

FIFTH AMENDMENT TO GROUND LEASE

EFFECTIVE DATE: January 1, 1993

LANDLORD: CITY OF COTTONWOOD, formerly Town of Cottonwood, an Arizona municipality

LEASED PREMISES: Described in Section 2, Premises and Survey, in the original Ground Lease dated May 5, 1983; and further described in the Second Amendment to the Ground Lease dated March 12, 1985.

INTENDED USE: Development and construction of facilities on the Leased Premises and to sublease lots to others to encourage new businesses to build new facilities on the Leased Premises.

BACKGROUND:

The parties signed a Ground Lease Agreement dated May 5, 1983. It was amended by the First Amendment dated November 30, 1983, the Second Amendment dated March 12, 1985, the Third Amendment dated August 21, 1985 and the Fourth Amendment dated February 7, 1989, (collectively, the "Prior Amendments") all of which are incorporated by reference.

The terms and conditions contained in the Ground Lease as Amended are hereby ratified, confirmed and continue in full force and effect. There are no amendments, modifications, supplements or other agreements or understandings except for those contained in the Ground Lease as Amended. Landlord acknowledges that Tenant has paid all rent, fully performed all of its obligations and is in good standing under the Ground Lease.

Landlord would like to construct a terminal building facility on the "Released Parcel" described on Exhibit "A" which is presently leased to Tenant. Landlord agrees to compensate Tenant for its losses in conveying Tenant's lease right to this parcel back to Landlord by waiving any requirement for payment of ground rent as called for under the Ground Lease Agreement, as amended, and by crediting Tenant with .77 acres of developed property as called for in the development plan and timetable as contained in the Ground Lease Agreement, as amended.

AGREEMENT

THEREFORE, in consideration of these covenants and agreements and to compensate Tenant for its damages sustained through the loss of a portion of its valuable lease rights,

the Landlord and Tenant hereby further amend the Ground Lease Agreement (as Amended) by this "Fifth Amendment".

1. INCORPORATION BY REFERENCE. The provisions of the Background section of this "Fifth Amendment" and all Exhibits are incorporated as a material part of the Fifth Amendment. If there is a conflict or inconsistency between the provisions of this Fifth Amendment and of any prior amendment or a conflict between the provisions of this Fifth Amendment and of any provision of the Ground Lease Agreement, then the provisions of this Fifth Amendment shall prevail and control.

2. RELEASED PARCEL. Tenant hereby releases, quit claims and returns to Landlord, and Landlord hereby accepts from Tenant, the "Released Parcel" of real property described on Exhibit "A". The Released Parcel is:

- (a) No longer included in the original Ground Lease as amended, and
- (b) is no longer included in the Leased Premises.

The Tenant shall have no further right, title, interest or responsibility for the Released Parcel. If at any time during the Term of this Ground Lease the Landlord decides to discontinue the use of the Released Parcel as a terminal building facility, then the Landlord shall give written notice to the Tenant of its intent to discontinue this use. The Tenant shall then have the option to amend the Ground Lease to restore the Released Parcel to the description of the Leased Premises at the then current rate of the Ground Lease. This option to lease the Released Parcel must be exercised in writing by the Tenant within sixty (60) days from the receipt of the written notice by the Tenant.

3. CONSIDERATION FOR RELINQUISHMENT. In consideration of the relinquishment of the Released Parcel, the Landlord will cause to be constructed and will cause to be maintained an airport terminal building facility which will service the airport, Tenant and the public who utilize the airport and associated facilities. The Landlord waives any requirement for reimbursement by Tenant of any costs related to the development and construction of the terminal building facility.

4. LANDLORD'S FURTHER OBLIGATIONS. Landlord warrants, represents, covenants and agrees that it shall:

A. Construct the terminal building facility and related appurtenances in accordance with all applicable city, state, county and federal government standards.

B. Hold harmless, defend and indemnify the Tenant from all costs, charges, damages or claims arising from the Landlord's activities in connection with the construction and developemnt of the terminal building facility. Landlord will, if economically possible, name the Tenant as an "Additional Insured" on its liability insurance policies relating to the construction and operation of the terminal building facility.

C. Be responsible for payment of all real property taxes, personal property taxes, taxes on possessory rights and/or all assessments of any kind which may be assessed against the Released Parcel.

5. AFFIRMATION OF LEASE. All of the other terms and conditions contained in the Ground Lease Agreement (as amended by the Prior Amendments) remain in full force and effect, except as modified in this Fifth Amendment. The length of the remaining Term is specifically ratified, confirmed and re-authorized by the Landlord to the fullest extent allowed by law.

In witness of our agreement to these terms and conditions the parties executed this Fifth Amendment to be legally binding between them as of the Effective Date, regardless of the actual date of signing.

LANDLORD:  
THE CITY OF COTTONWOOD

TENANT:  
COTTONWOOD AIRPARK, INC.

By: \_\_\_\_\_  
Its \_\_\_\_\_

By: \_\_\_\_\_  
Its \_\_\_\_\_

STATE OF ARIZONA        )  
                                  ) ss.  
County of Yavapai        )

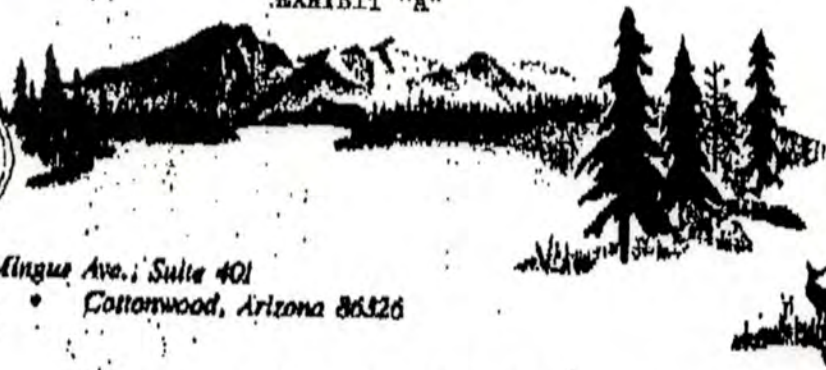
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires:  
\_\_\_\_\_

bf:CAP\grlsam  
11-12-92

EXHIBIT "A"



SEC, Inc. • 709 Mingus Ave., Suite 401  
Post Office Box 130 • Cottonwood, Arizona 86326

**LEGAL DESCRIPTION**  
(0.77 Acre Parcel)

A parcel of ground lying in Section 33, Township 16 North, Range 3 East, G&SR&M, Yavapai County, Arizona, described as follows:

Commencing at the Southwest Corner of Section 33;

Thence South 01 Degree, 55 Minutes, 01 Seconds West (Basis of Bearings) 742.16 feet;

Thence North 42 Degree, 01 Minutes, 01 Seconds East 2259.99 feet;

Thence South 72 Degree, 59 Minutes, 50 Seconds East 129.89 feet;

Thence South 24 Degree, 29 Minutes, 41 Seconds East 80.00 feet to the TRUE POINT OF BEGINNING;

Thence South 65 Degree, 30 Minutes, 19 Seconds West 136.52 feet;

Thence North 24 Degree, 20 Minutes, 49 Seconds West 140.07 feet;

Thence North 32 Degree, 28 Minutes, 13 Seconds East 183.83 feet;

Thence South 57 Degree, 31 Minutes, 47 Seconds East 51.50 feet;

Thence South 42 Degree, 07 Minutes, 38 Seconds East 21.83 feet;

Thence South 24 Degree, 00 Minutes, 49 Seconds East 115.56 feet;

Thence South 64 Degree, 40 Minutes, 48 Seconds West 30.00 feet;

Thence South 22 Degree, 21 Minutes, 28 Seconds West 29.70 feet;

Thence South 24 Degree, 29 Minutes, 41 Seconds East 40.00 feet to the TRUE POINT OF BEGINNING containing 0.77 acres, more or less.

Subject to all easements and rights-of-way that may affect the above described parcel.

Seitz  
92-1004CS



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