Ana Wayman-Trujillo, Recorder
OFFICIAL RECORDS OF YAVAPAI COUNTY
YAVAPAI TITLE AGENCY INC AMND

B-4288 P-644
07/20/2005 11:17A
21.00 3887159

B-4288 P-644
Page: 1 of 12
AMND 3887159

When recorded return to:
Mr. Bill Molloy
DevMan Company, L.C.
1515 E. Missouri Ave., Suite 100
Phoenix, AZ 85014-8558

06003649

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TWELFTH AMENDMENT TO GROUND LEASE

BACKGROUND

The Ground Lease

A. The City of Cottonwood, formerly known as the Town of Cottonwood, an Arizona municipality, is the "Landlord" under a "Ground Lease Agreement" dated May 5, 1983. The City entered into this "Ground Lease" to encourage development of the Cottonwood Airport industrial property to further economic development within the City of Cottonwood.

B. A memorandum of the Ground Lease dated May 23, 1983 was recorded January 4, 1984 in Book 1597 pages 576-581 and thereafter corrected by an instrument recorded July 1, 1985 in Book 1734, pages 11-15 of the records of the Yavapai County Recorder (the "Memorandum of Ground Lease").

C. The Ground Lease Agreement was amended by the First Amendment dated November 30, 1983, the Second Amendment dated March 12, 1985, the Third Amendment dated August 21, 1985, the Fourth Amendment dated February 7, 1989, (the proposed Fifth Amendment dated January 1, 1993 was never signed), the Sixth Amendment dated July 5, 1994, the Seventh Amendment dated September 16, 1997 and the Eighth Amended recorded December 22, 1998. The Ninth Amendment was recorded October 1, 2001. The Tenth Amendment was recorded March 17, 2003. The Eleventh and Twelfth Amendments shall be recorded simultaneously. The Ground Lease Agreement and all Amendments are collectively referred to as the **"Ground Lease."**

D. Cottonwood Airpark L.C. ("CALC") is the successor in interest to Cottonwood Airpark I, L.C. as successor in interest to Cottonwood Airpark, Inc., which was originally named as "Tenant" under the Ground Lease Agreement.

The Purposes of the Twelfth Amendment

Purpose: Partial Assignment of Tenant Rights to Happy Jack Lodge, L.L.C.

1. On or about July, 20 2005, CALC recorded in the offices of the Yavapai County Recorder at Book 4288, Page 645, an "Assignment of Tenant Rights" in Parcel 1 of Cottonwood Airpark as described on the Results of Survey prepared by SEC dated June 16, 2005, with all rights, privileges, easements, appurtenances and improvements thereon, which is legally described as a portion of Tract, legally described in the attached Exhibit A, comprised of 15.32 acres, located in Section 33 Township 16N Range 3 East and Section 4 Township 15N Range 3E GSRBM, Yavapai County, Arizona, (collectively, the "Assigned Parcel") to Happy Jack Lodge, L.L.C., an Arizona limited liability company ("Assignee").

2. As required by the Ground Lease, the written consent of the City of Cottonwood to the assignment by CALC of its rights in this transaction has been granted by the City of Cottonwood as Landlord. The purpose of this Amendment is to reflect the reduction in the description of the property now leased by CALC under the Ground Lease due to the above transaction and for certain other limited purposes set forth below.

AGREEMENT

Now, therefore, for valuable consideration received, the parties agree that:

1. Incorporation by Reference. The facts, circumstances, descriptions and definitions contained in the Background section of this Amendment are hereby incorporated by reference as an integral part of this Amendment. If there is a conflict or inconsistency between the provisions of this Twelfth Amendment and any prior Amendment or a conflict between the provisions of this Twelfth Amendment and any provision of the Ground Lease, then the provisions of this Twelfth Amendment shall prevail and control. All of the other terms and conditions contained in the Ground Lease (as amended by the prior Amendments) remain in full force and effect, except as modified by this Twelfth Amendment.

2. Development by Assignee: Development by Assignee: Pursuant to a separate agreement between Landlord and Assignee, Assignee has agreed to certain development obligations regarding the Assigned Parcel. Landlord and Assignee acknowledge that Tenant is not a party to that agreement, and has no obligations or rights with regard to that agreement.

3. Amendment Regarding the "Assigned Parcel". As of the Effective Date, the City as Landlord under the Ground Lease and CALC as Tenant hereby:

3.1 agree that all of CALC's rights regarding the Assigned Parcel have been assigned by CALC to Assignee pursuant to the "Assignment of Tenant Rights" defined above;

3.2 certify that formal approval of the Assignment to ASSIGNEE has been granted by the City; Landlord agrees to look solely to ASSIGNEE for collection of all rents and other amounts arising from the Ground Lease for the Assigned Parcel after the Effective Date of the Assignment and releases CALC (and its predecessors) as "Tenant" from all obligations or duties arising under the Ground Lease relative to the Assigned Parcel;

3.3 acknowledge receipt of all rent and other amounts owed by CALC to Landlord under the Ground Lease and confirm that there are no uncured defaults or breaches by CALC under the Ground Lease as of the Effective Date;

3.4 agree that the failure of ASSIGNEE to pay rent, to pay property taxes, or to otherwise fully comply with the terms of the Ground Lease shall be considered a default by ASSIGNEE only as to the Assigned Parcel and shall not be considered as a default by CALC under the Ground Lease affecting any of the other rights of CALC or affecting any other property leased by CALC. Landlord agrees to exercise its remedies for a default by ASSIGNEE as provided under the Ground Lease solely against the Assigned Parcel;

3.5 agree that, conversely, in the event of a default by CALC under the Ground Lease, Landlord will exercise its rights solely against CALC and will not construe a default by CALC as a default by ASSIGNEE under the Assigned Parcel. So long as ASSIGNEE pays its rent and timely performs all other obligations as required under the Assigned Parcel, any default by CALC regarding its other obligations under the Ground Lease shall not be construed as a default by ASSIGNEE;

3.6 acknowledge that ASSIGNEE shall independently comply with the insurance provisions of Section 14 of the Ground Lease regarding the Assigned Parcel; and

3.7 agree that the property taxes for the Assigned Parcel, if any, shall be separately assessed and paid by ASSIGNEE.

4. <u>Ratification.</u> The terms and conditions contained in the Ground Lease are hereby ratified, confirmed and continue in full force and effect. The Term Commencement Date of December 31, 1983, began a 25 year Term as to certain portions of the Lease and a 50 year Term as to certain other portions. The Lease also granted options for renewal. The parties intend to ratify and affirm the length of the Term and of the option rights to the maximum extent allowed at law or in equity. There are no amendments, modifications, supplements or other agreements or understandings except for those contained in the Ground Lease. Landlord acknowledges that CALC has paid all rent, fully performed all of its obligations and is in good standing under the Ground Lease.

This Twelfth Amendment is legally binding as of the respective Effective Dates regardless of the actual date of signing.

CALC:
COTTONWOOD AIRPARK L.C.,
an Arizona limited liability company
by its authorized signatory:

By _____
William E. Molloy
Authorized Signatory

APPROVED AS TO FORM:

MAGNUM, WALLS, STOOPS & WARDEN, P.L.L.C.
City attorneys for the City of Cottonwood

By _____

THE CITY OF COTTONWOOD

By _____
City Manager

Date: _____

ATTEST:

By _____
City Clerk

Y:\OFFICE\ACTIVE\MOLLOY\COTTONWOOD\SALE.2005\amendment to lease 12th 6.25.05.DOC

STATE OF ARIZONA)
) ss.
County of Maricopa)

Before me, the undersigned Notary Public, on this 1st day of July, 2005, personally appeared **William E. Molloy, an authorized signatory of Cottonwood Airpark LC, an Arizona limited liability company,** who is personally known to me to be (or satisfactorily proved himself to be) the person who executed the foregoing, acknowledging that he executed the same for the purposes therein contained, being authorized so to do.

Patricia M. Bein
Notary Public

OFFICIAL SEAL
PATRICIA M. BEIN
NOTARY PUBLIC-ARIZONA
MARICOPA COUNTY
My Comm. Expires July 21, 2007

My Commission Expires: 7-21-07

STATE OF ARIZONA)
) ss.
County of Yavapai)

Before me, the undersigned Notary Public, on this ____ day of _____, 2005, personally appeared _____, the **City Manager of the City of Cottonwood**, who is personally known to me to be (or satisfactorily proved himself/herself to be) the person who executed the foregoing Consent, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

_____
Notary Public

My Commission Expires:_____

STATE OF ARIZONA)
) ss.
County of Yavapai)

Before me, the undersigned Notary Public, on this ____ day of _____, 2005, personally appeared _____, the **City Clerk of the City of Cottonwood,** who is personally known to me to be (or satisfactorily proved himself/herself) to be the person who executed the foregoing Consent, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

_____
Notary Public

My Commission Expires: _____

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This Twelfth Amendment is legally binding as of the respective Effective Dates regardless of the actual date of signing.

CALC:
COTTONWOOD AIRPARK L.C.,
an Arizona limited liability company
by its authorized signatory:

By _____
William E. Molloy
Authorized Signatory

APPROVED AS TO FORM:

MAGNUM, WALLS, STOOPS & WARDEN, P.L.L.C.
City attorneys for the City of Cottonwood

By _____

THE CITY OF COTTONWOOD

By _____
~~**City Manager**~~ MAYOR

Date: 7-14-05

ATTEST:

By _____
City Clerk

Y:\OFFICE\ACTIVE\MOLLOY\COTTONWOOD\SALE.2005\amendment to lease 12th 6.25.05.DOC

STATE OF ARIZONA)
) ss.
County of Maricopa)

Before me, the undersigned Notary Public, on this ____ day of _____, 2005, personally appeared **William E. Molloy, an authorized signatory of Cottonwood Airpark LC, an Arizona limited liability company,** who is personally known to me to be (or satisfactorily proved himself to be) the person who executed the foregoing, acknowledging that he executed the same for the purposes therein contained, being authorized so to do.

_____
Notary Public

My Commission Expires: _____

STATE OF ARIZONA)
) ss.
County of Yavapai)

Before me, the undersigned Notary Public, on this 14 day of July, 2005, personally appeared RUBEN JAUREGUI, the ~~**City Manager**~~ MAYOR **of the City of Cottonwood**, who is personally known to me to be (or satisfactorily proved himself/herself to be) the person who executed the foregoing Consent, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

SARAH R. LAIRD
Notary Public - Arizona
Yavapai County
My Comm. Expires Sep 24, 2006

Sarah R. Laird
Notary Public

My Commission Expires: 9-24-2006

STATE OF ARIZONA)
) ss.
County of Yavapai)

Before me, the undersigned Notary Public, on this 14 day of July, 2005, personally appeared MARIANNE JIMENEZ, the **City Clerk of the City of Cottonwood,** who is personally known to me to be (or satisfactorily proved himself/herself) to be the person who executed the foregoing Consent, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

SARAH R. LAIRD
Notary Public - Arizona
Yavapai County
My Comm. Expires Sep 24, 2006

Sarah R. Laird
Notary Public

My Commission Expires: 9-24-2006

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EXHIBIT A

A portion of the Northwest Quarter, Section 4, Township 15 North, Range 3 East and the Southwest Quarter, Section 33, Township 16 North, Range 3 East, of the Gila and Salt River Meridian, Yavapai County, Arizona, more particularly described as follows:

Commencing at the Northwest Corner of said Section 4, marked by a found G.L.O. Brass Cap on a 2 inch diameter iron pipe in a stone mound;

Thence south 01°55'01" West a measured distance of 741.62 feet, recorded as 742.16 feet in Book 4017, Page 830, Yavapai County, Arizona records, said bearing being the basis of bearing from unrecorded results of survey plat prepared by Joe Jones & Associates, Job No. 83-56 signed and sealed by Joe Jones, RLS 4491 on 7/18/83, to a point marked by a found bolt with a 1 inch square head;

Thence South 47°58'02" East recorded as South 47°59'12" East in Book 4017, Page 830, Yavapai County, Arizona records, a measured distance of 569.76 feet to a point marked by a found 5/8 inch diameter rebar with a plastic cap stamped "SEC RLS 13015" being on the easterly right of way of Mingus Avenue;

Thence North 23°38'37" East recorded as North 23°37'27" East in Book 4017, Page 830, Yavapai County, Arizona records, a measured distance of 303.64 feet along the easterly right of way line of Mingus Avenue to a point marked by a found 5/8 inch rebar with a plastic cap stamped "SEC RLS 13015";

Thence North 27°32'33" East recorded as North 27°31'23" East in Book 4017, Page 830, Yavapai County, Arizona records, a measured distance of 295.94 feet along the easterly right of way line of Mingus Avenue to a point marked by a set 5/8 inch rebar with plastic cap stamped "SEC INC RLS 40829" which is the True Point of Beginning;

Thence continuing North 27°32'33" East recorded as North 27°31'23" East in Book 4017, Page 830, Yavapai County, Arizona records, a measured distance of 513.99 along the easterly right of way line of Mingus Avenue to a point marked by a set 5/8 inch rebar with plastic cap stamped "SEC INC RLS 40829";

Thence south 62°27'27" East a measured distance of 150.07 feet to a point marked by a set 5/8 inch rebar with plastic cap stamped "SEC INC RLS 40829" at a chain link fence on the northwesterly edge of and effluent pond;

Thence North 27°33'43" East a measured distance of 209.93 feet along said chain link fence and effluent pond to a point marked by a found aluminum tag stamped "SEC RLS 13015" attached to a 3 inch fence post;

Thence North 75°01'55" East a measured distance of 162.79 feet along said chain link fence and effluent pond to a point marked by a found concrete nail and brass tag stamped "SEC RLS 13015";

Thence South 32°27'27" East a measured distance of 20.00 feet along said chain link fence and effluent pond to a point marked by a found 5/8 inch diameter rebar with plastic cap stamped "SEC INC RLS 13015";

Thence South 15°10'01" East a measured distance of 176.92 feet along said chain link fence and effluent pond to a marked by a found concrete nail and brass tag stamped "SEC RLS 13015";

Thence leaving said chain link fence and effluent pond, North 65°39'54" East a measured distance of 95.09 feet to a point marked by a set 5/8 inch rebar with plastic cap stamped "SEC INC RLS 40829";

Thence South 24°20'06" East a measured distance of 954.75 feet to a point marked by a set 5/8 inch rebar with plastic cap stamped "SEC INC RLS 40829";

Thence South 65°39'54" East a measured distanceof 533.26 feet to a point marked by a set 5/8 inch rebar with plastic cap stamped "SEC INC RLS 40829";

Thence North 47°58'02" West a measured distance of 920.00 feet to the True Point of Beginning.

LESS AND EXCEPT the following described tract:

A portion of the Northwest Quarter, Section 4, Township 15 North, Range 3 East and the Southwest Quarter, Section 33, Township 16 North, Range 3 East, of the Gila and Salt River Meridian, Yavapai County, Arizona more particularly described as follows:

Commence at the True Point of Beginning for the above described Pacel No. 1;

Thence continuing North 27°32'33" East recorded as North 27°31'23" East in Book 4017, Page 830, Yavapai County, Arizona records, a measured distance of 513.99 feet along the easterly right of way line of Mingus Avenue to a point marked by a set 5/8 inch rebar with plastic cap stamped "SEC INC RLS 40829";

Thence South 62°27'27" East a measured distance of 150.07 feet to a point in a chain link fence on the northwesterly edge of an effluent pond, which point is the excepted tract True Point of Beginning;

Thence North 27°33'43" East a measured distance of 209.93 feet along said chain link fence and effluent pond to a point marked by a found aluminum tag stamped "SEC INC RLS 13015" attached to a 3 inch fence post;

Thence North 75°01'55" East a measured distance of 162.79 feet along said chain link fence and effluent pond to a point marked by a found concrete nail and brass tag stamped "SEC INC RLS 13015";

Thence South 62°27'27" East a measured distance of 20.00 feet along said chain link fence effluent pond to a point marked by a found 5/8 inch diameter rebar with plastic cap stamped "SEC INC RLS 13015";

Thence South 15°10'01" East a measured distance of 176.92 feet along said chain link fence and effluent point to a point marked by a found concrete nail and brass tag stamped "SEC RLS 13015";

Thence South 27°32'33" West a measured distance of 300.00 feet along said chain link fence and effluent pond to a point marked by a found 5/8 inch diameter rebar with plastic cap stamped "SEC INC RLS 13015";

Thence South 64°24'45" West a measured distance of 125.00 feet along said chain link fence and effluent pond to a point marked by a found 5/8 inch diameter rebar with plastic cap stamped "SEC INC RLS 13015";

Thence South 27°32'33" West a measured distance of 62.00 feet along said chain link fence and effluent pond to a point marked by a found 5/8 inch diameter rebar with plastic cap stamped "SEC INC RLS 13015";

Thence North 62°27'27" West a measured distance of 135.00 feet along said chain link fence and effluent point to a point marked by a 5/8 inch diameter rebar with plastic cap stamped "SEC INC RLS 13015";

Thence North 27°32'33" East a measured distance of 37.00 feet along said chain link fence and effluent pond to a point marked by a found concrete nail and brass tag stamped "SEC RLS 13015";

Thence North 17°27'27" West a menasured distance of 35.56 feet along said chain link fence and effluent pond to a point marked by a found concrete nail and brass tag stamped "SEC RLS 13015";

Thence North 62°27'27" West a measured distance of 25.00 feet along said chain link fence and effluent pond to a point marked by a found 5/8 inch diameter rebar wi;th plastic cap stamped "SEC INC RLS 13015";

Thence North 27°33'43" East along said chain link fence and effluent pond an measured distance of 209.93 feet to the <u>True Point of Beginning</u>.

Together with and reserving unto the grantor, its successors and assigns a 100 foot easement for ingress, egress and utilities over a portion of the Northwest Quarter, Section 4, Township 15 North, Range 3 East of the Gila & Salt River Meridian, Yavapai County, Arizona more particularly described as follows:

<u>Commencing</u> at the Northwest Corner of said Section 4, marked by a found G.L.O. Brass Cap on a 2 inch diameter iron pipe in a stone mound;

Thence South 01°55'01" West 741.62 feet recorded as 742.16 feet in Book 4017, Page 830, Yavapai County, Arizona records, said bearing being the basis of bearing from unrecorded Results of Survey plat prepared by Joe Jones & Associates, Job No. 83-56 signed and sealed by Joe Jones, RLS 4491 on 7/18/83, to a point marked by a found bolt with a 1 inch square head;

Thence South 47°58'02" East recorded as South 47°59'12" East in Book 4017, Page 830, Yavapai County, Arizona records, a measured distance of 569.76 feet to a point marked by a found 5/8 inch rebar with a plastic cap stamped "SEC INC RLS 13015" being on the easterly right-of-way line of Mingus Avenue;

Thence North 23°38'37" East recorded as North 23°37'27" East in Book 4017, Page 830, Yavapai County, Arizona records, a measured distance of 303.64 feet along the easterly right-of-way line of Mingus Avenue to a point marked by a found 5/8 inch rebar with plastic cap stamped "SEC INC RLS 13015";

Thence North 27°32'33" East recorded as North 27°31'23" East in Book 4017, Page 830, Yavapai County, Arizona records, a measured distance of 295.94 feet along the easterly right-of-way line of Mingus Avenue to a point marked by a 5/8 inch rebar with plastic cap stamped "SEC INC RLS 40829" and being the True Point of Beginning;

Thence South 47°58'02" East a distance of 1700.92 feet to a point marked by a found 5/8 inch rebar with plastic cap stamped "SEC INC RLS 13015";

Thence North 41°59'04" East recorded as North 41°59'38" East in Book 4017, Page 830, Yavapai County, Arizona records, a distance of 100.00 feet to a point;

Thence North 47°58'02" West a distance of 1726.67 feet parallel and 100.00 feet distant from course one of this description to a point on the Easterly right-of-way of Mingus Ave;

Thence South 27°32'33" West recorded as South 27°31"23" West in Book 4017, Page 830,
Yavapai County, Arizona records, a distance of 103.29 feet to the True Point of Beginning, a tract constituting a 100.00 foot wide easement for ingress, egress and public utilities.

Together with and reserving unto the grantor, its successors and assigns a 50 foot easement for ingress, egress and utilities over a portion of the Northwest Quarter, Section 4, Township 15 North, Range 3 East and the Southwest Quarter, Section 33, Township 16 North, Range 3 East of the Gila & Salt River Meridian, Yavapai County, Arizona more particularly described as follows:

Commencing at the Northwest Corner of said Section 4, marked by a found G.L.O. Brass Cap on a 2 inch diameter iron pipe in a stone mound;

Thence South" 01°55'01" West a measured distance of 741.62 feet, recorded distance of 742.16 feet in Book 4017, Page 830, Yavapai County, Arizona records, said bearing being the basis of bearing from unrecorded Results of Survey plat prepared by Joe Jones & Associates, Job No. 83-56 signed and sealed by Joe Jones, RLS 4491 on 7/18/83, to a point marked by a found bolt with a 1 inch square head;

Thence South 47°58'02" East recorded as South 47°59'12" East in Book 4017, Page 830, Yavapai County, Arizona records a measured distance of 569.76 feet to a point marked by a found 5/8 inch rebar with a plastic cap stamped "SEC INC RLS 13015" being on the Easterly right-of-way line of Mingus Avenue;

Thence South 47°58'02" East recorded as South 47°59'12" East in Book 4017, Page 830, Yavapai County, Arizona records, a measured distance of 1531.56 feet to a point marked by a found bolt with a 1 inch square head;

Thence North 41°59'04" East recorded as North 41°59'38" East in Book 4017, Page 830, Yavapai County, Arizona records, a measured distance of 574.66 feet to a point marked by a found 5/8 inch rebar with a plastic cap marked "SEC INC RLS 13015";

Thence continue North 41°59'04" East recorded as North 41°59'38" East in Book 4017, Page 830, Yavapai County, Arizona records, a measured distance of 383.57 feet to a point marked by a set 5/8 inch rebar with plastic cap stamped "SEC INC RLS 40829" which is the True Point of Beginning;

Thence North 40°33'28" West a measured distance of 469.09 feet to a point marked by a set 5/8 inch rebar with plastic cap stamped "SEC INC RLS 40829";

Thence North 24°20'06" West a distance of 1661.68 feet to a point on the Easterly right-of-way line of Mingus Avenue;

Thence North 27°32'33" East recorded as North 27°31'23" East in Book 4017, Page 830 Yavapai County, Arizona records, a distance of 63.56 feet along the Easterly right-of-way line of
Mingus Avenue to a point;

Thence South 24°20'06" East a distance of 1693.79 feet to a point;

Thence South 40°33'28" East a distance of 455.42 feet to a point;

Thence South 41°59'04" West recorded as South 41°59'38" West in Book 4017, Page 830, Yavapai County, Arizona records, a distance of 50.43 feet to the True Point of Beginning, such tract constituting a 50.00 foot wide easement for ingress, egress and public utilities.