fewer contracts, partially offset by new contracts added in fiscal 2001 and in the current period. The Yokota, Japan contract provided \$0.8 million or 11.8% of total revenues during the quarter ended March 31, 2001 and \$5.1 million or 17.6% of total revenues during fiscal year 2001. This revenue loss was mitigated in part by increased revenue on the Kuwait refueling contract which provided \$0.5 million in increased revenues compared to the year ago quarter. Gross margin from government contract services in the current period increased 29.8% to \$1.7 million from \$1.3 million last year due to higher margins.

Selling, general and administrative expenses increased 51.7% to \$2.9 million in the current period from \$2.0 million a year ago due primarily to employee severance expenses and higher legal and professional fees in the current period.

[Table of Contents](#)

Provision for bad debts decreased 29.7% in the current period to \$0.5 million from \$0.7 million a year ago primarily due to lower sales in the current period and lower reserve requirements.

Depreciation and amortization expense decreased 20.0% in the current period to \$2.1 million from \$2.6 million in the year ago period primarily due to a decrease in the level of capital expenditures.

Interest expense decreased by 28.0% in the current period to \$1.3 million from \$1.8 million a year ago due to lower interest rates and lower average outstanding debt.

Income tax expense approximated 39% of pre-tax income in both periods reflecting the expected effective annual tax rate.

Loss from discontinued operations was \$69,000 in the year ago period net of income tax benefit of \$44,000 and was related to RPA's operations.

Nine Months Ended March 31, 2002 compared to March 31, 2001.

Revenues decreased 21.0% to \$283.8 million from \$359.4 million in the prior year primarily due to lower fuel prices in the current period. Gross margin decreased 16.6 % to \$22.6 million from \$27.1 million a year ago primarily due to declines from Cargo operations. The decline in gross margin was in part, caused by the slow down in the airline industry and the temporary cessation of commercial and general aviation resulting from the events of September 11, 2001 and general economic conditions.

Revenues from fuel sales represented 60.4% of total revenues in the current period compared to 66.7% of total revenue a year ago. Revenues from fuel sales decreased 28.6 % to \$171.4 million from \$239.9 million last year. The decrease in revenues from fuel sales was primarily due to a decrease of 24% in the price of fuel sold and, to a lesser extent, a decrease of 6.2% in the volume of fuel sold. The volume decline was, in part, caused by the slow down in the airline industry resulting from the events of September 11, 2001. Gross margin from fuel sales decreased 13.0% in the current period to \$5.1 million from \$5.8 million a year ago. The decrease in gross margin from fuel sales was primarily due to lower margins per gallon based on a change in customer mix.

Revenue from FBOs decreased 6.5% to \$69.6 million from \$74.4 million a year ago due to a reduction of approximately 6.6% in the price and 3.4% in the volume of fuel sold. Gross margin decreased 5.7% to \$10.7 million from \$11.3 million in the year ago period due primarily to the decline in business activity following the events of September 11, 2001.

Revenues from cargo operations decreased 10.9% to \$21.1 million from \$23.7 million a year ago. Revenues were lower in cargo handling, brokerage and GSA due to softness in the marketplace causing a decline in revenues from existing customers. Gross margin from cargo operations decreased 74.2 % to \$1.4 million from \$5.6 million in the year ago period primarily due to lower revenues and partially due to higher operating costs, primarily lease costs, associated with cargo handling.

[Table of Contents](#)

Revenues from government contract services increased 1.4% to \$21.7 million from \$21.4 million in the year ago period. The increase in revenues from government contract services was primarily due to the Addition of new contracts during the last twelve months, partially offset by lower weather and forecasting revenue from fewer contracts and the loss of the Yokota, Japan contract in September 2001. The Yokota, Japan contract provided \$4.0 million or 18.6% of total revenues for the nine months ended March 31, 2001. Gross margin from government contract services in the current period increased 24.4% to \$5.4 million from \$4.4 million last year due to higher margins and higher revenue.

Selling, general and administrative expenses in the current period increased 21.1% to \$7.4 million from \$6.1 million in the year ago period due to settlement of litigation, employee severance, and increased legal and professional fees.

Provision for bad debts decreased in the current period to \$1.2 million from \$2.5 million in the year ago period due to lower sales in the current period and lower reserve requirements.

Depreciation and amortization expense was \$7.1 million in the current period compared to \$7.6 million in the year ago period.

Interest expense decreased 24.3% in the current nine months to \$4.3 million from \$5.7 million a year ago due to lower interest rates and lower average outstanding borrowings.

Costs and expenses of stock offering of \$985,000 related to fees associated with the planned public and private offering of MercFuel common stock. The Company was unable to complete the offering and charged the costs to expense during the quarter ended December 31, 2001.

Loss on sale of property was \$71,000 in the current period and is related to the sale of real estate in Miami.

Income tax expense approximated 39.0% of pretax income in both periods reflecting the expected effective annual tax rate.

Liquidity and Capital Resources:

The events of September 11, 2001 had a significant impact on the aviation industry and, as a result, have impacted the Company's operations as well. However, at this time, the Company's operations are returning to normal levels. In view of the uncertainty of the ultimate impact upon the aviation industry, the long-term impact to the Company's customers and operations cannot be determined at this time.

Mercury has historically financed its operations primarily through operating cash flow, bank debt and various public and private placements of bonds and subordinated debt.

As of March 31, 2002, the Company cash and cash equivalents were \$1.8 million, a reduction of \$2.1 million for the nine month period. Cash provided by operating activities was \$2.2 million comprised of \$1.0 million from earnings from continuing operations, adjusted for \$8.6 million of non-cash items, less \$7.3 million for increases in operating net working capital. The increase in net working capital is primarily due to lower current liabilities and accrued expenses.

[Table of Contents](#)

Net cash generated from investing activities was \$2.2 million primarily comprised of proceeds from assets sales of \$4.8 million partially offset by capital expenditures of \$2.9 million.

The Company used \$10.7 million of cash in financing activities during the current period primarily due to the net reduction in long term debt of \$10.4 million. The Company's long-term debt, including current portion, as of March 31, 2002 is \$64.8 million.

During the first nine months of 2002, the Company also generated \$4.3 million in cash from the sale of RPA in July 2001 and the discontinuation of that business.

The Company's senior secured bank credit facility consists of a \$35.0 million Revolver, a term loan with an outstanding balance of \$5.3 million at March 31, 2002 and an acquisition facility with an outstanding balance of \$17.4 million at March 31, 2002. At March 31, 2002, there was \$2.0 million outstanding under the Revolver. The agreement contains provisions that require the maintenance of certain financial ratios including minimum tangible net worth (as defined), minimum profitability levels, maximum leverage and minimum debt service coverage and quick ratios and limitations on annual capital expenditures. Additionally, the Company is prohibited from paying dividends in excess of \$400,000 per year. These facilities mature in March 2004.

On September 10, 1999, the Company issued, in a private placement, a \$24.0 million senior Subordinated 12% Note ("the Note") due 2006 with detachable warrants to purchase 503,126 shares of the Company's common stock exercisable at \$6.50 per share for seven years. On November 16, 2001, Company agreed to reduce the exercise price to \$5.50 per share. The Note agreement contains covenants that, among other matters, limit senior indebtedness, the disposition of assets and unfunded capital expenditures. The covenants also included a ratio test for interest coverage, leverage, fixed charge coverage and debt service. On November 16, 2001 and effective September 30, 2001, the Company received a waiver pertaining to the interest coverage test and the agreement was amended by reducing the ongoing interest coverage test. The Company was in compliance with the loan covenants at March 31, 2002.

In the event that fuel prices increase significantly for an extended period of time, the Company's liquidity could be adversely affected unless the Company is able to increase vendor credit or increase lending limits under its revolving credit facility. The Company believes, however its revolver and vendor credit should provide it with sufficient liquidity in the event of a major temporary surge in oil prices.

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK.

There has been no material change during the quarter ended March 31, 2002 from the disclosures regarding market risk presented in the Company's Annual Report on Form 10-K for the year ended June 30, 2001.

Forward-Looking Statements

Statements contained in this Quarterly Report on Form 10-Q which are not historical facts are forward-looking statements. In addition, Mercury, from time-to-time, makes forward-looking statements concerning its expected future operations and performance and other developments. Such forward-looking statements are necessarily estimates reflecting Mercury's best judgment based upon current information and involve a number of risks and uncertainties, and there can be no assurance that other factors will not affect the accuracy of such forward-looking statements. While it is impossible to identify all such factors, factors which could cause actual results to differ materially from those estimated by Mercury include, but are not limited to, risks associated with acquisitions, the financial condition of customers, non-renewal of contracts, government regulation, as well as operating risks, general conditions in the economy and capital markets, and other factors which may be identified from time-to-time in Mercury's Securities and Exchange Commission filings and other public announcements.

PART II – OTHER INFORMATION

Item 1. Legal Proceedings

In April 2000, Mercury filed a collection action against AER Global Logistics ("AER") in the state of New York. AER filed a counterclaim for \$1.0 million alleging among other things, tortious interference with contract. Mercury believes that this claim is without merit, and accordingly, does not believe this matter will have a significant impact on its financial position or operating results.

On April 3, 2001 Mercury received notice of an action filed by Skylink Express, Inc. in the Superior Court of Justice Ontario, Canada against Excel Cargo, Inc. and others for damages to aircraft occurring on November 30, 1999 and January 10, 2000 at Mirabel International Airport Quebec for a total amount of \$2.5 million Canadian (\$1.65 million U.S.) plus interest and fees. Mercury does not believe the outcome of this claim will have a significant impact on its financial position or operating results.

On November 30, 2001, the Company received notice of a counter-complaint filed by UPS against the Company and a third party seeking indemnification and reimbursement in the amount of \$470,000 for the costs incurred as a result of the fuel spill at the Ontario, CA Airport. The Company has provided a response to UPS denying such claim and on September 28, 2001, filed a lawsuit seeking reimbursement for damages. Mercury does not believe the outcome of this claim will have a significant impact on its financial position or operating results.

On June 7, 2000, Jupiter Airline Automation Services, Inc. former known as RPA Airline Automation Services, a wholly owned subsidiary of the Company, filed an action in the Circuit Court of the 11th Judicial Circuit in Miami-Dade County, Florida against Challenge Air Cargo, Inc., seeking damages for breach of contract. In August 2000, the Company received notice that Challenge Air Cargo, Inc. had filed a counter-claim seeking damages for breach of contract. Mercury does not believe the outcome of this claim will have a significant impact on its financial position or operating results.

Table of Contents

Item 2. Change in Securities

None

Item 3. Default Upon Senior Securities

None

Item 4. Submission of Matters to a Vote of Security Holders

None

Item 5. Other Information

None

Item 6 (a) Exhibits and Exhibit List

(b) Reports on Form 8-K

Exhibit No.	Description
2.1	Agreement and Plan of Merger adopted January 9, 2001.(17)
2.2	Certificate of Merger. (17)
3.1	Bylaws of Company adopted January 9, 2001. (17)
3.2	Certificate of Incorporation.(17)
4.1	Loan Agreement between California Economic Development Financing Authority and Mercury Air Group, Inc. relating to \$19,000,000 California Economic Development Financing Authority Variable Rate Demand Airport Facilities Revenue Bonds, Series 1998 (Mercury Air Group, Inc. Project) dated as of April 1, 1998.(2)
4.2	Securities Purchase Agreement dated September 10, 1999 by and among Mercury Air Group, Inc. and J.H. Whitney Mezzanine Fund, L.P.(12)
4.3	Amendment No. 1 dated as of September 30, 2000 by and between J.H. Whitney Mezzanine, L.P. and Mercury Air Group, Inc. to the Securities Agreement.(16)
4.4	Waiver and Consent Agreement dated as of December 29, 2000 among Mercury Air Group, Inc. and J.H. Whitney Mezzanine Fund, L.P.(17)
4.5	Waiver and Consent Agreement dated as of July 2, 2001 among Mercury Air Group, Inc. and J.H. Whitney Mezzanine Fund, L.P.(18)

Table of Contents

Exhibit No.	Description
4.7	Amendment No. 2 dated as of September 30, 2001 by and between J.H. Whitney Mezzanine, L.P. and Mercury Air Group, Inc. to Securities Purchase Agreement.(19)
4.8	Amended and Restated J.H. Whitney Mezzanine Fund, L.P. Warrant.(19)
4.9	Waiver Agreement dated as of November 26, 2001 among Mercury Group, Inc. and J. H. Whitney Mezzanine, L.P.(21)
4.10	Waiver Agreement dated as of December 21, 2001 among Mercury Air Group, Inc. and J. H. Whitney Mezzanine, L.P.(21)
10.1	Company' s 1990 Long-Term Incentive Plan.(4)*
10.2	Company' s 1990 Directors Stock Option Plan.(1)*
10.3	Lease for 6851 West Imperial Highway, Los Angeles, California.(3)
10.4	Memorandum Dated September 15, 1997 regarding Summary of Officer Life Insurance Policies with Benefits Payable to Officers or Their Designated Beneficiaries.(8)*
10.5	Employment Agreement dated November 15, 1994 between the Company and Joseph Czyzyk.(9)*
10.6	Non-Qualified Stock Option Agreement dated March 21, 1996, by and between Frederick H. Kopko and Mercury Air Group, Inc.(6) *
10.7	Company' s 1998 Long-Term Incentive Plan.(10) *
10.8	Company' s 1998 Directors Stock Option Plan.(10) *
10.9	Amendment to Employment Agreement by and between Mercury Air Group, Inc. and Joseph A. Czyzyk dated October 15, 1998.(11) *
10.10	Amendment No. 2 to Employment Agreement by and between Mercury Air Group, Inc. and Joseph A. Czyzyk dated April 12, 1999.(11)*
10.11	Revolving Credit and Term Loan Agreement dated as of March 2, 1999 by and among Mercury Air Group, Inc., The Banks listed on Schedule 1 thereto, and The Fleet National Bank f/k/a BankBoston, N.A., as Agent.(11)
10.12	First Amendment to Revolving Credit and Term Loan Agreement dated as of September 10, 1999.(14)
10.13	Second Amendment to Revolving Credit and Term Loan Agreement dated as of March 31, 2000.(14)
10.14	Third Amendment, Waiver and Consent to Revolving Credit and Term Loan Agreement dated as of August 11, 2000.(14)
10.15	The Company' s 401(k) Plan consisting of CNA Trust Corporation. Regional Prototype Defined Contribution Plan and Trust and Adoption Agreement.(14)*
10.16	Amendment No. 3 to Employment Agreement by and between Mercury Air Group, Inc. and Joseph A. Czyzyk dated September 11, 2000.(15)*
10.17	Employment Agreement dated July 31, 2000 between the Company and Dr. Philip J. Fagan.(15)*

Table of Contents

Exhibit No.	Description
10.18	Fourth Amendment to Revolving Credit and Term Loan Agreement dated as of November 14, 2000.(16)
10.19	Amendment No. 1 to Mercury Air Group, Inc. 1998 Long-Term Incentive Option Plan as of August 22, 2000.(16)*
10.20	Amendment No. 1 to Mercury Air Group, Inc. 1998 Directors Stock Option Plan as of August 22, 2000.(16)*
10.21	Limited Waiver letter Agreement to Revolving Credit and Term Loan Agreement dated as of September 21, 2001.(18)
10.22	Fifth Amendment to Revolving Credit and Term Loan Agreement dated as June 7, 2001.(19)
10.23	Limited Consent letter Agreement to Revolving Credit and Term Loan Agreement dated as of September 30, 2001.(19)
10.24	2001 Mercury Air Group, Inc. Stock Incentive Plan.(20)
10.25	Limited Waiver and Consent to Revolving Credit and Term Loan Agreement dated as of December 31, 2001.(21)
10.26	Sale Leaseback Agreement. Made as of December 31, 2001 by and between CFK Realty Partners LLC and Mercury Air Group, Inc.(22)
99.1	Partnership Agreement dated as of July 27, 2000 of CFK Partners by and among Philip J. Fagan, M.D., Frederick H. Kopko, Jr. and Joseph A. Czyzyk. (13)

* Denotes managements contract or compensation plan or arrangement

- (1) Such document was previously filed as Appendix A to the Company' s Proxy Statement for the December 10, 1993 Annual Meeting of Shareholders and is incorporated herein by reference.
- (2) All such documents were previously filed as Exhibits to the Company' s Quarterly Report on Form 10-Q for the quarter ended March 31, 1998 and are incorporated herein by reference.
- (3) All such documents were previously filed as Exhibits to the Company' s Registration Statement No. 33-39044 on Form S-2 and are incorporated herein by reference.
- (4) Such document was previously filed as Appendix A to the Company' s Proxy Statement for the December 2, 1992 Annual Meeting of Shareholders.
- (5) All such documents were previously filed as Exhibits to the Company' s Registration Statement No. 33-65085 on Form S-1 and are incorporated herein by reference.

Table of Contents

- (6) All such documents were previously filed as Exhibits to the Company' s Quarterly Report on Form 10-Q for the quarter ended March 31, 1996 and are incorporated herein by reference.
- (7) All such documents were previously filed as Exhibits to the Company' s Report on Form 8-K filed September 13, 1996 and are incorporated herein by reference.
- (8) Such document was previously filed as an Exhibit to the Company' s Annual Report on Form 10-K for the year ended June 30, 1997 and is incorporated herein by reference.
- (9) All such documents were previously filed as an Exhibit to the Company' s Annual Report on Form 10-K for the year ended June 30, 1998 and is incorporated herein by reference.
- (10) Such document was previously filed as Appendix A to the Company' s Proxy Statement for the December 3, 1998 Annual Meeting of Shareholders and incorporated herein by reference.
- (11) All such documents were previously filed as an Exhibit to the Company' s Quarterly Report on Form 10-Q for the quarter ended March 31, 1999 and incorporated herein by reference.
- (12) All such documents were previously filed as an Exhibit to the Company' s Annual Report on Form 10-K for the year ended June 30, 1999 and is incorporated herein by reference.
- (13) Such document was previously filed as an Exhibit to the Company' s current Report on Form 8-K on August 11, 2000 and is incorporated herein by reference.
- (14) All such documents were previously filed as an Exhibit to the Company' s Annual Report on Form 10-K for the year ended June 30, 2000 and is incorporated herein by reference.
- (15) All such documents were previously filed as an Exhibit to the Company' s Quarterly Report on Form 10-Q for the quarter ended September 30, 2000 and incorporated herein by reference.
- (16) All such documents were previously filed as an Exhibit to the Company' s Quarterly Report on Form 10-Q for the quarter ended December 31, 2000 and incorporated herein by reference.
- (17) All such documents were previously filed as an Exhibit to the Company' s Quarterly Report on Form 10-Q for the quarter ended March 31, 2001 and incorporated herein by reference.

Table of Contents

- (18) All such documents were previously filed as an Exhibit to the Company' s Annual Report on Form 10-K for the year ended June 30, 2001 and is incorporated herein by reference.
- (19) All such documents were previously filed as an Exhibit to the Company' s Quarterly Report on Form 10-Q for the quarter ended September 30, 2001 and incorporated herein by reference.
- (20) Such document was previously filed as Appendix A to the Company' s Proxy Statement for the November 7, 2001 Annual Meeting of Shareholders and incorporated herein by reference.
- (21) All such documents were previously filed as an Exhibit to the Company' s Quarterly Report on Form 10-Q for the quarter ended December 31, 2001 and incorporated herein by reference.
- (22) Filed herewith.

(b) Reports on Form 8-K:

None

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Mercury Air Group, Inc.
Registrant

/s/ Joseph Czyzyk

Joseph Czyzyk
Chief Executive Officer

/s/ Robert M. Schlax

Robert M. Schlax
Vice President Finance
(Principal Financial Officer)

Date: May 13, 2002

LEASE

THIS LEASE (this "Lease") is made as of December 21, 2001 (the "Effective Date"), by and between CFK REALTY PARTNERS, LLC, an Illinois limited liability company ("Lessor"), whose address is 5456 McConnell Avenue, Los Angeles, California 90066 and MERCURY AIR GROUP, INC., a Delaware corporation ("Lessee"), whose address is 5456 McConnell Avenue, Los Angeles, California 90066.

W I T N E S S E T H :

THAT, in consideration of the mutual covenants and agreements herein contained, Lessor and Lessee hereby covenant and agree as follows:

1. CERTAIN DEFINED TERMS. The following terms shall have the following meanings for all purposes of this Lease:

"ADA" has the meaning set forth in Section 16.C.

"ADDITIONAL RENTAL" has the meaning set forth in Section 5.B.

"AFFILIATE" means any Person which directly or indirectly controls, is under common control with, or is controlled by any other Person. For purposes of this definition, "controls", "under common control with" and "controlled by" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or otherwise.

"APPLICABLE REGULATIONS" means all applicable statutes, regulations, rules, ordinances, codes, licenses, permits, orders and approvals of each Governmental Authority having jurisdiction over Lessee and/or the Property, including, without limitation, all health, building, fire, safety and other codes, ordinances and requirements and all applicable standards of the National Board of Fire Underwriters and the ADA, in each case, as amended, and any judicial or administrative interpretation thereof, including any judicial order, consent, decree or judgment applicable to Lessee.

"BASE ANNUAL RENTAL" means \$439,968.

"BASE MONTHLY RENTAL" means an amount equal to 1/12 of the applicable Base Annual Rental.

"BUSINESS DAY" means a day on which banks located in Los Angeles, California are not required or authorized to remain closed (other than a Saturday and Sunday).

"CODE" means the United States Bankruptcy Code, 11 U.S.C. Sec. 101

ET SEQ., as amended.

"DE MINIMIS AMOUNTS" shall mean, with respect to any given level of Hazardous Materials, that level or quantity of Hazardous Materials in any form or combination

of forms, the use, storage or release of which does not constitute a violation of, or require regulation or remediation under, any Environmental Laws and is customarily employed in the ordinary course of, or associated with, similar businesses located in the state in which the Property is located.

"DEFAULT RATE" means 18% per annum or the highest rate permitted by law, whichever is less.

"DISCLOSURES" has the meaning set forth in Section 8.B.

"EFFECTIVE DATE" has the meaning set forth in the Preamble.

"ENVIRONMENTAL LAWS" means any present and future federal, state and local laws, statutes, ordinances, rules and regulations relating to Hazardous Materials and/or the protection of human health or the environment, by reason of a Release or a Threatened Release of Hazardous Materials or relating to liability for or costs of Remediation or prevention of Releases. "Environmental Laws" includes, but is not limited to, the following statutes, as amended, any successor thereto, and any regulations, rulings, orders or decrees promulgated pursuant thereto, and any state or local statutes, ordinances, rules, regulations and the like addressing similar issues: the Comprehensive Environmental Response, Compensation and Liability Act; the Emergency Planning and Community Right-to-Know Act; the Hazardous Materials Transportation Act; the Resource Conservation and Recovery Act (including but not limited to Subtitle I relating to underground storage tanks); the Solid Waste Disposal Act; the Clean Water Act; the Clean Air Act; the Toxic Substances Control Act; the Safe Drinking Water Act; the Occupational Safety and Health Act; the Federal Water Pollution Control Act; the Federal Insecticide, Fungicide and Rodenticide Act; the Endangered Species Act; the National Environmental Policy Act; and the River and Harbors Appropriation Act. "Environmental Laws" also includes, but is not limited to, any present and future federal, state and local laws, statutes, ordinances, rules, regulations and the like, as well as common law: conditioning transfer of property upon a negative declaration or other approval of a Governmental Authority of the environmental condition of the property; requiring notification or disclosure of Releases or other environmental condition of the Property to any Governmental Authority or other person or entity, whether or not in connection with transfer of title to or interest in property; relating to nuisance, trespass or other causes of action related to Hazardous Materials; and relating to wrongful death, personal injury, or property or other damage in connection with the physical condition or use of the Property by reason of the presence of Hazardous Materials in, on, under or above the Property.

"ENVIRONMENTAL LIENS" has the meaning set forth in Section 16.D(ix).

"EVENT OF DEFAULT" has the meaning set forth in Section 23.

"EXTENDED TERM" means the period subsequent to the expiration of the Primary Term which this Lease is actually in effect.

"GAAP" means generally accepted accounting principles consistently applied.

2

"GOVERNMENTAL AUTHORITY" means any governmental authority, agency, department, commission, bureau, board, instrumentality, court or quasi-governmental authority of the United States, the state in which the Property is located or any political subdivision thereof.

"HAZARDOUS MATERIALS" means (i) any toxic substance or hazardous waste, substance, solid waste, or related material, or any pollutant or contaminant; (ii) radon gas, asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contains dielectric fluid containing levels of polychlorinated biphenyls in excess of federal, state or local safety guidelines, whichever are more stringent, or any petroleum product; (iii) any substance, gas, material or chemical which is or may be defined as or included in the definition of "hazardous substances," "toxic substances," "hazardous materials," "hazardous wastes," "regulated substances" or words of similar import under any Environmental Laws; and (iv) any other chemical, material, gas or substance the exposure to or release of which is or may be prohibited, limited or regulated by any Governmental Authority that asserts or may assert jurisdiction over the Property or the operations or activity at the Property, or any chemical, material, gas or substance that does or may pose a hazard to the health and/or safety of the occupants of the Property or the owners and/or occupants of property adjacent to or surrounding the Property.

"INDEMNIFIED PARTIES" means Lessor and Lender and their directors, officers, shareholders, trustees, beneficial owners, partners, members, and any directors, officers, shareholders, trustees, beneficial owners, partners, members of any beneficial owners, partners or members of Lessor or Lender, and all employees, agents, servants, representatives, contractors, subcontractors, affiliates, subsidiaries, participants, successors and assigns of any of the foregoing, including, but not limited to, any successors by merger, consolidation or acquisition of all or a substantial portion of the assets and business of Lessor or Lender, as applicable.

"LEASE TERM" shall have the meaning described in Section 4.

"LENDER" means General Electric Capital Business Asset Funding Corporation, a Washington corporation, its successors and assigns, any successor lender in connection with any loan secured by Lessor's interest in the Property, and any servicer of any loan secured by Lessor's interest in the Property.

"LESSEE ENTITIES" means, collectively, Lessee and Permitted Lessees and all Affiliates of Lessee and Permitted Lessees.

"LOAN DOCUMENTS" means, collectively, the Notes, the Mortgages and all other documents, instruments and agreements executed in connection therewith or contemplated thereby, all as amended and supplemented and any and all replacements or substitutions thereof.

"LOSSES" means any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, diminutions in value, fines, penalties, charges, fees, expenses, judgments, awards,

3

amounts paid in settlement and damages of whatever kind or nature (including, without limitation, attorneys' fees, court costs and other costs of defense).

"MATERIAL ADVERSE EFFECT" means a material adverse effect on (i) the net worth or operation of Lessee, or the Property, including, without limitation, the operations of any of the Property as a Permitted Facility and/or the value of the Property, or (ii) Lessee's ability to perform its obligations under this Lease and the other Sale-Leaseback Documents.

"MATURITY DATE" means January 1, 2012.

"MEMORANDUM" means the memorandum of lease dated as of the date of this Lease between Lessor and Lessee with respect to the Property. A duplicate original Memorandum will be executed and recorded in the applicable real property records for the Property. The Memorandum will contain exhibits with the addresses and store identification numbers for the Property and the legal description for the Property.

"MORTGAGES" means, collectively, the mortgages, deeds of trust or deeds to secure debt, assignments of rents and leases dated as of even date herewith executed by Lessor for the benefit of Lender with respect to the Property, as such instruments may be amended, restated and/or supplemented from time to time and any and all replacements or substitutions thereof.

"NOTE" means the promissory note dated as of the date of this Lease executed by Lessor and payable to Lender with respect to the Property, as such note may be amended, restated and/or substituted from time to time.

"NOTICES" means, when used herein, written notice.

"OTHER AGREEMENTS" means, collectively, all agreements and instruments now or hereafter entered into between, among or by (1) any of the Lessee Entities, and, or for the benefit (as intended beneficiary or intended third party beneficiary) of, (2) Lessor; provided, however, the term Other Agreements shall not include this Lease, the other Sale-Leaseback Documents,

agreements between and among institutional lenders and one or more of the Lessee Entities.

"PARTICIPATION" means the granting of any participations in any document evidencing loan obligations or any or all servicing rights with respect thereto.

"PERMITTED FACILITY" means the operation of an office building and other related operations as currently in use.

"PERMITTED SUBLEASES" means that certain sublease dated December __, 2001, made by Mercury Air Group, Inc., a Delaware corporation, as Lessor, demising a portion of the Property to Permitted Sublessee.

"PERMITTED SUBLESSEE" or "PERMITTED SUBLESSEES" means, Kelar

4

Corporation.

"PERSON" means any individual, corporation, partnership, limited liability company, trust, unincorporated organization, Governmental Authority or any other form of entity.

"PERSONALTY" means all machinery, appliances, furniture, equipment, trade fixtures and other personal property of Lessee (excluding inventory) from time to time situated on or used in connection with the Property.

"PREPAYMENT CHARGES" means, for purposes of this Lease, an amount equal to any prepayment premium or charge, yield maintenance payment, or other cost or expense imposed on Lessor by the applicable Lender in connection with the payment of the applicable Note(s) or promissory note(s) prior to the Maturity Date.

"PRIMARY TERM" means the period commencing on the Effective Date and expiring on January 1, 2012.

"PROPERTY" means the parcels of land located at 5456 McConnell Avenue, Los Angeles, California 90066 and legally described in EXHIBIT A attached hereto, all rights, privileges and appurtenances associated therewith, and all buildings, structures, fixtures and other improvements now or hereafter located on such real estate (excluding Personalty and inventory).

"PURCHASE PRICE" means \$4,200,000.

"QUESTIONNAIRES" means the environmental questionnaires completed by Lessee with respect to the Property and submitted to General Electric Capital Business Funding Corporation in connection with the mortgage loan on the Property.

"REJECTABLE OFFER" has the meaning set forth in Section 21.B.

"REJECTABLE PURCHASE OFFER" has the meaning set forth in Section 58.A.

"REJECTABLE SUBSTITUTION OFFER" has the meaning set forth in Section 57.A.

"RELEASE" means any depositing, discharging, leaking, spilling, injecting, pumping, pouring, emptying, escaping, dumping or disposing of Hazardous Materials into the environment, except for De Minimis Amounts.

"REMEDIATION" means any response, remedial, removal, or corrective action, any activity to cleanup, detoxify, decontaminate, contain or otherwise remediate any Hazardous Materials, any actions to prevent, cure or mitigate any Release, any inspection, investigation, study, monitoring, assessment, sampling and testing, laboratory or other analysis relating to any Hazardous Materials.

5

"SALE-LEASEBACK AGREEMENT" means that certain Sale-Leaseback Agreement dated as of the date hereof between Lessor and Lessee, with respect to the Property.

"SALE-LEASEBACK DOCUMENTS" means the Sale-Leaseback Agreement, this Lease, the Memorandum, the Acknowledgement and all other documents executed in connection therewith or contemplated thereby.

"THREATENED RELEASE" means a substantial likelihood of a Release which requires action pursuant to Environmental Law to prevent or mitigate damage to the soil, surface waters, groundwaters, land, stream sediments, surface or subsurface strata, ambient air or any other environmental medium comprising or surrounding the Property which may result from such Release.

"TITLE COMPANY" means such nationally recognized title insurance company reasonably acceptable to Lessor.

"TRANSFER" means any sale, transfer or assignment of any document evidencing loan obligations, or any or all servicing rights with respect thereto.

2. DEMISE OF PROPERTIES. In consideration of the rentals and other sums to be paid by Lessee and of the other terms, covenants and conditions on Lessee's part to be kept and performed, Lessor hereby leases to Lessee, and Lessee hereby takes and hires, the Property. The Property is leased to Lessee "AS IS" and "WHERE IS" without representation or warranty by Lessor and subject to the rights of parties in possession, to the existing state of title, any state of facts which an accurate survey or physical inspection might reveal, and all Applicable Regulations now or hereafter in effect. Lessee has examined the Property and title to the Property and has found all of the same satisfactory

for all of Lessee's purposes.

3. CHARACTERIZATION OF LEASE.

(a) Lessor and Lessee intend that:

(i) this Lease is a "true lease" and not a financing lease, capital lease, mortgage, equitable mortgage, deed of trust, trust agreement, security agreement or other financing or trust arrangement, and the economic realities of this Lease are those of a true lease; and

(ii) the business relationship created by this Lease and any related documents is solely that of a long-term commercial lease between landlord and tenant and has been entered into by both parties in reliance upon the economic and legal bargains contained herein.

(b) Lessor and Lessee acknowledge and agree that the Lease Term, including any term extensions provided for in this Lease, is less than the remaining economic life of the Property.

6

(c) Lessee waives any claim or defense based upon the characterization of this Lease as anything other than a true lease and irrevocably waives any claim or defense which asserts that this Lease is anything other than a true lease. Lessee covenants and agrees that it will not assert that this Lease is anything but a true lease. Lessee stipulates and agrees not to challenge the validity, enforceability or characterization of the lease of the Property as a true lease and further stipulates and agrees that nothing contained in this Lease creates or is intended to create a joint venture, partnership (either de jure or de facto), equitable mortgage, trust, financing device or arrangement, security interest or the like. Lessee shall support the intent of the parties that the lease of the Property pursuant to this Lease is a true lease and does not create a joint venture, partnership (either de jure or de facto), equitable mortgage, trust, financing device or arrangement, security interest or the like, if, and to the extent that, any challenge occurs.

(d) Lessee represents and warrants to Lessor that (i) the Base Annual Rental is the fair market value for the use of the Property and was agreed to by Lessor and Lessee on that basis, and (ii) the execution, delivery and performance by Lessee of this Lease does not constitute a transfer of all or any part of the Property.

(e) The expressions of intent, the waivers, the representations and warranties, the covenants, the agreements and the stipulations set forth in this Section are a material inducement to Lessor entering into this Lease.

4. LEASE TERM. The Lease Term for all of the Property shall commence as of the Effective Date and shall expire on January 1, 2012, unless terminated

sooner as provided in this Lease and as may be extended for four additional successive periods of five years each as set forth in Section 27 below. The time period during which this Lease shall actually be in effect is referred to herein as the "Lease Term".

5. RENTAL, OTHER PAYMENTS AND SECURITY DEPOSIT.

(a) If the Effective Date is a date other than the first day of the month, Lessee shall pay Lessor on the Effective Date the Base Monthly Rental prorated on the basis of the ratio that the number of days from the Effective Date through the last day in the month containing the Effective Date bears to the number of days in such month. Thereafter, on or before the first day of each succeeding calendar month, Lessee shall pay Lessor in advance the Base Monthly Rental.

(b) All sums of money required to be paid by Lessee under this Lease which are not specifically referred to as rent ("Additional Rental") shall be considered rent although not specifically designated as such. Lessor shall have the same remedies for nonpayment of Additional Rental as those provided herein for the nonpayment of Base Annual Rental.

6. REPRESENTATIONS AND WARRANTIES OF LESSOR. The representations and warranties of Lessor contained in this Section are being made to induce Lessee to enter into this Lease and Lessee has relied and will continue to rely upon such representations and warranties. Lessor represents and warrants to Lessee as of the Effective Date as follows:

(a) ORGANIZATION, AUTHORITY AND STATUS OF LESSOR.

7

(i) Lessor has been duly organized and is validly existing and in good standing under the laws of the State of Illinois. All necessary corporate action has been taken to authorize the execution, delivery and performance by Lessor of this Lease and the other documents, instruments and agreements provided for herein.

(ii) The person who has executed this Lease on behalf of Lessor is duly authorized so to do.

(b) ENFORCEABILITY. This Lease constitutes the legal, valid and binding obligation of Lessor, enforceable against Lessor in accordance with its terms.

7. REPRESENTATIONS AND WARRANTIES OF LESSEE. The representations and warranties of Lessee contained in this Section are being made to induce Lessor to enter into this Lease and Lessor has relied, and will continue to rely, upon such representations and warranties. Lessee represents and warrants to Lessor as of the Effective Date as follows:

(a) ORGANIZATION, AUTHORITY AND STATUS OF LESSEE.

(i) Lessee has been duly organized or formed, is validly existing and in good standing under the laws of its state of incorporation or formation and is qualified to do business in any jurisdiction where such qualification is required. All necessary corporate action has been taken to authorize the execution, delivery and performance by Lessee of this Lease and of the other documents, instruments and agreements provided for herein. Lessee is not a "foreign corporation", "foreign partnership", "foreign trust", "foreign limited liability company" or "foreign estate", as those terms are defined in the Internal Revenue Code and the regulations promulgated thereunder. Lessee's United States tax identification number is correctly set forth on the signature page of this Lease.

(ii) The person who has executed this Lease on behalf of Lessee is duly authorized to do so.

(b) ENFORCEABILITY. This Lease constitutes the legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms.

(c) LITIGATION. There are no suits, actions, proceedings or investigations pending, or, to the best of its knowledge, threatened against or involving Lessee, any Permitted Sublessee or the Property before any arbitrator or Governmental Authority which might reasonably result in any Material Adverse Effect.

(d) ABSENCE OF BREACHES OR DEFAULTS. Neither Lessee nor any of the Permitted Sublessees is in default under any document, instrument or agreement to which Lessee or any Permitted Sublessee is a party or by which Lessee or any Permitted Sublessee, the Property or any of Lessee's or any Permitted Sublessee's property is subject or bound, which default could reasonably be expected to result in a Material Adverse Effect. The authorization, execution, delivery and performance of this Lease and the other documents, instruments and agreements provided for herein will not result in any breach of or default under any document, instrument or agreement to which Lessee is a party or by which Lessee, the Property, or any of Lessee's property is subject or bound. The authorization, execution, delivery and performance of

this Lease and the documents, instruments and agreements provided for herein will not violate any applicable law, statute, regulation, rule, ordinance, code, rule or order.

(e) LIABILITIES OF LESSOR. Lessee is not liable for any indebtedness for money borrowed by Lessor and has not guaranteed any of the debts or obligations of Lessor.

8. COVENANTS. Lessee covenants to Lessor for so long as this Lease is in effect as follows: For purposes of this Agreement, the following terms shall be defined as set forth below:

"CAPITAL LEASE" shall mean any lease of any property (whether real, personal or mixed) by Lessee and any Permitted Sublessee with respect to the Property which lease would, in conformity with GAAP, be required to be accounted for as a capital lease on the balance sheet of Lessee. The term "Capital Lease" shall not include any operating lease or this Lease.

"DEBT" shall mean as directly related to the Property and the period of determination (i) indebtedness of Lessee and the Permitted Sublessees for borrowed money, (ii) obligations of Lessee and the Permitted Sublessees evidenced by bonds, indentures, notes or similar instruments, (iii) obligations of Lessee and any Permitted Sublessee to pay the deferred purchase price of property or services, (iv) obligations of Lessee and the Permitted Sublessees under leases which should be, in accordance with GAAP, recorded as Capital Leases, and (v) obligations of Lessee and the Permitted Sublessees under direct or indirect guarantees in respect of, and obligations (contingent or otherwise) to purchase or otherwise acquire, or otherwise to assure a creditor against loss in respect of, indebtedness or obligations of others of the kinds referred to in clauses (i) through (iv) above. The term "Debt" shall not include Lessor's debt with respect to the Property or otherwise.

"DEPRECIATION AND AMORTIZATION" shall mean with respect to the Property the depreciation and amortization accruing during any period of determination with respect to Lessee and the Permitted Sublessees as determined in accordance with GAAP. The term "Depreciation and Amortization" shall not include Lessor's depreciation and amortization with respect to the Property or otherwise.

"EQUIPMENT PAYMENT AMOUNT" shall mean for any period of determination the sum of all amounts payable during such period of determination under all (i) leases entered into by Lessee and any Permitted Sublessee for equipment located at the Property and (ii) all loans made to Lessee and any Permitted Sublessee secured by Lessee's and Permitted Sublessee's interests in the equipment located at the Property.

"GROSS SALES" means the sales or other income arising from all business conducted at the Property by Lessee and any Permitted Sublessee during the period of determination, less sales tax paid by Lessee in connection with the business conducted at the Property during such period.

"INTEREST EXPENSE" shall mean for any period of determination, the sum of all interest accrued or which should be accrued in respect of all Debt of Lessee and Permitted Sublessees allocable to the Property and all business operations thereon during such period

(including interest attributable to Capital Leases), as determined in accordance with GAAP.

"NET INCOME" shall mean with respect to the period of determination, the net income or net loss of Lessee and the Permitted Sublessees allocable to the Property. In determining the amount of Net Income, (i) adjustments shall be made for nonrecurring gains and losses allocable to the period of determination, (ii) deductions shall be made for, among other things, Depreciation and Amortization, Interest Expense and Operating Lease Expense allocable to the period of determination, and (iii) no deductions shall be made for (x) income taxes or charges equivalent to income taxes allocable to the period of determination, as determined in accordance with GAAP, or (y) corporate overhead expense allocable to the period of determination.

"OPERATING LEASE EXPENSE" shall mean the expenses incurred by Lessee and Permitted Sublessees under any operating leases with respect to the Property (including this Lease) and the business operations thereon during the period of determination, as determined in accordance with GAAP.

(a) NONCONSOLIDATION COVENANTS.

Lessee will not assume liability for any indebtedness for money borrowed by Lessor and does not, and will not, guarantee any of the debts or obligations of Lessor. Lessee will not hold itself out as being liable for any obligations or indebtedness of Lessor.

10

(i) Lessee shall not and shall use its best efforts to cause its affiliates not to hold Lessor out to the public or to any individual creditors as being a unified entity with assets and liabilities in common with Lessee.

(ii) Lessee shall conduct its business so as not to mislead others as to the separate identity of Lessor, and particularly will avoid the appearance of conducting business on behalf of Lessor. Without limiting the generality of the foregoing, no oral and written communications of Lessee, including, without limitation, letters, invoices, purchase orders, contracts, statements and loan applications, will be made in the name of Lessor which to the extent that to do otherwise would materially bear upon the maintenance of Lessor's separate identity.

(iii) Lessee will not act in Lessor's name.

(iv) Where necessary and appropriate, Lessee shall disclose the independent business status of Lessor to creditors of Lessee, if any.

(v) The resolutions, agreements and other instruments of Lessee,

if any, underlying the transactions described in this Lease will be maintained by Lessee.

(vi) All transactions between Lessee and Lessor will be no less fair to each party than they could obtain on an arm's-length basis.

(vii) The books, records and accounts of Lessee shall at all times be maintained in a manner permitting the assets and liabilities of Lessor to be easily separated and readily ascertained from those of Lessee.

(viii) Lessee will not direct, or otherwise control, the ongoing business decisions of Lessor.

(ix) Lessee will not file or cause to be filed a voluntary or involuntary petition in bankruptcy on behalf of or against Lessor.

(b) TRANSFER AND PARTICIPATION COVENANTS.

(i) Lessee agrees to cooperate and to cause the Permitted Sublessees to cooperate, in good faith with Lessor and Lender in connection with any Transfer and/or Participation of any of the Notes, Mortgages and/or any of the Loan Documents, or any or all servicing rights with respect thereto, including, without limitation, (x) providing such documents, financial and other data, and other information and materials (the "Disclosures") which would typically be required with respect to Lessee and Permitted Sublessees by a purchaser, transferee, assignee, servicer, participant, investor or rating agency involved with respect to such Transfer and/or Participation as applicable; provided, however, Lessee shall not be required to make Disclosures of any confidential information or any information which has not previously been made public unless required by applicable federal or state securities laws; and (y) amending the terms of this Lease to the extent necessary so as to satisfy the requirements of purchasers, transferees, assignees, servicers, participants, investors or selected rating agencies involved in any

11

such Transfer or Participation so long as such amendments would not increase the Base Annual Rental or Additional Rental required to be paid under this Lease or have a material adverse effect upon Lessee or the transactions contemplated by this Lease.

(ii) Lessee consents to Lessor and Lender providing the Disclosures, as well as any other information which Lessor and Lender may now have or hereafter acquire with respect to the Property or the financial condition of Lessee to each purchaser, transferee, assignee, servicer, participant, investor or rating agency involved with respect to such Transfer and/or Participation, as applicable. Lessee shall pay

its own attorney fees and other out-of-pocket expenses incurred in connection with the performance of its obligations under this Section 8.B.

(c) COMPLIANCE CERTIFICATE. Within 60 days after the end of each fiscal year of Lessee, Lessee and Permitted Sublessees shall deliver to Lessor such compliance certificates as Lessor may reasonably require in order to establish that Lessee and Permitted Sublessees are in compliance in all material respects with all of the obligations, duties and covenants imposed pursuant to Section 8.

9. RENTALS TO BE NET TO LESSOR. The Base Annual Rental payable hereunder shall be net to Lessor, so that this Lease shall yield to Lessor the rentals specified during the Lease Term, and that all costs, expenses and obligations of every kind and nature whatsoever relating to the Property shall be performed and paid by Lessee.

10. TAXES AND ASSESSMENTS. Lessee shall pay, or shall cause the Permitted Sublessees to pay, prior to the earlier of delinquency or the accrual of interest on the unpaid balance, all taxes and assessments of every type or nature assessed against, imposed upon or arising with respect to Lessor, the Property, this Lease, the rental or other payments due under this Lease or Lessee during the Lease Term which affect in any manner the net return realized by Lessor under this Lease, including, without limitation, the following:

(a) All taxes and assessments upon the Property or any part thereof and upon any Personalty, whether belonging to Lessor, Lessee or any Permitted Sublessee, or any tax or charge levied in lieu of such taxes and assessments;

(b) All taxes, charges, license fees and or similar fees imposed by reason of the use of the Property by Lessee and the Permitted Sublessees; and

(c) All excise, transaction, privilege, license, sales, use and other taxes upon the rental or other payments due under this Lease, the leasehold estate of either party or the activities of either party pursuant to this Lease.

Notwithstanding the foregoing, but without limiting the preceding obligation of Lessee to pay and cause to be paid all taxes which are imposed on the rental or other payments due under this Lease, in no event will Lessee be required to pay any net income taxes (i.e., taxes which are determined taking into account deductions for depreciation, interest, taxes and ordinary and necessary business expenses) or franchise taxes of Lessor (unless imposed in lieu of other taxes that would otherwise be the obligation of Lessee under this Lease, including, without limitation, any "gross receipts tax" or any similar tax based upon gross income or receipts of Lessor with respect to this Lease which does not take into account deductions from depreciation, interest, taxes and/or ordinary or necessary business expenses), any transfer taxes of Lessor, or any tax imposed with

respect to the sale, exchange or other disposition by Lessor, in whole or in part, of the Property or Lessor's interest in this Lease (other than transfer or recordation taxes imposed in connection with the transfer of the Property to Lessee, the substitution of a Substitute Property or the termination of this Lease pursuant to the provisions of this Lease).

All taxing authorities shall be instructed to send all tax and assessment invoices to Lessee and Lessee shall promptly provide Lessor and Lender with copies of all tax and assessment invoices received by Lessee. Upon request, Lessee shall also provide Lessor and Lender with evidence that such invoices were paid in a timely fashion. Lessee may, at its own expense, contest or cause to be contested (in the case of any item involving more than \$1,000.00, after prior written notice to Lessor), by appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any item specified in this Section or lien therefor, provided that (i) such proceeding shall suspend the collection thereof from the Property or any interest therein, (ii) neither the Property nor any interest therein would be in any danger of being sold, forfeited or lost by reason of such proceedings, (iii) no Event of Default has occurred, and (iv) Lessee shall have deposited with Lessor adequate reserves for the payment of the taxes, together with all interest and penalties thereon, unless paid in full under protest, or Lessee shall have furnished the security as may be required in the proceeding or as may be required by Lessor to ensure payment of any contested taxes.

11. UTILITIES. Lessee and the applicable Permitted Sublessee shall contract, in their own name, for and pay when due all charges for the connection and use of water, gas, electricity, telephone, garbage collection, sewer use and other utility services supplied to the Property during the Lease Term. Under no circumstances shall Lessor be responsible for any interruption of any utility service.

12. INSURANCE. Throughout the Lease Term, Lessee shall maintain and cause the Permitted Sublessees to maintain with respect to the Property, at their sole expense, the types and amounts of insurance specified in the Loan Documents:

13. TAX AND INSURANCE IMPOUND. Upon the occurrence of an Event of Default, Lessor may require Lessee to pay to Lessor sums which will provide an impound account (which shall not be deemed a trust fund) for paying up to the next one year of taxes, assessments and/or insurance premiums for the Property. Upon such requirement, Lessor will estimate the amounts needed for such purposes and will notify Lessee to pay the same to Lessor in equal monthly installments, as nearly as practicable, in addition to all other sums due under this Lease. Should additional funds be required at any time, Lessee shall pay the same to Lessor on demand. Lessee shall advise Lessor of all taxes and insurance bills which are due and shall cooperate fully with Lessor in assuring that the same are paid timely. Lessor may deposit all impounded funds in accounts insured by any federal or state agency and may commingle such funds with other funds and accounts of Lessor. Interest or other gains from such funds, if any, shall be

the sole property of Lessor. In the event of any default by Lessee, Lessor may apply all impounded funds against any sums due from Lessee to Lessor. Lessor shall give to Lessee an annual accounting showing all credits and debits to and from such impounded funds received

13

from Lessee.

14. PAYMENT OF RENTAL AND OTHER SUMS. All rental and other sums which Lessee is required to pay hereunder shall be the unconditional obligation of Lessee and shall be payable in full when due without any setoff, abatement, deferment, deduction or counterclaim whatsoever. Upon execution of this Lease, Lessee shall establish arrangements whereby payments of the Base Monthly Rental and impound payments, if any, are transferred by Automated Clearing House Debit directly from Lessee's bank account to such account as Lender may designate, provided, however, that Lender shall immediately refund to Lessor the difference between the amount received by Lender hereunder and any amounts required to be paid by Lessor to Lender pursuant to the Loan Documents. Any delinquent payment (that is, any payment not made within five calendar days after the date when due) shall, in addition to any other remedy of Lessor, incur a late charge of 5% (which late charge is intended to compensate Lessor for the cost of handling and processing such delinquent payment and should not be considered interest) and bear interest at the Default Rate, such interest to be computed from and including the date such payment was due through and including the date of the payment; provided, however, in no event shall Lessee be obligated to pay a sum of late charge and interest higher than the maximum legal rate then in effect.

15. USE. Lessee and the Permitted Sublessees shall occupy the Property promptly following the Effective Date and, except during periods when the Property is untenable by reason of fire or other casualty or condemnation (provided, however, during all such periods while the Property is untenable, Lessee shall strictly comply with the terms and conditions of Section 21 of this Lease).

Lessee shall not, by itself or through any assignment, sublease or other type of transfer, convert the Property to a use other than a Permitted Facility during the Lease Term without Lessor's consent, which consent shall not be unreasonably withheld or delayed. Lessor may consider any or all of the following in determining whether to grant its consent, without being deemed to be unreasonable: (i) whether the rental paid to Lessor would be equal to or greater than the anticipated rental assuming continued existing use, (ii) whether the proposed rental to be paid to Lessor is reasonable considering the converted use of the Property and the customary rental prevailing in the community for such use, (iii) whether the converted use will be consistent with the highest and best use of the Property, and (iv) whether the converted use will increase Lessor's risks or decrease the value of the Property.

16. COMPLIANCE WITH LAWS, RESTRICTIONS, COVENANTS AND ENCUMBRANCES.

(a) Lessee's and the Permitted Sublessees' use and occupation of the Property, and the condition thereof, shall, at Lessee's and the Permitted Sublessees' sole cost and expense, comply in all material respects with all Applicable Regulations and all restrictions, covenants and encumbrances of record with respect to the Property. In addition to the other requirements of this Section, Lessee shall, at all times throughout the Lease Term, comply with and cause the Permitted Sublessees to comply with all Applicable Regulations, including, without limitation, in connection with any maintenance, repairs and replacements of the Property undertaken by Lessee as required by Section 17 of this Lease.

14

(b) Lessee will not permit any act or condition to exist on or about the Property which will increase any insurance rate thereon, except when such acts are required in the normal course of business and Lessee shall pay for such increase.

(c) Without limiting the generality of the other provisions of this Section, Lessee agrees that it shall be responsible for complying in all respects with and causing compliance in all respects with the Americans with Disabilities Act of 1990, as such act may be amended from time to time, and all regulations promulgated thereunder (collectively, the "ADA"), as it affects the Property, including, but not limited to, making required "readily achievable" changes to remove any architectural or communications barriers, and providing auxiliary aides and services within the Property. Lessee further agrees that any and all alterations made to the Property during the Lease Term will comply with the requirements of the ADA. All plans for alterations which must be submitted to Lessor under the provisions of Section 18 must include a statement from a licensed architect or engineer certifying that they have reviewed the plans, and that the plans substantially comply with all applicable provisions of the ADA. Any subsequent approval or consent to the plans by Lessor shall not be deemed to be a representation of Lessor's part that the plans comply with the ADA, which obligation shall remain with Lessee. Lessee agrees that it will defend, indemnify and hold harmless the Indemnified Parties from and against any and all Losses caused by, incurred or resulting from Lessee's failure to comply with its obligations under this Section.

(d) Lessee represents and warrants to Lessor, as of the Effective Date, to Lessee's knowledge and except as disclosed in the Questionnaires:

(i) Neither the Property nor Lessee are in violation of, or subject to, any pending or threatened investigation or inquiry by any Governmental Authority or to any remedial obligations under any Environmental Laws, and this representation and warranty would continue to be true and correct following disclosure to the applicable Governmental Authorities of all relevant facts, conditions and circumstances, if any, pertaining to the Property.

(ii) No permits, licenses or similar authorizations to

construct, occupy, operate or use any buildings, improvements, fixtures and equipment forming a part of the Property by reason of any Environmental Laws have been obtained or are required to be obtained, except for such permits, licenses or authorizations the failure of which to obtain could reasonably be expected to have a Material Adverse Effect.

(iii) No Hazardous Materials have been used, handled, manufactured, generated, produced, stored, treated, processed, transferred, disposed of or otherwise Released in, on, under, from or about the Property, except in De Minimis Amounts.

(iv) The Property does not contain Hazardous Materials, other than in De Minimis Amounts, or underground storage tanks.

(v) There is no threat of any Release migrating to the Property.

(vi) There is no past or present non-compliance with Environmental Laws, or with permits issued pursuant thereto, in connection with the Property which

15

could reasonably be expected to have a material adverse effect.

(vii) Lessee has not received any written or oral notice or other communication from any person or entity (including but not limited to a Governmental Authority) relating to Hazardous Materials or Remediation thereof, of possible liability of any person or entity pursuant to any Environmental Law, other environmental conditions in connection with the Property, or any actual or potential administrative or judicial proceedings in connection with any of the foregoing, in each case with respect to a condition or event that could reasonably be expected to have a Material Adverse Effect.

(viii) Lessee has truthfully and fully provided to Lessor, in writing, any and all information relating to environmental conditions in, on, under or from the Property that is known to Lessee and that is contained in Lessee's files and records, including but not limited to any reports relating to Hazardous Materials in, on, under to or from the Property.

(ix) All uses and operations on or of the Property, whether by Lessee or any other person or entity, have been in compliance with all Environmental Laws and permits issued pursuant thereto, except for such non-compliance which could not reasonably be expected to have a Material Adverse Effect; there have been no Releases in, on, under to or from the Property, except in De Minimis Amounts; there are no Hazardous Materials in, on, or under or to Lessee's knowledge, migrating to the Property,

except in De Minimis Amounts; and the Property has been kept free and clear of all liens and other encumbrances imposed pursuant to any Environmental Law (the "Environmental Liens"). Lessee has not allowed any tenant or other user of the Property to do any act that materially increased the dangers to human health or the environment, posed an unreasonable risk of harm to any person or entity (whether on or off the Property), impaired the value of the Property, is contrary to any requirement of any insurer, constituted a public or private nuisance, constituted waste, or violated any covenant, condition, agreement or easement applicable to the Property.

(e) Lessee covenants to Lessor during the Lease Term that: (i) the Property shall not be in violation of or subject to any investigation or inquiry by any Governmental Authority or to any remedial or other obligations under any Environmental Laws, except for such violations or investigations or inquiries which relate to Hazardous Materials in De Minimis Amounts which are or will be handled in accordance with applicable law. If any such investigation or inquiry is initiated, Lessee shall promptly notify Lessor; (ii) all uses and operations on or of the Property, whether by Lessee, a Permitted Sublessee or any other person or entity, shall be in compliance with all Environmental Laws and permits issued pursuant thereto; (iii) there shall be no Releases in, on, under or from the Property, except in De Minimis Amounts; (iv) there shall be no Hazardous Materials in, on, or under the Property, except in De Minimis Amounts; (v) Lessee shall keep the Property free and clear of all Environmental Liens, whether due to any act or omission of Lessee or any other person or entity; (vi) Lessee shall, at its sole cost and expense, fully and expeditiously cooperate in all activities pursuant to subsection F below, including but not limited to providing all relevant information and making knowledgeable persons available for interviews; (vii) Lessee shall, at its sole cost and expense, perform any environmental site assessment or other investigation of environmental conditions in

16

connection with the Property as may be reasonably requested by Lessor and where there is an independent reasonable reason to perform such investigation (including but not limited to sampling, testing and analysis of soil, water, air, building materials and other materials and substances whether solid, liquid or gas), and share with Lessor the reports and other results thereof, and Lessor and the other Indemnified Parties shall be entitled to rely on such reports and other results thereof; (viii) Lessee shall, at its sole cost and expense, comply with all reasonable written requests of Lessor to (1) reasonably effectuate Remediation of any condition (including but not limited to a Release) in, on, under or from the Property where such Remediation is required under applicable Environmental Law; (2) comply with any Environmental Law; (3) comply with any directive from any Governmental Authority; and (4) take any other reasonable action necessary or appropriate for protection of human health or the environment where such Remediation is required under applicable Environmental Law; (ix) Lessee shall not do or allow any Permitted Sublessee or any other tenant or other user of the Property to do any act that materially increases the

dangers to human health or the environment, poses an unreasonable risk of harm to any person or entity (whether on or off the Property), impairs or may impair the value of the Property, is contrary to any requirement of any insurer or Lender, constitutes a public or private nuisance, constitutes waste, or violates any covenant, condition, agreement or easement applicable to the Property; and (x) Lessee shall immediately notify Lessor in writing of (A) any presence of Releases or Threatened Releases in, on, under, from or migrating towards the Property; (B) any non-compliance with any Environmental Laws related in any way to any of the Property; (C) any actual Environmental Lien; (D) any required or proposed Remediation of environmental conditions relating to the Property; and (E) any written or oral notice or other communication of which Lessee becomes aware from any source whatsoever (including but not limited to a Governmental Authority) relating in any way to Hazardous Materials or Remediation thereof, possible liability of any person or entity pursuant to any Environmental Law, other environmental conditions in connection with the Property, or any actual or potential administrative or judicial proceedings in connection with anything referred to in this Section.

(f) Lessor, Lender and any other person or entity designated by Lessor, including but not limited to any receiver, any representative of a Governmental Authority, and any environmental consultant, shall have the right, after five Business Days' prior written notice to Lessee (except that in the event of an emergency no such prior notice shall be required) but not the obligation, to enter upon the Property at all reasonable times (including, without limitation, in connection with any Participation or Transfer or in connection with a proposed sale or conveyance of the Property or a proposed financing or refinancing secured by the Property or in connection with the exercise of any remedies set forth in this Lease, the Mortgages or the other Loan Documents, as applicable) to assess any and all aspects of the environmental condition of the Property and its use, including but not limited to conducting any environmental assessment or audit (the scope of which shall be determined in the sole and absolute discretion of the party conducting the assessment but which events shall be reasonable and in proportion to the environmental conditions at the property) and taking samples of soil, groundwater or other water, air, or building materials, and conducting other invasive testing; provided, however, that any such persons (except in emergencies) shall use reasonable efforts to undertake any such assessments or investigations so as to minimize the impact on business operations at the Property. Lessee shall cooperate with and provide access to Lessor, Lender and any other person or entity designated by Lessor. Any such assessment and investigation shall be at Lessee's sole cost and expense.

(g) Lessee shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless each of the Indemnified Parties for, from and against any and all Losses (excluding Losses suffered by an Indemnified Party directly arising out of such Indemnified Party's gross negligence or willful misconduct; provided, however, that the term "gross negligence" shall not include gross negligence imputed as a matter of law to any of the

Indemnified Parties solely by reason of the Lessor's interest in the Property or Lessor's failure to act in respect of matters which are or were the obligation of Lessee under this Lease) and costs of Remediation (whether or not performed voluntarily), engineers' fees, environmental consultants' fees, and costs of investigation (including but not limited to sampling, testing, and analysis of soil, water, air, building materials and other materials and substances whether solid, liquid or gas) imposed upon or incurred by or asserted against any Indemnified Parties, and directly or indirectly arising out of or in any way relating to any one or more of the following: (i) any presence of any Hazardous Materials in, on, above, under or from the Property; (ii) any past or present Release or Threatened Release in, on, above, under or from the Property; (iii) any activity by Lessee, a Permitted Sublessee, any person or entity affiliated with Lessee or a Permitted Sublessee or any other tenant or other user of the Property in connection with any actual, proposed or threatened use, treatment, storage, holding, existence, disposition or other Release, generation, production, manufacturing, processing, refining, control, management, abatement, removal, handling, transfer or transportation to or from the Property of any Hazardous Materials at any time located in, under, on or above the Property; (iv) any activity by Lessee, a Permitted Sublessee, any person or entity affiliated with Lessee or a Permitted Sublessee or any other tenant or other user of the Property in connection with any actual or proposed Remediation of any Hazardous Materials at any time located in, under, on or above the Property, whether or not such Remediation is voluntary or pursuant to court or administrative order, including but not limited to any removal, remedial or corrective action; (v) any non-compliance or violations of any Environmental Laws (or permits issued pursuant to any Environmental Law) in connection with the Property or operations thereon, including but not limited to any failure by Lessee, a Permitted Sublessee, any person or entity affiliated with Lessee or a Permitted Sublessee or any other tenant or other user of the Property to comply with any order of any Governmental Authority in connection with any Environmental Laws; (vi) the imposition, recording or filing of any Environmental Lien encumbering the Property; (vii) any administrative processes or proceedings or judicial proceedings in any way connected with any matter addressed in this Section; (viii) any Remediation required pursuant to Environmental Laws relating to injury to, destruction of or loss of natural resources in any way connected with the Property, including but not limited to costs to investigate and assess such injury, destruction or loss; (ix) any acts of Lessee, a Permitted Sublessee, any person or entity affiliated with Lessee or a Permitted Sublessee or any other tenant or user of the Property in arranging for disposal or treatment, or arranging with a transporter for transport for disposal or treatment, of Hazardous Materials owned or possessed by Lessee, a Permitted Sublessee, any person or entity affiliated with Lessee or a Permitted Sublessee or any other tenant or user of the Property, at any facility or incineration vessel owned or operated by another person or entity and containing such or similar Hazardous Materials; (x) any acts of Lessee, a Permitted Sublessee, any person or entity affiliated with Lessee or a Permitted Sublessee or any other tenant or user of the Property, in accepting any Hazardous Materials for transport to disposal or treatment facilities, incineration vessels or sites selected by Lessee, a Permitted Sublessee, any person or entity affiliated with Lessee or a Permitted Sublessee or any other tenant or user of the Property, from which there is a

Release, or a Threatened Release of any Hazardous Materials which causes the incurrence of costs for Remediation; (xi) any personal injury, wrongful death, or property damage arising under any statutory or common law or tort law theory, relating to the use or presence of Hazardous Materials at the Property; and (xii) any misrepresentation or inaccuracy in any representation or warranty or material breach or failure to perform any covenants or other obligations pursuant to this Section.

(h) The obligations of Lessee and the rights and remedies of the Indemnified Parties under the foregoing subsections D through G shall survive the termination, expiration and/or release of this Lease.

17. CONDITION OF PROPERTIES; MAINTENANCE. Lessee, at its own expense, will maintain and cause the Permitted Sublessees to maintain all parts of the Property in good repair and sound condition, except for ordinary wear and tear, and will take all action and will make all structural and non-structural, foreseen and unforeseen and ordinary and extraordinary changes and repairs or replacements which may be required to keep all parts of the Property in good repair and sound condition. Lessee waives any right to (i) require Lessor to maintain, repair or rebuild all or any part of the Property or (ii) make repairs at the expense of Lessor, pursuant to any Applicable Regulations at any time in effect.

18. WASTE; ALTERATIONS AND IMPROVEMENTS. Neither Lessee nor any Permitted Sublessee shall commit actual or constructive waste upon the Property. Neither Lessee nor any Permitted Sublessee shall alter the exterior, structural, plumbing or electrical elements of the Property in any manner without the consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed (it being understood and agreed that to the extent Lessor is required to obtain the approval of Lender with respect to any such alterations, Lessor shall in no event be deemed to have unreasonably withheld Lessor's approval thereof if Lender shall not have given its approval if required); provided, however, Lessee or a Permitted Sublessee may undertake nonstructural alterations to the Property costing less than \$50,000.00 without Lessor's consent. If Lessor's consent is required hereunder and Lessor consents to the making of any such alterations, the same shall be made according to plans and specifications approved by Lessor and subject to such other conditions as Lessor shall require. All alterations shall be made by Lessee or a Permitted Sublessee shall be at their sole expense by licensed contractors and in accordance with all applicable laws governing such alterations. Any work at any time commenced by Lessee or a Permitted Sublessee on the Property shall be prosecuted diligently to completion, shall be of good workmanship and materials and shall comply fully with all the terms of this Lease. Upon completion of any alterations, Lessee shall promptly provide Lessor with (i) evidence of full payment to all laborers and materialmen contributing to the alterations, (ii) to the extent Lessor is required to preapprove plans and specifications for such alterations, an architect's certificate certifying the alterations to have been completed in

conformity with the plans and specifications, (iii) a certificate of occupancy (if the alterations are of such a nature as would require the issuance of a certificate of occupancy), and (iv) any other documents or information reasonably requested by Lessor. Any addition to or alteration of the Property shall automatically be deemed a part of the Property and belong to Lessor, and Lessee and the applicable Permitted Sublessee shall execute and deliver to Lessor such instruments as Lessor may require to evidence the ownership by Lessor of such addition or alteration. Lessee and the applicable Permitted Sublessee shall execute and file or record, as appropriate, a "Notice

19

of Non-Responsibility," or any equivalent notice permitted under applicable law in the state where the Property is located.

19. INDEMNIFICATION. Lessee shall indemnify, protect, defend and hold harmless each of the Indemnified Parties from and against any and all Losses (excluding Losses suffered by an Indemnified Party arising out of the gross negligence or willful misconduct of such Indemnified Party; provided, however, that the term "gross negligence" shall not include gross negligence imputed as a matter of law to any of the Indemnified Parties solely by reason of the Lessor's interest in the Property or Lessor's failure to act in respect of matters which are or were the obligation of Lessee under this Lease) caused by, incurred or resulting from Lessee's or any Permitted Sublessee's operations of or relating in any manner to the Property, whether relating to their original design or construction, latent defects, alteration, maintenance, use by Lessee, any Permitted Sublessee or any person thereon, supervision or otherwise, or from any breach of, default under, or failure to perform, any term or provision of this Lease by Lessee, its officers, employees, agents or other persons, or to which any Indemnified Party is subject because of Lessor's interest in the Property, including, without limitation, Losses arising from (1) any accident, injury to or death of any person or loss of or damage to property occurring in, on or about the Property or portion thereof or on the adjoining sidewalks, curbs, parking areas, streets or ways, (2) any use, non-use or condition in, on or about, or possession, alteration, repair, operation, maintenance or management of, the Property or any portion thereof or on the adjoining sidewalks, curbs, parking areas, streets or ways, (3) any representation or warranty made herein by Lessee, in any certificate delivered in connection herewith or in any other agreement to which Lessee is a party or pursuant thereto being false or misleading in any material respect as of the date of such representation or warranty was made, (4) performance of any labor or services or the furnishing of any materials or other property in respect to the Property or any portion thereof, (5) any taxes, assessments or other charges which Lessee is required to pay or cause to be paid under Section 10, (6) any lien, encumbrance or claim arising on or against the Property or any portion thereof under any Applicable Regulation or otherwise which Lessee is obligated hereunder to remove and discharge or cause to be removed or discharged, or the failure to comply with any Applicable Regulation, (7) the claims of any invitees, patrons, licensees or subtenants of all or any portion of the Property or any Person acting through or under Lessee or any Permitted Sublessee or otherwise acting

under or as a consequence of this Lease or any sublease, (8) any act or omission of Lessee or any Permitted Sublessee or their agents, contractors, licensees, subtenants or invitees, and (9) any contest referred to in Section 10. It is expressly understood and agreed that Lessee's obligations under this Section shall survive the expiration or earlier termination of this Lease for any reason.

20. QUIET ENJOYMENT. So long as Lessee shall pay the rental and other sums herein provided and shall keep and perform all of the terms, covenants and conditions on its part herein contained, Lessee shall have, subject and subordinate to Lessor's rights herein, the right to the peaceful and quiet occupancy of the Property. Notwithstanding the foregoing, however, in no event shall Lessee be entitled to bring any action against Lessor to enforce its rights hereunder if an Event of Default shall have occurred and be continuing.

21. CONDEMNATION OR DESTRUCTION.

(a) In the event of a taking of all or any part of the Property for any public or

20

quasi-public purpose by any lawful power or authority by exercise of the right of condemnation or eminent domain or by agreement between Lessor, Lessee and those authorized to exercise such right ("Taking") or the commencement of any proceedings or negotiations which might result in a Taking or any damage to or destruction of the Property or any part thereof (a "Casualty"), Lessee will promptly give written notice thereof to Lessor, generally describing the nature and extent of such Taking, proceedings, negotiations or Casualty and including copies of any documents or notices received in connection therewith. Thereafter, Lessee shall promptly send Lessor copies of all correspondence and pleadings relating to any such Taking, proceedings, negotiations or Casualty. During all periods of time following a Casualty, Lessee shall ensure that the subject Property is secure and does not pose any risk of harm to adjoining property owners or occupants or third-parties.

(b) In the event of (i) a Taking of the whole of the Property, other than for temporary use, (ii) a Taking of substantially all of the Property (other than for temporary use) that results in Lessee making a good faith determination that the restoration and continued use of the remainder of the Property as a Permitted Facility would be uneconomic (each of (i) and (ii), a "Total Taking"), or (iii) a Casualty of substantially all of the Property that results in Lessee making a good faith determination that the restoration and continued use of the Property as a Permitted Facility would be uneconomic (a "Total Casualty"), Lessor shall be entitled to receive the entire award, insurance proceeds or payment in connection therewith without deduction for any estate vested in Lessee by this Lease or any Permitted Sublessee by the Permitted Subleases. Lessee hereby expressly assigns to Lessor all of its right, title and interest in and to every such award, insurance proceeds or payment and agrees that neither Lessee nor any Permitted Sublessee shall be entitled to any

award, insurance proceeds or payment for the value of Lessee's leasehold interest in this Lease. Lessee shall be entitled to claim and receive any award or payment from the condemning authority expressly granted for the taking of Personalty, the interruption of its business and moving expenses, but only if such claim or award does not adversely affect or interfere with the prosecution of Lessor's claim for the Total Taking or otherwise reduce the amount recoverable by Lessor for the Total Taking. Lessee shall be entitled to claim and receive any insurance proceeds with respect to the Personalty, the interruption of its business and moving expenses, but only if such claim or proceeds does not adversely affect or interfere with the prosecution of Lessor's claim for the Total Casualty or otherwise reduce the amount recoverable by Lessor for the Total Casualty.

In the event of a Total Taking or Total Casualty, Lessee shall have the right to terminate this Lease by notice (the "Termination Notice") given to Lessor not later than 30 days after the Total Taking or Total Casualty, as applicable. The Termination Notice must: (i) specify a date on which this Lease with respect to the Property shall terminate, which date shall be the last day of a calendar month occurring not earlier than 120 days and not later than 150 days after the delivery of such notice (the "Early Termination Date"); (ii) contain a certificate executed by the president, chief financial officer or treasurer of Lessee which (X) describes the Total Taking or Total Casualty, (Y) represents and warrants that either the whole of the Property has been taken, or that substantially all of the Property has been taken and Lessee has determined in good faith that the restoration and continued use of the remainder of the Property as a Permitted Facility would be uneconomic, or that substantially all of the Property has been damaged or destroyed and Lessee has determined in good faith that the restoration and continued use of the Property as a Permitted Facility would be uneconomic, and contains a covenant by Lessee that

neither Lessee or any Affiliate of Lessee will use such Property for a period of 2 years following the Early Termination Date; and (iii) if the Early Termination Date shall occur prior to the commencement of any extension options which may be exercised pursuant to Section 27, contain either (X) an irrevocable rejectable written offer (the "Rejectable Offer") of Lessee to purchase Lessor's interest in the Property and in the net award for such Total Taking or net insurance proceeds for such Total Casualty, as applicable, after deducting all costs, fees and expenses incident to the collection thereof, including all costs and expenses incurred by Lessor and Lender in connection therewith (the "Net Award") on the Early Termination Date for a purchase price equal to the Stipulated Loss Value (as defined below) for the Property, or (Y) a Rejectable Substitution Offer to substitute a Substitute Property satisfying the applicable requirements of Section 57.A for the Property and Lessor's interest in the Net Award. As used herein, the term "Stipulated Loss Value" shall mean the sum of (a) the product of the percentage specified on SCHEDULE I attached hereto which corresponds to the Early Termination Date multiplied by the Purchase Price for the Property, plus (b) all Base Annual Rental, Additional Rental and other sums and

obligations then due and payable under this Lease, plus (c) in the event of a Total Casualty only, the Prepayment Charge corresponding to the Property. In the event of a termination of this Lease with respect to the Property pursuant to this Section 21.B which does not involve the acceptance (or deemed acceptance) of a Rejectable Substitution Offer, the Base Annual Rental then in effect shall be reduced by an amount equal to the product of (x) the Applicable Rent Reduction Percentage for the Property, and (y) the Base Annual Rental then in effect.

If the Early Termination Date shall occur prior to the commencement of any extension options which may be exercised pursuant to Section 27, Lessor shall have 90 days from the delivery of the Termination Notice to deliver to Lessee written notice of its election to either accept or reject any Rejectable Offer or Rejectable Substitution Offer contained in the Termination Notice. Lessor's failure to deliver such notice within such time period shall be deemed to constitute Lessor's acceptance of the applicable Rejectable Offer or Rejectable Substitution Offer. If the Mortgage corresponding to such Property is still outstanding, any Rejectable Offer or Rejectable Substitution Offer by Lessor shall be deemed rejected unless it is consented to in writing by the Lender and such written consent is delivered to Lessee within such 90-day period.

If Lessor accepts the Rejectable Offer or is deemed to have accepted the Rejectable Offer and if, while the Mortgage corresponding to the Property is still outstanding, Lender consents in writing (and such written consent delivered to Lessee within the applicable 90-day period) the Rejectable Offer, then, on the Early Termination Date, Lessor shall sell and convey, and Lessee shall purchase for the Stipulated Loss Value, Lessor's interest in the Property and the Net Award. Lessee's obligations under this Lease with respect to the Property shall not be terminated until the applicable Stipulated Loss Value is paid in full. Upon such payment, (i) Lessor shall convey the Property to Lessee "as-is" by quit-claim deed, subject to all matters of record (except for the Mortgage corresponding to the Property and any other consensual liens granted by Lessor other than those granted by Lessor at the request of Lessee), and without representation or warranty, and (ii) all obligations of either party hereunder with respect to the Property shall cease as of the Early Termination Date, provided, however, Lessee's obligations to the Indemnified Parties under any indemnification provisions of this Lease with respect to the Property (including, without limitation, Sections 16 and 19) and Lessee's obligations to pay any

sums (whether payable to Lessor or a third party) accruing under this Lease with respect to the Property prior to the Early Termination Date shall survive the termination of this Lease with respect to the Property.

If Lessor accepts the Rejectable Substitution Offer or is deemed to have accepted the Rejectable Substitution Offer and if, while the Mortgage corresponding to the Property is still outstanding, Lender consents in writing

(and such written consent is delivered, to Lessee within the applicable 90-day period) to the Rejectable Substitution Offer, then, on the Early Termination Date, Lessee shall complete such substitution, subject, however, to the satisfaction of each of the applicable terms and conditions set forth in Section 57. Upon such substitution (i) Lessee shall be entitled to claim and receive the Net Award and (ii) all obligations of either party hereunder with respect to the Property being replaced shall cease as of the Early Termination Date, provided, however, Lessee's obligations to the Indemnified Parties under any indemnification provisions of this Lease with respect to the Property (including, without limitation, Sections 16 and 19) and Lessee's obligations to pay any sums (whether payable to Lessor or a third party) accruing under this Lease with respect to the Property prior to the Early Termination Date shall survive the termination of this Lease with respect to the Property.

Lessee shall be solely responsible for the payment of all costs and expenses incurred in connection with the conveyance of a Property to Lessee pursuant to this Section 21, including, without limitation, to the extent applicable, the cost of title insurance, survey charges, stamp taxes, mortgage taxes, transfer taxes, charges and fees, escrow and recording fees, water certification charges and costs, transaction taxes, taxes imposed on Lessor as a result of such conveyance, taxes imposed in connection with the transfer of a Property to Lessee or the termination of this Lease with respect to a Property pursuant to the provisions of this Section 21, Lessee's attorneys' fees and the reasonable attorneys' fees and expenses of counsel to Lessor and Lender.

If Lessor rejects the Rejectable Offer or Rejectable Substitution Offer or, as long as the Mortgage corresponding to the Property subject to such Rejectable Offer or Rejectable Substitution Offer is still outstanding, Lender has not consented in writing (and such written consent delivered to Lessee within the applicable 90-day period) to the Rejectable Offer or Rejectable Substitution Offer, or if the Early Termination Date shall occur after the commencement of any extension options exercised pursuant to Section 27, then (i) the Net Award shall be paid to and belong to Lessor, (ii) on the Early Termination Date, Lessee shall pay to Lessor all Base Annual Rental, Additional Rental and other sums and obligations then due and payable under this Lease, and (iii) all obligations of either party hereunder shall cease as of the Early Termination Date with respect to the Property, provided, however, Lessee's obligations to the Indemnified Parties with respect to the Property under any indemnification provisions of this Lease with respect to the Property (including, without limitation, Sections 16 and 19) and Lessee's obligations to pay any sums (whether payable to Lessor or a third party) accruing under this Lease with respect to the Property prior to the Early Termination Date shall survive the termination of this Lease.

(c) In the event of a Taking of all or any part of the Property for a temporary use ("Temporary Taking"), this Lease shall remain in full force and effect without any reduction

of Base Annual Rental, Additional Rental or any other sum payable hereunder. Except as provided below, Lessee shall be entitled to the entire award for a Temporary Taking, whether paid by damages, rent or otherwise, unless the period of occupation and use by the condemning authorities shall extend beyond the date of expiration of this Lease, in which case the award made for such Taking shall be apportioned between Lessor and Lessee as of the date of such expiration. At the termination of any such Temporary Taking, Lessee will, at its own cost and expense and pursuant to the terms of Section 18 above, promptly commence and complete the restoration of the Property affected by such Temporary Taking; provided, however, Lessee shall not be required to restore such Property if the Lease Term shall expire prior to, or within one year after, the date of termination of such Temporary Taking, and in such event Lessor shall be entitled to recover the entire award relating to the Temporary Taking.

(d) In the event of a Taking which is not a Total Taking or a Temporary Taking ("Partial Taking") or of a Casualty which is not a Total Casualty (a "Partial Casualty"), all awards, compensation or damages shall be paid to Lessor, and Lessor shall have the option to (i) terminate this Lease, provided that, as long as the Mortgage is still outstanding, Lessor shall have obtained Lender's prior written consent, by notifying Lessee within 60 days after Lessee gives Lessor notice of such Partial Casualty or that title has vested in the taking authority or (ii) continue this Lease in effect, which election may be evidenced by either a notice from Lessor to Lessee or Lessor's failure to notify Lessee that Lessor has elected to terminate this Lease within such 60-day period. Lessee shall have a period of 60 days after Lessor's notice that it has elected to terminate this Lease during which to elect to continue this Lease on the terms herein provided. If Lessor elects to terminate this Lease and Lessee does not elect to continue this Lease or shall fail during such 60-day period to notify Lessor of Lessee's intent to continue this Lease, then this Lease shall terminate as of the last day of the month during which such period expired. Lessee shall then immediately vacate and surrender the Property, all obligations of either party hereunder shall cease as of the date of termination (provided, however, Lessee's obligations to the Indemnified Parties under any indemnification provisions of this Lease (including, without limitation, Sections 16 and 19) and Lessee's obligations to pay Base Annual Rental, Additional Rental and all other sums (whether payable to Lessor or a third party) accruing under this Lease prior to the date of termination shall survive such termination) and Lessor may retain all such awards, compensation or damages. If Lessor elects not to terminate this Lease, or if Lessor elects to terminate this Lease but Lessee elects to continue this Lease, then this Lease shall continue in full force and effect on the following terms: (i) all Base Annual Rental, Additional Rental and other sums and obligations due under this Lease shall continue unabated, and (ii) Lessee shall promptly commence and diligently prosecute restoration of the Property to the same condition, as nearly as practicable, as prior to such Partial Taking or Partial Casualty as approved by Lessor. Subject to reasonable conditions for disbursement imposed by Lessor, Lessor shall promptly make available in installments as restoration progresses an amount up to but not exceeding the amount of any award, compensation or damages received by Lessor after deducting all costs, fees and expenses incident to the collection thereof, including all costs and expenses

incurred by Lessor and Lender in connection therewith (the "Net Restoration Amount"), upon request of Lessee accompanied by evidence reasonably satisfactory to Lessor that such amount has been paid or is due and payable and is properly a part of such costs and that Lessee has complied with the terms of Section 18 above in connection with the restoration. Prior to the disbursement of any portion of the Net Restoration Amount with respect to a Partial Casualty, Lessee shall provide evidence reasonably satisfactory to Lessor of the payment of

24

restoration expenses by Lessee up to the amount of the insurance deductible applicable to such Partial Casualty. Lessor shall be entitled to keep any portion of the Net Restoration Amount which may be in excess of the cost of restoration, subject to the rights of Lender under the Loan Documents, and Lessee shall bear all additional costs, fees and expenses of such restoration in excess of the Net Restoration Amount. If this Lease is terminated as a result of a Partial Casualty, simultaneously with such termination Lessee shall pay Lessor an amount equal to the insurance deductible applicable to such Partial Casualty.

(e) Any loss under any property damage insurance required to be maintained by Lessee or any Permitted Sublessee shall be adjusted by Lessor and Lessee. Any award relating to a Total Taking or a Partial Taking shall be adjusted by Lessor or, at Lessor's election, Lessee. Notwithstanding the foregoing or any other provisions of this Section to the contrary, if at the time of any Taking or any Casualty or at any time thereafter Lessee shall be in default under this Lease and such default shall be continuing, Lessor is hereby authorized and empowered but shall not be obligated, in the name and on behalf of Lessee and otherwise, to file and prosecute Lessee's claim, if any, for an award on account of such Taking or for insurance proceeds on account of such Casualty and to collect such award or proceeds and apply the same, after deducting all costs, fees and expenses incident to the collection thereof, to the curing of such default and any other then existing default under this Lease and/or to the payment of any amounts owed by Lessee to Lessor under this Lease, in such order, priority and proportions as Lessor in its discretion shall deem proper.

(f) Notwithstanding the foregoing, nothing in this Section 21 shall be construed as limiting or otherwise adversely affecting the representations, warranties, covenants and characterizations set forth in Lease, including, without limitation, those provisions set forth in Section 3 of this Lease.

22. INSPECTION. Lessor and its authorized representatives shall have the right, upon giving reasonable advance notice, to enter the Property or any part thereof at reasonable times in order to inspect the same and make photographic or other evidence concerning Lessee's compliance with the terms of this Lease or in order to show the Property to prospective purchasers and lenders. Lessee hereby waives any claim for damages for any injury or inconvenience to or interference with Lessee's business, any loss of occupancy or quiet enjoyment of the Property and any other loss occasioned by such entry so long as Lessor shall have used reasonable efforts not to unreasonably interrupt Lessee's normal

business operations. Lessee shall keep and maintain and cause the Permitted Sublessees to keep and maintain at the Property or Lessee's corporate headquarters full, complete and appropriate books of account and records of Lessee's business relating to the Property in accordance with GAAP. Lessee's and Permitted Sublessees' books and records shall be open for inspection at reasonable times and upon reasonable notice by Lessor, Lender and their respective auditors or other authorized representatives and shall show such information as is reasonably necessary to determine compliance with Lessor's obligations under the Loan Documents.

23. DEFAULT, REMEDIES AND MEASURE OF DAMAGES.

(a) Each of the following shall be an event of default under this Lease (each, an "Event of Default"):

25

(i) If any representation or warranty of Lessee set forth in this Lease is false as and when made in any material respect, or if Lessee renders any statement or account which is false as and when made in any material respect;

(ii) If any rent or other monetary sum due under this Lease is not paid within five days from the date when due; provided, however, notwithstanding the occurrence of such an Event of Default, Lessor shall not be entitled to exercise its remedies set forth below unless and until Lessor shall have given Lessee written notice thereof and a period of five days from the delivery of such written notice shall have elapsed without such Event of Default being cured;

(iii) If Lessee fails to pay, prior to delinquency, any taxes, assessments or other charges, the failure of which to pay will result in the imposition of a lien against the Property or the rental or other payments due under this Lease or a claim against Lessor, unless Lessee is contesting such taxes, assessments or other charges in accordance with the provisions of Section 10 of this Lease; provided, however, notwithstanding the occurrence of such an Event of Default, Lessor shall not be entitled to exercise its remedies set forth below unless and until Lessor shall have given Lessee written notice thereof and a period of 5 days from the delivery of such written notice shall have elapsed without such Event of Default being cured;

(iv) If Lessee becomes insolvent within the meaning of the Code, files or notifies Lessor that it intends to file a petition under the Code, initiates a proceeding under any similar law or statute relating to bankruptcy, insolvency, reorganization, winding up or adjustment of debts (collectively, hereinafter, an "Action"), becomes the subject of either a petition under the Code or an Action which is not dissolved within 90 days after filing, or is not generally paying its debts as the same become due;

(v) If Lessee vacates or abandons the Property other than in accordance with the provisions of Section 15 of this Lease;

(vi) If Lessee fails to observe or perform any of the other covenants, conditions or obligations of this Lease; provided, however, if any such failure does not involve the payment of any monetary sum, is not willful or intentional, does not place any rights or property of Lessor in immediate jeopardy, and is within the reasonable power of Lessee to promptly cure after receipt of notice thereof, all as determined by Lessor in its reasonable discretion, then such failure shall not constitute an Event of Default hereunder, unless otherwise expressly provided herein, unless and until Lessor shall have given Lessee notice thereof and a period of 30 days shall have elapsed, during which period Lessee may correct or cure such failure, upon failure of which an Event of Default shall be deemed to have occurred hereunder without further notice or demand of any kind being required. If such failure cannot reasonably be cured within such 30 day period, as determined by Lessor in its reasonable discretion, and Lessee is diligently pursuing a cure of such failure, then Lessee shall have a reasonable period to cure such failure beyond such 30 day period, which shall in no event exceed 90 days after receiving notice of such failure from Lessor. If Lessee shall fail to correct or cure such failure within such 90-day period, an Event of Default shall be deemed to have occurred

26

hereunder without further notice or demand of any kind being required;

(vii) If there is an "Event of Default" or a breach or default, after the passage of all applicable notice and cure or grace periods, under any other Sale-Leaseback Document, any of the Other Agreements or any of the Permitted Subleases;

(viii) If a final, nonappealable judgment is rendered by a court against Lessee which has a material adverse effect on either the ability to conduct business at the Property for its intended use or Lessee's ability to perform its obligations under this Lease, or is in the amount of \$1,000,000.00 or more that is not covered by insurance, and in either event is not discharged or provision made for such discharge within 60 days from the date of entry thereof; or

(ix) If Lessee shall fail to maintain or cause to be maintained insurance in accordance with the requirements of Section 12 of this Lease.

(b) Upon the occurrence of an Event of Default, with or without notice or demand, except the notice prior to default required under certain circumstances by subsection A. above or such other notice as may be required by statute and cannot be waived by Lessee (all other notices being hereby waived),

Lessor shall be entitled to exercise, at its option, concurrently, successively, or in any combination, all remedies available at law or in equity, including without limitation, any one or more of the following:

(i) To terminate this Lease, whereupon Lessee's and Permitted sublessees' right to possession of the Property shall cease and this Lease, except as to Lessee's liability, and the Permitted Subleases shall be terminated.

(ii) To reenter and take possession of the Property and, to the extent permissible, all franchises, licenses, area development agreements, permits and other rights or privileges of Lessee pertaining to the use and operation of the Property and to expel Lessee and those claiming under or through Lessee, without being deemed guilty in any manner of trespass or becoming liable for any loss or damage resulting therefrom, without resort to legal or judicial process, procedure or action. To extent permitted by applicable law, no notice from Lessor hereunder or under a forcible entry and detainer statute or similar law shall constitute an election by Lessor to terminate this Lease unless such notice specifically so states. If Lessee shall, after default, voluntarily give up possession of the Property to Lessor, deliver to Lessor or its agents the keys to the Property, or both, such actions shall be deemed to be in compliance with Lessor's rights and the acceptance thereof by Lessor or its agents shall not be deemed to constitute a termination of this Lease. Lessor reserves the right following any reentry and/or reletting to exercise its right to terminate this Lease by giving Lessee written notice thereof, in which event this Lease will terminate as specified in said notice.

(iii) To bring an action against Lessee for any damages sustained by Lessor or any equitable relief available to Lessor.

(iv) To relet the Property or any part thereof for such term or terms (including a term which extends beyond the original Lease Term), at such rentals and

27

upon such other terms as Lessor, in its sole discretion, may determine, with all proceeds received from such reletting being applied to the rental and other sums due from Lessee in such order as Lessor may, in its sole discretion, determine, which other sums include, without limitation, all repossession costs, brokerage commissions, attorneys' fees and expenses, employee expenses, alteration, remodeling and repair costs and expenses of preparing for such reletting.

(v) Lessor shall attempt to mitigate damages in a commercially reasonable manner. Lessor reserves the right following any reentry and/or reletting to exercise its right to terminate this Lease by giving Lessee written notice thereof, in which event this Lease will terminate

as specified in said notice.

(vi) To recover from Lessee all rent and other monetary sums then due and owing under this Lease; and (y) to accelerate and recover from Lessee the present value (discounted at the rate of 6% per annum) of all rent and other monetary sums scheduled to become due and owing under this Lease after the date of such breach for the entire original scheduled Lease Term, provided, however, in no event shall such recovery be less than the sum of (i) the product of the percentage specified on Schedule I attached hereto which corresponds to the month in which such Event of Default first occurred multiplied by the Purchase Price for the Property plus (ii) the Prepayment Charges corresponding to the Property.

(vii) To recover from Lessee all costs and expenses, including reasonable attorneys' fees, court costs, expert witness fees, costs of tests and analyses, travel and accommodation expenses, deposition and trial transcripts, copies and other similar costs and fees, paid or incurred by Lessor as a result of such breach, regardless of whether or not legal proceedings are actually commenced.

(viii) To immediately or at any time thereafter, and with or without notice, at Lessor's sole option but without any obligation to do so, correct such breach or default and charge Lessee all costs and expenses incurred by Lessor therein. Any sum or sums so paid by Lessor, together with interest at the Default Rate, shall be deemed to be Additional Rental hereunder and shall be immediately due from Lessee to Lessor. Any such acts by Lessor in correcting Lessee's breaches or defaults hereunder shall not be deemed to cure said breaches or defaults or constitute any waiver of Lessor's right to exercise any or all remedies set forth herein.

(ix) To immediately or at any time thereafter, and with or without notice, except as required herein, set off any money of Lessee held by Lessor under this Lease against any sum owing by Lessee hereunder.

(x) To seek any equitable relief available to Lessor, including, without limitation, the right of specific performance.

All powers and remedies given by this Section to Lessor, subject to applicable law, shall be cumulative and not exclusive of one another or of any other right or remedy or of any other powers and remedies available to Lessor under this Lease, by judicial proceedings or

otherwise, to enforce the performance or observance of the covenants and agreements of Lessee contained in this Lease, and no delay or omission of Lessor to exercise any right or power accruing upon the occurrence of any Event of Default shall impair any other or subsequent Event of Default or impair any

rights or remedies consequent thereto. Every power and remedy given by this Section or by law to Lessor may be exercised from time to time, and as often as may be deemed expedient, by Lessor, subject at all times to Lessor's right in its sole judgment to discontinue any work commenced by Lessor or change any course of action undertaken by Lessor.

If Lessee shall fail to observe or perform any of its obligations under this Lease or in the event of an emergency, then, without waiving any Event of Default which may result from such failure or emergency, Lessor may, but without any obligation to do so, take all actions, including, without limitation, entry upon the Property to perform Lessee's obligations, immediately and without notice in the case of an emergency and upon five days written notice to Lessee in all other cases. All expenses incurred by Lessor in connection with performing such obligations, including, without limitation, reasonable attorneys' fees and expenses, together with interest at the Default Rate from the date any such expenses were incurred by Lessor until the date of payment by Lessee, shall constitute Additional Rental and shall be paid by Lessee to Lessor upon demand.

24. LIENS; MORTGAGES, SUBORDINATION, NONDISTURBANCE AND ATTORNMENT.

Lessor's interest in this Lease and/or the Property shall not be subordinate to any liens or encumbrances placed upon the Property by or resulting from any act of Lessee, and nothing herein contained shall be construed to require such subordination by Lessor. Lessee shall keep the Property free from any liens for work performed, materials furnished or obligations incurred by Lessee. NOTICE IS HEREBY GIVEN THAT LESSEE IS NOT AUTHORIZED TO PLACE OR ALLOW TO BE PLACED ANY LIEN, MORTGAGE, DEED OF TRUST, SECURITY INTEREST OR ENCUMBRANCE OF ANY KIND UPON ALL OR ANY PART OF THE PROPERTY OR LESSEE'S LEASEHOLD INTEREST THEREIN OR THE PERSONALTY, AND ANY SUCH PURPORTED TRANSACTION WHICH IS NOT APPROVED BY LESSOR SHALL BE VOID. FURTHERMORE, ANY SUCH PURPORTED TRANSACTION SHALL BE DEEMED A TORTIOUS INTERFERENCE WITH LESSOR'S RELATIONSHIP WITH LESSEE AND LESSOR'S OWNERSHIP OF THE PROPERTY. NOTWITHSTANDING THE FOREGOING, LESSEE MAY PLACE OR ALLOW TO BE PLACED ANY LIEN, MORTGAGE, DEED OF TRUST, SECURITY INTEREST OR OTHER ENCUMBRANCE OF ANY KIND UPON ALL OR ANY PART OF LESSEE'S LEASEHOLD INTEREST OR THE PERSONALTY TO SECURE OBLIGATIONS OF LESSEE OR ITS AFFILIATES TO INSTITUTIONAL LENDERS FOR INDEBTEDNESS AND OTHER OBLIGATIONS OR ANY REFINANCING THEREOF ("INSTITUTIONAL LOANS").

If any landlord, mortgagee, receiver, Lender or other secured party elects to have this Lease and the interest of Lessee hereunder be superior to any of the Mortgages or any such ground lease, mortgage, trust deed or deed to secure debt and evidences such election by notice given to Lessee, then this Lease and the interest of Lessee hereunder shall be deemed superior to any such Mortgage, ground lease, mortgage, trust deed or deed to secure debt, whether this Lease was executed before or after such Mortgage, ground lease, mortgage, trust deed or deed to secure debt and in that event such landlord, mortgagee, receiver, Lender or other secured party shall have the same rights with respect to this Lease as if it had been executed and delivered prior to

the execution and delivery of such Mortgage, ground lease, mortgage, trust deed or deed to secure debt and had been assigned to such landlord, mortgagee, receiver, Lender or other secured party.

Although the foregoing provisions shall be self-operative and no future instrument of subordination shall be required, upon request by Lessor, Lessee shall execute and deliver whatever instruments may be required for such purposes, and in the event Lessee fails so to do within 10 days after demand, Lessee does hereby make, constitute and irrevocably appoint Lessor as its agent and attorney-in-fact and in its name, place and stead so to do, which appointment shall be deemed coupled with an interest.

In the event any purchaser or assignee of Lender at a foreclosure sale acquires title to the Property, or in the event Lender or any assignee otherwise succeeds to the rights of Lessor as landlord under this Lease, Lessee shall attorn to Lender or such purchaser or assignee, as the case may be (a "Successor Lessor"), and recognize the Successor Lessor as lessor under this Lease, and this Lease shall continue in full force and effect as a direct lease between the Successor Lessor and Lessee, provided that the Successor Lessor shall only be liable for any obligations of the lessor under this Lease which accrue after the date that such Successor Lessor acquires title. The foregoing provision shall be self operative and effective without the execution of any further instruments.

The Permitted Subleases at all times shall automatically be subordinate to this Lease and the Mortgages.

25. ESTOPPEL CERTIFICATE.

(a) At any time, but not more often than twice every 12 months, and from time to time, Lessee shall, promptly and in no event later than 10 days after a request from Lessor or Lender, execute, acknowledge and deliver to Lessor or Lender a certificate in the form supplied by Lessor, Lender or any present or proposed mortgagee or purchaser designated by Lessor, certifying: (i) that Lessee has accepted the Property (or, if Lessee has not done so, that Lessee has not accepted the Property, and specifying the reasons therefor); (ii) that this Lease is in full force and effect and has not been modified (or if modified, setting forth all modifications), or, if this Lease is not in full force and effect, the certificate shall so specify the reasons therefor; (iii) the commencement and expiration dates of the Lease Term, including the terms of any extension options of Lessee; (iv) the date to which the rentals have been paid under this Lease and the amount thereof then payable; (v) whether there are then any existing defaults by Lessor in the performance of its obligations under this Lease, and, if there are any such defaults, specifying the nature and extent thereof; (vi) that no notice has been received by Lessee of any default under this Lease which has not been cured, except as to defaults specified in the certificate; (vii) the capacity of the person executing such certificate, and that such person is duly authorized to execute the same on behalf of Lessee; (viii) that neither Lessor nor Lender has actual involvement in the management or control of decision making related to the operational aspects or the day-to-day operations of the Property; and (ix) any other information reasonably

requested by Lessor, Lender or such present or proposed mortgagee or purchaser.

(b) If Lessee shall fail or refuse to sign a certificate in accordance with the

30

provisions of this Section within 10 days following a written request by Lessor, Lessee irrevocably constitutes and appoints Lessor as its attorney-in-fact to execute and deliver the certificate to any such third party, it being stipulated that such power of attorney is coupled with an interest and is irrevocable and binding; provided, however, that Lessor's execution and delivery of such certificate on behalf of Lessee shall not cure any default arising by reason of Lessee's failure to execute and deliver such certificate.

26. ASSIGNMENT; SUBLETTING.

(a) Lessor shall have the right to sell or convey all, but not less than all, of the Property or to assign its right, title and interest as Lessor under this Lease in whole, but not in part. In the event of any such sale or assignment other than a security assignment, provided Lessee receives written notice that such purchaser or assignee has assumed all of Lessor's obligations under this Lease, Lessee shall attorn to such purchaser or assignee and Lessor shall be relieved, from and after the date of such transfer or conveyance, of liability for the performance of any obligation of Lessor contained herein, except for obligations or liabilities accrued prior to such assignment or sale.

(b) Lessee acknowledges that Lessor has relied both on the business experience and creditworthiness of Lessee and the Permitted Sublessees and upon the particular purposes for which Lessee and the Permitted Sublessees intend to use the Property in entering into this Lease. Without the prior written consent of Lessor which will not be unreasonably withheld and except as provided below and for the Permitted Subleases: (i) except as provided in Section 24, Lessee shall not assign, transfer or convey this Lease or any interest therein, whether by operation of law or otherwise; and (ii) Lessee shall not sublet or license the use of all or any part of the Property provided, however, in the event of a foreclosure of any leasehold mortgage, a substitute Lessee may be designated by Lessee's institutional Lender without the consent of Lessor or any Substitute Lessor. Nothing contained herein shall limit any assignment, pledge or transfer of any stock ownership interest in Leasee, and nothing shall limit the transferability of interests in the Lessee.

(c) Notwithstanding the foregoing, Lessee shall have the right to sublease the Property, without the prior written consent of Lessor or Lender, if the following conditions are satisfied:

(i) no Event of Default shall have occurred and be continuing under this Lease as of the effective date of such sublease;

(ii) any such sublease shall be subordinate to this Lease and

the Mortgage corresponding to the Property to which such sublease relates;

(iii) Lessee shall remain liable under this Lease notwithstanding such sublease;

(iv) the Property subject to such subleases shall be used as a Permitted Facilities and shall otherwise be operated and maintained in accordance with the terms and conditions of this Lease; and

31

(v) the square footage of the portion of the Property to be subleased in no event exceed 20% of the total square footage of the Property.

27. OPTION TO EXTEND; NEW LEASE.

(a) Lessee shall have the option to continue this Lease in effect for four additional successive periods of five years each, provided that, at the time of exercise of such option or at the expiration of the Lease Term or, if applicable, the preceding extension of the Lease Term, no Event of Default shall have occurred and be continuing under this Lease. If Lessee exercises such option, this Lease shall continue for the applicable period in accordance with the terms and provisions of this Lease then in effect, except that the Base Annual Rental during each extension period shall be in an amount set forth on attached Exhibit B. Lessor and Lessee agree that the Base Annual Rental during each extension period represents the then fair market value of the Property.

Lessee may only exercise the first extension option by giving notice to Lessor of Lessee's intention to do so not later than November 30, 2019. If the first extension option is exercised by Lessee, Lessee may only exercise the second extension option by giving notice to Lessor of Lessee's intention to do so not later than August 31, 2025. If the first two extension options are exercised, Lessee may only exercise the third extension option by giving notice to Lessor of Lessee's intention to do so not later than August 31, 2030. If the first three extension options are exercised, Lessee may only exercise the fourth extension option by giving notice to Lessor of Lessee's intention to do so not later than August 31, 2035.

28. RIGHT OF FIRST OFFER TO PURCHASE PROPERTIES. If, during the Lease Term, Lessor desires to sell its interest in the Property, as a result of a third party offer or expression of interest from a third party (which may be solicited by Lessor and with no requirement that an offer actually be made by such third party), then, provided no Event of Default has occurred and is continuing, Lessor shall give Lessee the right to purchase such interest (the "Interest") for a price and on terms and conditions, determined by Lessor and set forth in a notice given to Lessee (the "ROFO Notice"). Lessee shall have thirty (30) days after receipt of the ROFO Notice to elect, in writing, to acquire such Interest at the price and on such terms and conditions set forth in

the ROFO Notice. Lessee's silence shall be deemed a rejection of its right to acquire such Interest. Any such election by Lessee shall only be effective if accompanied by Lessee's payment to Lessor of a non-refundable cash down payment equal to 10% of the price set forth in the ROFO Notice. If Lessee timely and properly elects to acquire such Interest, the closing shall take place within one hundred and twenty (120) days after the ROFO Notice. The balance of the purchase price shall be paid in cash at closing. If Lessee does not timely elect to acquire such Interest, Lessor shall be free to sell the Interest to any other Person within one (1) year of Lessee's rejection or deemed rejection without being required to comply again with the foregoing provisions of this Section, provided that, if Lessor intends to sell the Interest after such one (1) year period or within such one (1) year period at a price less than 95% of the price described in the ROFO Notice or on terms materially more favorable to a purchaser than those set forth in the ROFO Notice, Lessor shall give Lessee written notice, setting forth the applicable purchase price and terms and conditions, and Lessee shall have thirty (30) days to elect in writing to purchase the Interest at such purchase price and on such terms and conditions. The right of first offer granted by this Section shall not survive the expiration or

32

earlier termination of this Lease or the purchase of the Property by a third party after Lessee's failure to exercise such right or Lessee's waiver thereof. Furthermore, the right of first offer granted by this Section shall not apply to a foreclosure of any of the Mortgages or the delivery to Lender of a deed in lieu of foreclosure and shall not survive any such foreclosure or delivery of a deed in lieu of foreclosure. Upon the termination of this right of first offer, Lessee shall execute such instruments as may be reasonably required by Lessor to provide constructive notice of the termination thereof.

Lessor hereby grants Lessee a right of first refusal to purchase the Property at the same price and upon the same terms, provisions and conditions as shall be contained in any written bona fide offer or offers for the amount of purchase thereof which the Lessor shall at any time during the Original Term or Option Terms of this Lease, or any extension thereof, be ready and willing to accept (hereinafter "Purchase Terms"). The Lessor shall give the Lessee written notice by certified mail of all of the Purchase Terms of each offer that Lessor is considering and the Lessee shall have thirty (30) days from and after the receipt of such notice from the Lessor in which to exercise such right of first refusal. In the event that Lessee shall fail to exercise its right of first refusal, as aforesaid and Lessor shall not within six (6) months thereafter sell the Premises upon such Purchase Terms of the bona fide offer Lessor has selected, Lessee's right of first refusal shall thereafter be reinstated.

29. NOTICES. All notices, consents, approvals or other instruments required or permitted to be given by either party pursuant to this Lease shall be in writing and given by (i) hand delivery, (ii) facsimile, (iii) express overnight delivery service or (iv) certified or registered mail, return receipt requested, and shall be deemed to have been delivered upon (a) receipt, if hand

delivered, (b) transmission, if delivered by facsimile, (c) the next Business Day, if delivered by express overnight delivery service, or (d) the third Business Day following the day of deposit of such notice with the United States Postal Service, if sent by certified or registered mail, return receipt requested. Notices shall be provided to the parties and addresses (or facsimile numbers, as applicable) specified below:

If to Lessee: Mercury Air Group, Inc.
5456 McConnell Avenue
Los Angeles, California 90066
Attention: Wayne Lovett
Telephone: (310) 827-2737
Telecopy: (310) 827-0650

If to Lessor: CFK Realty Partners, LLC
20 North Wacker Drive
Suite 2520
Chicago, Illinois 60606
Attention: Frederick H. Kopko, Jr.
Telephone: (312) 332-6405
Telecopy: (312) 332-2657

With a copy to: McBreen & Kopko
20 North Wacker Drive, Suite 2520

33

Chicago, Illinois 60606
Attention: James R. Stern
Telephone: (312) 332-6405
Telecopy: (312) 332-2657

or to such other address or such other person as either party may from time to time hereafter specify to the other party in a notice delivered in the manner provided above. No such notices, consents, approvals or other communications shall be valid unless Lender receives a duplicate original thereof at the following address:

General Electric Capital Business Asset
Funding Corporation
10900 NE 4th Street, Suite 500
Bellevue, Washington 98004
Attention:
Telephone:

or to such other address or such other person as Lender may from time to time specify to Lessor and Lessee in a notice delivered in the manner provided above.

30. HOLDING OVER. If Lessee remains in possession of the Property after the expiration of the term hereof, Lessee, at Lessor's option and within

Lessor's sole discretion, may be deemed a tenant on a month-to-month basis and shall continue to pay rentals and other sums in the amounts herein provided, except that the Base Monthly Rental shall be increased by 150%, and to comply with all the terms of this Lease; provided that nothing herein nor the acceptance of rent by Lessor shall be deemed a consent to such holding over. Lessee shall defend, indemnify, protect and hold the Indemnified Parties harmless from and against any and all Losses resulting from Lessee's failure to surrender possession upon the expiration of the Lease Term, including, without limitation, any claims made by any succeeding lessee. The terms of this Section 30 shall survive the expiration of the Lease Term.

31. LANDLORD'S LIEN. Lessor hereby waives any landlord's lien with respect to Personalty whether arising under any agreement between the Parties hereto or pursuant to any law, ordinance, regulation or otherwise.

32. REMOVAL OF PERSONALTY. At the expiration of the Lease Term, and if Lessee is not then in breach hereof, Lessee may remove all Personalty from the Property. Lessee shall repair any damage caused by such removal and shall leave the Property broom clean and in good and working condition and repair inside and out. Any property of Lessee left on the Property on the tenth day following the expiration of the Lease Term shall, at Lessor's option, automatically and immediately become the property of Lessor.

33. FINANCIAL STATEMENTS. Within 45 days after the end of each fiscal quarter and within 120 days after the end of each fiscal year of Lessee, Lessee shall deliver to Lessor and Lender (i) complete financial statements of Lessee and Permitted Sublessees including a balance sheet, profit and loss statement, statement of cash flows and all other related schedules for the fiscal period then ended; and (ii) income statements for the business at the Property. All such financial statements shall be prepared in accordance with GAAP and shall be certified to be

34

accurate and complete by Lessee (or the Treasurer or other appropriate officer of Lessee). Lessee understands that Lessor and Lender will rely upon such financial statements and Lessee represents that such reliance is reasonable. In the event that Lessee's and Permitted Sublessees' property and business at the Property is ordinarily consolidated with other business for financial statement purposes, such financial statements shall be prepared on a consolidated basis showing separately the sales, profits and losses, assets and liabilities pertaining to the Property with the basis for allocation of overhead of other charges being clearly set forth. The financial statements delivered to Lessor and Lender need not be audited, but Lessee shall deliver to Lessor and Lender copies of any audited financial statements of Lessee which may be prepared, as soon as they are available.

34. FORCE MAJEURE. Any prevention, delay or stoppage due to strikes, lockouts, acts of God, enemy or hostile governmental action, civil commotion, fire or other casualty beyond the control of the party obligated to perform

shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage, except the obligations imposed with regard to rental and other monies to be paid by Lessee pursuant to this Lease and any indemnification obligations imposed upon Lessee under this Lease.

35. TIME IS OF THE ESSENCE. Time is of the essence with respect to each and every provision of this Lease in which time is a factor.

36. LESSOR'S LIABILITY. Notwithstanding anything to the contrary provided in this Lease, it is specifically understood and agreed, such agreement being a primary consideration for the execution of this Lease by Lessor, that (i) there shall be absolutely no personal liability on the part of Lessor, its successors or assigns and the trustees, members, managers, partners, shareholders, officers, directors, employees and agents of Lessor and its successors or assigns, to Lessee with respect to any of the terms, covenants and conditions of this Lease, (ii) Lessee waives all claims, demands and causes of action against the trustees, members, managers, partners, shareholders, officers, directors, employees and agents of Lessor and its successors or assigns in the event of any breach by Lessor of any of the terms, covenants and conditions of this Lease to be performed by Lessor, and (iii) Lessee shall look solely to the Property for the satisfaction of each and every remedy of Lessee in the event of any breach by Lessor of any of the terms, covenants and conditions of this Lease to be performed by Lessor, or any other matter in connection with this Lease or the Property, such exculpation of liability to be absolute and without any exception whatsoever.

37. CONSENT OF LESSOR.

(a) Unless specified otherwise herein, Lessor's consent to any request of Lessee may be conditioned or withheld in Lessor's sole discretion. Lessor shall have no liability for damages resulting from Lessor's failure to give any consent, approval or instruction reserved to Lessor, Lessee's sole remedy in any such event being an action for injunctive relief.

(b) It is understood and agreed that to the extent Lessor is required to obtain the consent, approval, agreement or waiver of Lender with respect to a matter for which Lessor's approval has been requested under this Lease, Lessor shall in no event be deemed to have unreasonably withheld Lessor's consent, approval, agreement or waiver thereof if Lender shall

35

not have given its approval if required.

38. WAIVER AND AMENDMENT. No provision of this Lease shall be deemed waived or amended except by a written instrument unambiguously setting forth the matter waived or amended and signed by the party against which enforcement of such waiver or amendment is sought. Waiver of any matter shall not be deemed a waiver of the same or any other matter on any future occasion. No acceptance by Lessor of an amount less than the monthly rent and other payments stipulated to

be due under this Lease shall be deemed to be other than a payment on account of the earliest such rent or other payments then due or in arrears nor shall any endorsement or statement on any check or letter accompanying any such payment be deemed a waiver of Lessor's right to collect any unpaid amounts or an accord and satisfaction.

39. SUCCESSORS BOUND. Except as otherwise specifically provided herein, the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of the respective heirs, successors, executors, administrators and assigns of each of the parties hereto.

40. NO MERGER. The voluntary or other surrender of this Lease by Lessee, or a mutual cancellation thereof, shall not result in a merger of Lessor's and Lessee's estates, and shall, at the option of Lessor, either terminate any or all existing subleases or subtenancies, or operate as an assignment to Lessor of any or all of such subleases or subtenancies.

41. CAPTIONS. Captions are used throughout this Lease for convenience of reference only and shall not be considered in any manner in the construction or interpretation hereof.

42. SEVERABILITY. The provisions of this Lease shall be deemed severable. If any part of this Lease shall be held unenforceable by any court of competent jurisdiction, the remainder shall remain in full force and effect, and such unenforceable provision shall be reformed by such court so as to give maximum legal effect to the intention of the parties as expressed therein.

43. CHARACTERIZATION.

(a) It is the intent of the parties hereto that the business relationship created by this Lease and any Lease related documents is solely that of a long-term commercial lease between landlord and tenant and has been entered into by both parties in reliance upon the economic and legal bargains contained herein. None of the agreements contained herein, is intended, nor shall the same be deemed or construed, to create a partnership between Lessor and Lessee, to make them joint venturers, to make Lessee an agent, legal representative, partner, subsidiary or employee of Lessor, nor to make Lessor in any way responsible for the debts, obligations or losses of Lessee.

(b) Lessor and Lessee acknowledge and warrant to each other that each has been represented by independent counsel and has executed this Lease after being fully advised by said counsel as to its effect and significance. This Lease shall be interpreted and construed in a fair and impartial manner without regard to such factors as the party which prepared the instrument, the relative bargaining powers of the parties or the domicile of any party. Whenever in this Lease any words of obligation or duty are used, such words or expressions shall have

the same force and effect as though made in the form of a covenant.

44. EASEMENTS. During the Lease Term Lessor shall have the right to grant utility easements on, over, under and above the Property without the prior consent of Lessee, provided that such easements will not materially interfere with Lessee's or a Permitted Sublessee's use.

45. BANKRUPTCY.

(a) As a material inducement to Lessor executing this Lease, Lessee acknowledges and agrees that Lessor is relying upon (i) the financial condition and specific operating experience of Lessee and Lessee's and Permitted Sublessees' obligation to use the Property specifically in accordance with system-wide requirements imposed from time to time on Permitted Facilities, (ii) Lessee's timely performance of all of its obligations under this Lease notwithstanding the entry of an order for relief under the Code for Lessee and (iii) all defaults under this Lease being cured promptly and this Lease being assumed within 60 days of any order for relief entered under the Code for Lessee, or this Lease being rejected within such 60 day period and the Property surrendered to Lessor.

(b) Accordingly, in consideration of the mutual covenants contained in this Lease and for other good and valuable consideration, Lessee hereby agrees that:

(i) All obligations that accrue under this Lease (including the obligation to pay rent), from and after the date that an Action is commenced shall be timely performed exactly as provided in this Lease and any failure to so perform shall be harmful and prejudicial to Lessor;

(ii) Any and all obligations under this Lease that become due from and after the date that an Action is commenced and that are not paid as required by this Lease shall, in the amount of such rents, constitute administrative expense claims allowable under the Code with priority of payment at least equal to that of any other actual and necessary expenses incurred after the commencement of the Action;

(iii) Any extension of the time period within which Lessee may assume or reject this Lease without an obligation to cause all obligations coming due under this Lease from and after the date that an Action is commenced to be performed as and when required under this Lease shall be harmful and prejudicial to Lessor;

(iv) Any time period designated as the period within which Lessee must cure all defaults and compensate Lessor for all pecuniary losses which extends beyond the date of assumption of this Lease shall be harmful and prejudicial to Lessor;

(v) Any assignment of this Lease must result in all terms and

conditions of this Lease being assumed by the assignee without alteration or amendment, and any assignment which results in an amendment or alteration of the terms and conditions of this Lease without the express written consent of Lessor shall be harmful and prejudicial to Lessor;

(vi) Any proposed assignment of this Lease to an assignee that does not

37

possess financial condition, operating performance and experience characteristics equal to or better than the financial condition, operating performance and experience of Lessee as of the Effective Date shall be harmful and prejudicial to Lessor;

(vii) The rejection (or deemed rejection) of this Lease for any reason whatsoever shall constitute cause for immediate relief from the automatic stay provisions of the Code, and Lessee stipulates that such automatic stay shall be lifted immediately and possession of the Property will be delivered to Lessor immediately without the necessity of any further action by Lessor; and

(viii) This Lease shall at all times be treated as consistent with the specific characterizations set forth in Section 3 of this Lease, and assumption or rejection of this Lease shall be (a) in its entirety and (b) in strict accordance with the specific terms and conditions of this Lease.

(c) No provision of this Lease shall be deemed a waiver of Lessor's rights or remedies under the Code or applicable law to oppose any assumption and/or assignment of this Lease, to require timely performance of Lessee's obligations under this Lease, or to regain possession of the Property as a result of the failure of Lessee to comply with the terms and conditions of this Lease or the Code.

(d) Notwithstanding anything in this Lease to the contrary, all amounts payable by Lessee to or on behalf of Lessor under this Lease, whether or not expressly denominated as such, shall constitute "rent" for the purposes of the Code.

(e) For purposes of this Section addressing the rights and obligations of Lessor and Lessee in the event that an Action is commenced, the term "Lessee" shall include Lessee's successor in bankruptcy, whether a trustee, Lessee as debtor in possession or other responsible person.

46. NO OFFER. No contractual or other rights shall exist between Lessor and Lessee with respect to the Property until both have executed and delivered

this Lease, notwithstanding that deposits may have been received by Lessor and notwithstanding that Lessor may have delivered to Lessee an unexecuted copy of this Lease. The submission of this Lease to Lessee shall be for examination purposes only, and does not and shall not constitute a reservation of or an option for Lessee to lease or otherwise create any interest on the part of Lessee in the Property.

47. OTHER DOCUMENTS. Each of the parties agrees to sign such other and further documents as may be necessary or appropriate to carry out the intentions expressed in this Lease.

48. ATTORNEYS' FEES. In the event of any judicial or other adversarial proceeding between the parties concerning this Lease, to the extent permitted by law, the prevailing party shall be entitled to recover all of its reasonable attorneys' fees and other costs in addition to any other relief to which it may be entitled. Lessor shall, upon demand, be entitled to all attorneys' fees and all other costs incurred in the preparation and service of any notice or demand hereunder, whether or not a legal action is subsequently commenced. References in this Lease to Lessor's attorneys' fees and/or costs shall mean both the fees and costs of independent counsel

38

retained by Lessor with respect to the matter and the fees and costs incurred in connection with the matter.

49. ENTIRE AGREEMENT. This Lease and any other instruments or agreements referred to herein, constitute the entire agreement between the parties with respect to the subject matter hereof, and there are no other representations, warranties or agreements except as herein provided. Without limiting the foregoing, Lessee specifically acknowledges that neither Lessor nor any agent, officer, employee or representative of Lessor has made any representation or warranty regarding the projected profitability of the business to be conducted on the Property. Furthermore, Lessee acknowledges that Lessor did not prepare or assist in the preparation of any of the projected figures used by Lessee in analyzing the economic viability and feasibility of the business to be conducted by Lessee at the Property.

50. FORUM SELECTION; JURISDICTION; VENUE; CHOICE OF LAW. There are substantial contacts between the parties and the transactions contemplated herein and the State of California. For purposes of any action or proceeding arising out of this Lease, the parties hereto expressly submit to the jurisdiction of all federal and state courts located in the State of California. Lessee and Lessor consent that they may be served with any process or paper by registered mail or by personal service within or without the State of California in accordance with applicable law. Furthermore, Lessee and Lessor waive and agree not to assert in any such action, suit or proceeding that they are not personally subject to the jurisdiction of such courts, that the action, suit or proceeding is brought in an inconvenient forum or that venue of the action, suit or proceeding is improper. This Lease shall be governed by the internal laws of

the State of California without regard to its principles of conflicts of law.

51. COUNTERPARTS. This Lease may be executed in one or more counterparts, each of which shall be deemed an original.

52. MEMORANDUM OF LEASE. Concurrently with the execution of this Lease, Lessor and Lessee are executing the Memorandum to be recorded in the applicable real property records with respect to the Property. Further, upon Lessor's request, Lessee agrees to execute and acknowledge a termination of lease and/or quit claim deed in recordable form with respect to the Property to be held by Lessor until the expiration or sooner termination of the Lease Term.

53. NO BROKERAGE. Lessor and Lessee represent and warrant to each other that they have had no conversation or negotiations with any broker concerning the leasing of the Property. Each of Lessor and Lessee agrees to protect, indemnify, save and keep harmless the other, against and from all liabilities, claims, losses, costs, damages and expenses, including attorneys' fees, arising out of, resulting from or in connection with their breach of the foregoing warranty and representation.

54. WAIVER OF JURY TRIAL AND PUNITIVE, CONSEQUENTIAL, SPECIAL AND INDIRECT DAMAGES. LESSOR AND LESSEE HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER OR ITS SUCCESSORS WITH RESPECT TO

39

ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, THE RELATIONSHIP OF LESSOR AND LESSEE, LESSEE'S USE OR OCCUPANCY OF THE PROPERTY, AND/OR ANY CLAIM FOR INJURY OR DAMAGE, OR ANY EMERGENCY OR STATUTORY REMEDY. THIS WAIVER BY THE PARTIES HERETO OF ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY HAS BEEN NEGOTIATED AND IS AN ESSENTIAL ASPECT OF THEIR BARGAIN. FURTHERMORE, LESSEE AND LESSOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHTS THEY MAY HAVE TO SEEK PUNITIVE, CONSEQUENTIAL, SPECIAL AND INDIRECT DAMAGES FROM EACH OTHER AND ANY OF THEIR AFFILIATES, OFFICERS, DIRECTORS, MEMBERS OR EMPLOYEES OR ANY OF THEIR SUCCESSORS WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER PARTY OR ANY OF THEIR AFFILIATES, OFFICERS, DIRECTORS, MEMBERS OR EMPLOYEES OR ANY OF THEIR SUCCESSORS WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE OR ANY DOCUMENT CONTEMPLATED HEREIN OR RELATED HERETO. THE WAIVER BY EITHER PARTY OF ANY RIGHT IT MAY HAVE TO SEEK PUNITIVE, CONSEQUENTIAL, SPECIAL AND INDIRECT DAMAGES HAS BEEN NEGOTIATED BY THE PARTIES HERETO AND IS AN ESSENTIAL ASPECT OF THEIR BARGAIN.

55. RELIANCE BY LENDER. Lessee acknowledges and agrees that Lender may rely on all of the representations, warranties and covenants set forth in this Lease, that Lender is an intended third-party beneficiary of such representations, warranties and covenants and that Lender shall have all rights

and remedies available at law or in equity as a result of a breach of such representations, warranties and covenants, including to the extent applicable, the right of subrogation.

56. DOCUMENT REVIEW. In the event Lessee makes any request upon Lessor requiring Lessor, Lender or the attorneys of Lessor or Lender to review and/or prepare (or cause to be reviewed and/or prepared) any documents, plans, specifications or other submissions in connection with or arising out of this Lease, then Lessee shall reimburse Lessor or its designee promptly upon Lessor's demand therefor for all out-of-pocket costs and expenses incurred by Lessor in connection with such review and/or preparation plus a reasonable processing and review fee.

57. SUBSTITUTION.

(a) Subject to the fulfillment of all of the conditions set forth in the following subsection B, Lessee shall have the right to deliver a rejectable offer to Lessor (each, a "Rejectable Substitution Offer") to substitute a Substitute Property for the Property if:

(i) the terms of Section 21.B of this Lease permit such substitution (each, a "Casualty/Condemnation Substitution").

From and after the third anniversary of the Effective Date and subject to the fulfillment of all of the conditions set forth in the following subsection B, Lessee shall also have the right to deliver a Rejectable Substitution Offer to substitute any

40

Property with a Substitute Property (each a "Discretionary Substitution").

Each Rejectable Substitution Offer shall identify the proposed Substitute Property in reasonable detail and contain a certificate executed by a duly authorized officer of Lessee pursuant to which Lessee shall certify that in Lessee's good faith judgment such proposed Substitute Property satisfies as of the date of such notice, or will satisfy as of the date of the closing of such substitution, all of the applicable conditions to substitution set forth in this Section 57. Lessee agrees to deliver to Lessor all of the diligence information and materials contemplated by the provisions of Section 57.B of this Lease within 30 days after the delivery to Lessor of a Rejectable Substitution Offer.

Lessor shall have 90 days after the delivery of a Rejectable Substitution Offer notice satisfying the requirements of the preceding paragraph to deliver to Lessee written notice of its election to either accept or reject the Rejectable Substitution Offer. Lessor's failure to deliver such notice within such time period shall be deemed

to constitute Lessor's acceptance of the Rejectable Substitution Offer. If the Mortgage corresponding to the Property to be replaced is still outstanding, any rejection of the Rejectable Substitution Offer by Lessor shall not be effective unless it is consented to in writing by Lender. If Lessor accepts the Rejectable Substitution Offer or is deemed to have accepted the Rejectable Substitution Offer or if Lender does not consent in writing to any rejection of the Rejectable Substitution Offer by Lessor, then Lessee shall complete such substitution, subject, however, to the satisfaction of each of the applicable terms and conditions set forth in this Section 57.

If Lessor rejects the Rejectable Substitution Offer pursuant to the previous paragraph for reasons other than that, in Lessor's reasonable judgment, the proposed Substitute Property would not have satisfied the applicable substitution conditions set forth in this Section 57, and such rejection is consented to by Lender, then:

(X) if such rejected Rejectable Substitution Offer was made with respect to a Casualty/Condemnation Substitution, the provisions of the last paragraph of Section 21.B and the last sentence of the second paragraph of Section 21.B shall be applicable; and

(Y) if such rejected Rejectable Substitution Offer was made with respect to a Discretionary Substitution, this Lease shall terminate on the next scheduled Base Monthly Rental payment date (the "Early Substitution Termination Date") provided Lessee has paid to Lessor all Base Annual Rental, Additional Rental and all other sums and obligations then due and payable under this Lease as of such Early Substitution Termination Date.

On the Early Substitution Termination Date, and provided Lessee shall have paid to Lessor all Base Annual Rental, Additional Rental and other sums and obligations then due and payable under this Lease as of the Early Substitution Date:

(i) the Base Annual Rental then in effect shall be reduced by an

41

amount equal to the product of (x) the Applicable Rent Reduction Percentage, and (y) the Base Annual Rental then in effect; and

(ii) all obligations of Lessor and Lessee shall cease as of the Early Substitution Termination Date with respect to the Property; provided, however, Lessee's obligations to Lessor with respect to the Property under any indemnification provisions of this Lease with respect to the Property (including, without limitation, Sections 16 and 19 of this Lease) and Lessee's obligations to pay any sums (whether payable to Lessor or a third party) accruing under this Lease with respect to the

Property prior to the Early Substitution Termination Date shall survive the termination of this Lease with respect to the Property or otherwise. This Lease shall, however, continue in full force and effect with respect to the Property.

(b) The substitution of a Substitute Property for the Property pursuant to the preceding subsection A shall be subject to the fulfillment of all of the following terms and conditions:

(i) The Substitute Property must:

(1) be a Permitted Facility, in good condition and repair, ordinary wear and tear excepted;

(2) have a fair market value no less than the greater of the then fair market value of the Property being replaced or the fair market value of such Property as of the Effective Date (in each case, determined without regard to this Lease, but assuming that while this Lease has been in effect, Lessee has complied with all of the terms and conditions of this Lease), as determined by Lessor, and consented to by Lender, utilizing the same valuation method as used in connection with the closing of the transaction described in the Sale-Leaseback Agreement, which was based upon the sum of (x) the fair market value of the land comprising such Property and (y) the replacement cost of the improvements located thereon;

(3) have improvements which have a remaining useful life substantially equivalent to, or better than, that of the improvements located at the Property to be replaced;

(4) be conveyed to Lessor by special or limited warranty deed, free and clear of all liens and encumbrances, except such matters as are reasonably acceptable to Lessor (the "Substitute Property Permitted Exceptions"); and

(5) be located in either (a) the same state as the Property to be replaced is then located, or (b) in another state acceptable to Lessor in Lessor's reasonable discretion;

(ii) Lessor shall have inspected and approved the Substitute Property utilizing Lessor's customary site inspection and underwriting approval criteria. Lessee

shall have reimbursed Lessor and Lender for all of their reasonable costs and expenses incurred with respect to such proposed substitution, including, without limitation, Lessor's third-party and/or in-house site inspectors' costs and expenses with respect to the proposed Substitute Property. Lessee shall be solely responsible for the payment of all

costs and expenses resulting from such proposed substitution, regardless of whether such substitution is consummated, including, without limitation, the cost of title insurance and endorsements for both Lessor and Lender, survey charges, stamp taxes, mortgage taxes, transfer fees, transfer taxes, charges, escrow and recording fees, water certification charges and costs, transaction tax (if applicable), income and transfer taxes imposed on Lessor as a result of such substitution and the reasonable attorneys' fees and expenses of counsel to Lessee, Lessor and Lender;

(iii) Lessor shall have received a preliminary title report and irrevocable commitment to insure title by means of an ALTA extended coverage owner's policy of title insurance (or its equivalent, in the event such form is not issued in the jurisdiction where the proposed Substitute Property is located) for the proposed Substitute Property issued by Title Company and committing to insure Lessor's good and marketable title in the proposed Substitute Property, subject only to the Substitute Property Permitted Exceptions (as defined in the Sale-Leaseback Agreement) and containing endorsements substantially comparable to those required by Lessor at the Closing (as defined in the Sale-Leaseback Agreement) and Lender shall have received such title report and irrevocable commitment to insure its first priority lien encumbering the proposed Substitute Property as Lender shall reasonably require;

(iv) Lessor shall have received a current ALTA survey of the proposed Substitute Property, the form of which shall be comparable to those received by Lessor at the Closing and sufficient to cause the standard survey exceptions set forth in the title policy referred to in the preceding subsection to be deleted;

(v) no Event of Default shall have occurred and be continuing under any of the Sale-Leaseback Documents;

(vi) Lessee shall have executed such documents as may be reasonably required by Lessor as a result of such substitution, including amendments to this Lease and the Memorandum (the "Substitute Documents"), all of which documents shall be in form and substance reasonably satisfactory to Lessor;

(vii) the representations and warranties set forth in the Substitute Documents, this Lease and the Sale-Leaseback Agreement applicable to the proposed Substitute Property shall be true and correct in all material respects as of the date of substitution, and Lessee shall have delivered to Lessor an officer's certificate certifying to that effect;

(viii) Lessee shall have delivered to Lessor certificates of insurance showing that insurance required by the Substitute Documents is in full force and effect;

(ix) Lessor shall have obtained an endorsement to the policy of residual

43

value insurance issued to Lessor and Lender in connection with the transaction described in the Sale-Leaseback Agreement with respect to the proposed Substitute Property, which endorsement shall be in form and substance reasonably satisfactory to Lessor and Lender;

(x) Lender shall have provided a written consent to the substitution of the proposed Substitute Property, which consent may be withheld at Lender's sole discretion; and

(xi) the date of the closing of the substitution shall occur no later than 20 days after the date of acceptance (or deemed acceptance) by Lessor of the Rejectable Substitution Offer.

(c) Upon satisfaction of the foregoing conditions set forth in Section 57.B and provided Lessor has accepted the Rejectable Substitution Offer or is deemed to have accepted the Rejectable Substitution Offer, or while the Mortgage corresponding to such Property is still outstanding, any rejection of the Rejectable Substitution Offer by Lessor is not consented to in writing by the Lender:

(i) the proposed Substitute Property shall be deemed substituted for the Property to be replaced;

(ii) the Substitute Property shall be referred to herein as a "Property" and included within the definition of "Properties";

(iii) the Substitute Documents shall be dated as of the date of the substitution; and

(iv) Lessor shall convey the Property to be replaced to Lessee or a signee of Lessee "as-is" by quit-claim deed, subject to all matters of record (except for the Mortgage corresponding to the Property to be replaced and any other consensual liens granted by Lessor other than those granted by Lessor at the request of Lessee), and without representation or warranty.

(d) Notwithstanding the foregoing, nothing in this Section 57 shall be construed as limiting or otherwise adversely affecting the representations, warranties, covenants and characterizations set forth in Lease, including, without limitation, those provisions set forth in Section 3 of this Lease.

58. REJECTABLE PURCHASE OFFER. Subject to the fulfillment of all of the conditions set forth in this Section 58.

(a) Lessor shall have 90 days from the delivery by Lessee of a

Rejectable Purchase Offer notice to purchase a certain property as described in the Rejectable Purchase Offer ("Rejectable Purchase Offer") by delivering to Lessee written notice of its election to either accept or reject the Rejectable Purchase Offer. Lessor's failure to respond to such Rejectable Purchase Offer notice within such time period shall be deemed to constitute Lessor's acceptance of the Rejectable Purchase Offer. If the Mortgage corresponding to the Property to be purchased is still outstanding, any rejection of the Rejectable Purchase Offer by Lessor shall not be

44

effective unless it is consented to in writing by Lender. If Lessor accepts the Rejectable Purchase Offer or is deemed to have accepted the Rejectable Purchase Offer or if Lender does not consent in writing to any rejection of the Rejectable Purchase Offer by Lessor, then Lessee shall complete such purchase, subject, however, to the satisfaction of each of the terms and conditions set forth in the following subsection B.

(b) The purchase of a Property pursuant to the preceding subsection A shall be subject to the fulfillment of all of the following terms and conditions:

(i) no Event of Default shall have occurred and be continuing under any of the Sale-Leaseback Documents;

(ii) Lessee shall have delivered to Lessor a certificate executed by a duly authorized officer of Lessee certifying to Lessor that Lessee does not own any properties which are available for substitution and which meet the applicable requirements for substitution set forth in Section 57;

(iii) Lessee shall have paid to Lessor the Subject Purchase Price (as defined below), together with all Base Annual Rental, Additional Rental and other sums and obligations then due and payable under this Lease as of the date of the closing of such purchase;

(iv) Lessee shall be solely responsible for the payment of all costs and expenses resulting from such proposed purchase, regardless of whether the purchase is consummated, including, without limitation, to the extent applicable, the cost of title insurance and endorsements, including, survey charges, stamp taxes, mortgage taxes, transfer taxes and fees, escrow and recording fees, taxes imposed on Lessor as a result of such purchase, the attorneys' fees of Lessee and the reasonable attorneys' fees and expenses of counsel to Lessor and Lender;

(v) the date of the closing of such purchase shall occur on the next scheduled Base Monthly Rental payment date following Lessor's acceptance (or deemed acceptance) of the Rejectable Purchase Offer, but in no event later than 20 days after the date of acceptance (or deemed acceptance) by Lessor of such Rejectable Purchase Offer; and

(vi) Lender shall have provided a written consent to the proposed purchase, which consent may be withheld at Lender's sole discretion.

On the date of the closing of the purchase of a Property pursuant to this Section (the "Rejectable Purchase Closing Date"), subject to satisfaction of the foregoing conditions:

(1) this Lease shall be deemed terminated with respect to such Property only, but this Lease shall continue in full force and effect with respect to all of the other Properties; provided, however, such termination shall not limit Lessee's obligations to Lessor with respect to such Property under any indemnification provisions of this Lease (including, without limitation, Sections 16 and 19 of this Lease) and Lessee's obligations to pay any sums (whether payable to Lessor or a third party) accruing under this Lease

45

with respect to such Property prior to the Rejectable Purchase Closing Date shall survive the termination of this Lease;

(2) the Base Annual Rental shall be reduced for each such Property by an amount equal to the product of (x) the Applicable Rent Reduction Percentage for such Property and (y) the Base Annual Rental then in effect; and

(3) Lessor shall convey such Property to Lessee "as-is" by quit-claim deed, subject to all matters of record (except for the Mortgage corresponding to the Property to be replaced and any other consensual liens granted by Lessor other than those granted by Lessor at the request of Lessee), and without representation or warranty.

For purposes of this Section 58, the term "Subject Purchase Price" shall mean the product of the amount specified on SCHEDULE I attached hereto which corresponds to the time period during which such purchase occurs multiplied by the Purchase Price for the Property being purchased.

59. STATE SPECIFIC PROVISIONS. The provisions and/or remedies which are set forth on SCHEDULE II shall be deemed a part of and included within the terms and conditions of this Lease.

60. CERTIFICATE. At any time, and from time to time, at or following the assignment by any Permitted Sublessee of its right, title and interest in any Permitted Sublease, Lessor, provided all of the conditions in Section 12 of the Permitted Sublease have been satisfied, agrees, promptly and in no event later than twenty (20) Business Days after a request from Lessee to execute, acknowledge and deliver to Lessee and any such Permitted Sublessee a certificate from Lessor, certifying that such Permitted Sublessee has been released from all

liabilities, obligations and duties to Lessor under the Permitted Sublease.

IN WITNESS WHEREOF, Lessor and Lessee have entered into this Lease as of the date first above written.

LESSOR:

CFK REALTY PARTNERS, LLC,
an Illinois limited liability company
By: its manager

By: /s/

Printed Name:

Its: Member

LESSEE:

MERCURY AIR GROUP, INC., a Delaware
corporation

By: /s/

Printed Name:

Its:

Lessee's Tax Identification Number:

POWER OF ATTORNEY

Lessor may act as attorney-in-fact or otherwise on behalf of Lessee pursuant to Sections _____ of this Lease. This power of attorney is coupled with an interest, is durable and is not affected by subsequent disability or incapacity of the principal or lapse of time.

/s/

Witness

/s/

Lessee

STATE OF CALIFORNIA]
] SS.
COUNTY OF _____]

The foregoing instrument was acknowledged before me on _____
by _____, a member of CFK REALTY PARTNERS, LLC, an Illinois limited
liability company, on behalf of the limited liability company.

/s/

Notary Public

My Commission Expires:

STATE OF CALIFORNIA]
] SS.
COUNTY OF _____]

The foregoing instrument was acknowledged before me on _____ by
_____ of MERCURY AIR GROUP, INC., a Delaware corporation,
on behalf of the
corporation.

/s/

Notary Public

My Commission Expires: