

# NANTUCKET MEMORIAL AIRPORT COMMISSION

March 26, 2013

## AGENDA

1. Review and Approve:
  - a. Agenda
  - b. 2/26/13 Minutes
  - c. Ratify 3/20/13 Warrant
2. Public Comment
3. Pending Leases/Contracts as Set Forth on Exhibit 1, Which Exhibit is Herein Incorporated by Reference
4. Pending Matters
  - a. **120412-3** Existing Bunker Lease Review
  - b. **021213-1** Fee Structure
  - c. **021213-2** Supplemental Agreement to the Other Transactional Agreement (OTA) - ATCT
5. GA/Administration Building Project Update
6. **022613-2** Master Plan & Sustainability Program
7. **032613-1** Environmental Presentation – Noah Karberg
8. **032613-2** Rental of Hangar for Special Events Discussion
9. Manager's Report
  - a. Other Project Updates
  - b. RFP/Bid Status
  - c. Operations Update
  - d. Legislative Conference Report
  - e. Statistic Report
10. Sub-Committee Reports
11. Commissioner's Comments
12. Public Comment
13. Executive Session – G.L. c.30A, §21(a) (2), (3)
  - a. Review ES minutes of 3/1/12, 3/13/12, 3/27/12, 4/3/12, 4/19/12, 4/26/12, 5/8/12, 5/22/12, 6/12/12, 6/26/12, 7/10/12, 7/24/12, 8/28/12, 9/18/12, 9/25/12, 10/30/12, 11/6/12, 12/4/12, 12/11/12 and 12/18/12 for possible release; and 2/26/13 for review and possible release.

**Public Safety Facility**

1<sup>st</sup> Floor Meeting Room

4 Fairgrounds Road

**5:00 PM**

Town of Nantucket  
**NANTUCKET MEMORIAL AIRPORT**  
14 Airport Road  
Nantucket Island, Massachusetts 02554

Thomas M. Rafter, Airport Manager  
Phone: (508) 325-5300  
Fax: (508) 325-5306



*Commissioners*  
Daniel W. Drake, Chairman  
Arthur D. Gasbarro, Vice Chair  
David C. Gray, Sr.  
Sonny Raichlen  
Jeannette Topham

**AIRPORT COMMISSION MEETING**  
**March 12, 2013**

The meeting was called to order at 5:01 PM by Chairman Daniel W. Drake with the following Commissioners present, Sonny Raichlen and Jeanette Topham.

Vice Chair Arthur D. Gasbarro and David C. Gray, Sr. were absent.

The meeting took place in the 1<sup>st</sup> Floor meeting room at the Public Safety Facility, 4 Fairgrounds Rd.

Mr. Drake announced the meeting was being recorded.

Airport employees present were Thomas M. Rafter, Airport Manager and Janine Torres, Office Manager.

The Commission **M/S/P** Unanimously to approve the Agenda.

The Commission **M/S/P** Unanimously to approve the 2/26/13 Minutes.

The Commission **M/S/P** Unanimously to approve the 1/22/13 Executive Session Minutes.

The Commission **M/S/P** Unanimously to ratify the 3/6/13 Warrant.

**Public Comment**

None.

**Pending Matters**

**120412-3 Existing Bunker Lease Review** – Mr. Rafter reported amendments are in progress for the Bunker Leases affected by the percentage rent clause.

Mr. Rafter also reported the five (5) Proposals received for the Bunker Lease RFP have been reviewed. The Airport will be moving forward with awarding each of the Proposers a Lease, three for a full acre and two for a half acre.

**021213-1 Fee Structure** – Mr. Rafter requested more time to work through some of the in-house disparities with the current landing fees to determining the potential financial impacts and to develop a strategy prior to discussing in a workshop setting.

### **GA/Administration Building Project Update**

Mr. Rafter presented two Amendments to Contracts to continue required services for an additional four months which is expected to be the completion of the project:

- Nantucket Architecture Group, for Design Services – Construction Phase, Not to Exceed amount of \$32,000
- Architectural Consulting Group (ACG), for Owner’s Project Manager Services, Not to Exceed amount of \$60,000

Mr. Rafter reported the new General Contractor, Fasano Acchione & Associates (Fasano), met on-site with several sub-contractors this week to work on a completion schedule which is due to the Airport on Friday, March 15<sup>th</sup>.

Ms. Topham asked if Fasano finished early, will it constitute a savings. Mr. Rafter explained no, but the airport is withholding liquidated damages per the original Contract which will be negotiated with the Surety at the end of the project.

Mr. Drake noted the amount being paid to ACG is more per month than their original contract, but it is less than what they had asked for. Additionally, all reimbursable expenses such as travel are included, whereas in the original Contract was extra.

Mr. Rafter noted a Notice to Proceed to ACG is anticipated within one week and Fasano has agreed to the same weekly meeting schedule as was in place before the work stoppage.

The Commission **M/S/P** Unanimously to approve the Contract Amendment for Nantucket Architecture Group.

The Commission **M/S/P** Unanimously to approve the Contract Amendment for Architectural Consulting Group.

**022613-2 Master Plan** – Mr. Rafter announced this project will now be called the Master Plan and Sustainability Program noting the sustainability portion is being added in conjunction with the FAA pilot program for sustainability projects. Mr. Rafter continued to explain this might lead to a separate sustainability project, but for now will be a separate section of the Master Plan.

Mr. Rafter noted the final scope has been provided for review which will be discussed further at a Client Group Meeting in Hyannis on March 13<sup>th</sup>. The Client Group includes members of the FAA and MassDOT.

Mr. Rafter added additional sections will be requested at the meeting to allow for replacement of the airfields electrical needs to address the age of the vault room electrical equipment as well as future IT needs.

### **021213-1 FAA Matters**

**Supplemental Agreement to the Other Transactional Agreement (OTA) - ATCT** – Mr. Rafter reported sending a disc of the 1961 structural drawings of the present control tower to the FAA, but has not heard back from them as to their usefulness. The FAA may decide to send an Engineer to look at the tower first hand, should the drawings not be readable.

## **Manager's Report**

Mr. Rafter reported on:

### **Other Projects Update**

- The 6/24 HIRLS project is moving along well. The Contractor is running new cabling along the runway; and as a reminder, does require RW 6/24 to be closed.
- The Lighting Upgrade project, resulting from the Energy Audit has begun and is almost complete.
- Taxiway Delta – Requested a Reserve Fund Transfer of \$90K from FinCom to cover design work necessary to apply for an FAA Grant by the May 1<sup>st</sup> deadline. Have requested an Independent Fee Estimate required before signing a Contract with Jacobs for the design work

### **RFP/Bid Status**

- Still waiting to hear from UPS on the draft Lease sent to them.
- Have been in discussion with the Gift Shop Proposer and after clearing some procurement issues, have agreed to move into lease negotiations. Mr. Drake asked the outcome of the rent adjustments based on enplanements. Mr. Rafter noted the rent cannot be adjusted based on enplanements because it was not listed as negotiable in the RFP; however, days/hours of operation can be negotiated, which the Proposer and Airport have agreed to negotiate.
- Airport is anticipating the Contractor to schedule the HVAC work in the restaurant for the end of the month.

### **Operations Update**

- Government sequestration could have an indirect affect on Nantucket, primarily due to delays throughout the air traffic system. Mr. Drake added we will also be affected if the FAA cannot maintain their equipment.
- The first Union negotiation meeting has been scheduled for March 26<sup>th</sup>.
- Met with Planning and Land Use Director, Andrew Vorce to review:
  - The Coffin Subdivision adjacent to the airfield. Mr. Vorce indicated there are 65 lots with a frozen designation until 2015 of RC-2 (Residential/Commercial) allowing commercial buildings with apartments above. If after 2015, lots are not used, the designation moves to CI (Commercial/Industrial).
  - Discussed a change to the By-Laws or other notification to potential owners/renters of land near the airport as to the proximity of the airfield.
  - Asked Mr. Vorce to look into the possible violation of Windmill Auto's permit which allows for storage of rental vehicles only.
- Nantucket has been chosen as one of two finalists in the MassDot Carbon Neutral Airport Request for Proposals. MassDot will be requesting supplemental information to determine the winning Proposer.
- Still reviewing the Minimum Standards which is tied back to the Fee Structure.
- Attended 3/5/13 FinCom Meeting. In addition to the Reserve Fund Transfer mentioned earlier:
  - Presented FY14 budget which they approved at their March 11th meeting.
  - Shared the update to the Airport's Revenue initiatives including the five Bunker parcel leases.
  - Discussed 2013 ATM Articles: Insurance reimbursement; Capital Items; and Collective Bargaining. Agreed to attend their 3/28 meeting to update on the Collective bargaining status.
- Met with School Superintendant, Michael Cozort, to discuss collaboration with School for aviation education and possible use of old FBO Building in the future which was met with a high level of interest.

- Town Manager has inquired about space to provide the Registry of Motor Vehicles due to the restrooms in the Town Building being non-ADA accessible. The possibility of the Old FBO building was discussed, but it was noted that the need is unlikely because of the possible retrofit of the Town Building restrooms.
- Met with NPD Sergeant Kevin Marshall regarding the expansion of the Volunteer in Police (VIP) service program to include the Airport. Will continue to work with him.
- Tenant meeting was held on March 5<sup>th</sup> and attended by the Service/Public Relations Sub-Committee members, Ms. Topham and Mr. Gray. Several topics were discussed including building and airfield facility issues, airline flight schedules and sequestration.
- The gates to the parking system are currently open due to a security issue with the revenue control system which is being investigated by the NPD and other entities. Hopefully, this will be resolved in a few days.

**Travel Request** – Mr. Rafter requested attending the American Association of Airport Executives (AAAE) Annual Conference in Reno, Nevada, May 19 – May 22, 2013. Mr. Rafter is the Chairman of the Technical Services Committee and has missed the previous two meetings of this Committee. The Commission had no objection.

### **Sub-Committee Reports**

**Service/Public Relations** - Ms. Topham commented on the March 5<sup>th</sup> Tenant Meeting noting it was well attended. Additional topics discussed were the condition of the employee break room, the status of the commercial ramp light pole, improvements needed to the public address system, better signage for the NRTA bus as well as baggage claim, and airline ramp and passenger hold room space issues.

**Personnel Sub-Committee** needs to schedule a meeting in the near future.

### **Commissioner's Comments**

Mr. Raichlen has heard complaints that our IT vendor is not very responsive. Mr. Rafter concurred that putting IT services back out to bid has become a high priority.

Mr. Raichlen noted poor phone service from Cape Air/Nantucket Airlines noting being on hold for 25 minutes trying to make a reservation recently. Several others have reported the same issue. Mr. Rafter will make them aware of it.

Discussion moved to how passengers can find out, especially during periods of bad weather, if their airline is flying. Social media, website posting and Flight Information systems were all discussed as well as who should be responsible and the consequences of not having up-to-date information. Mr. Rafter will reach out the Dave Fronzuto, the Town's Emergency Management Director on his notification procedure.

### **Public Comment**

Mr. Bruce King commented on the airport closures, stating the best advice is to contact the airline directly due to individual airlines having different operating procedures where one airline may stop operating hours before another. The airport should offer an internal airline number for a customer to call directly.

Having no other business, the meeting adjourned at 5:47 PM

Respectfully Submitted,

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Janine M. Torres, Recorder

Master List of Documents

3/12/13 Agenda

2/26/13 Draft Minutes

1/22/13 Draft Executive Session Minutes

Nantucket Architecture Group Contract Amendment (Handout)

Architectural Consulting Group Contract Amendment #3 (Handout)

Master Plan & Sustainability Program Draft Scope of Work dtd 3/11/13

Nantucket Airport Revenue Initiatives

3/8/13 E-mail from Bob Egan to Chris McLaughlin regarding Airport meeting with Mr. Cozort

AAAE Annual Conference Information

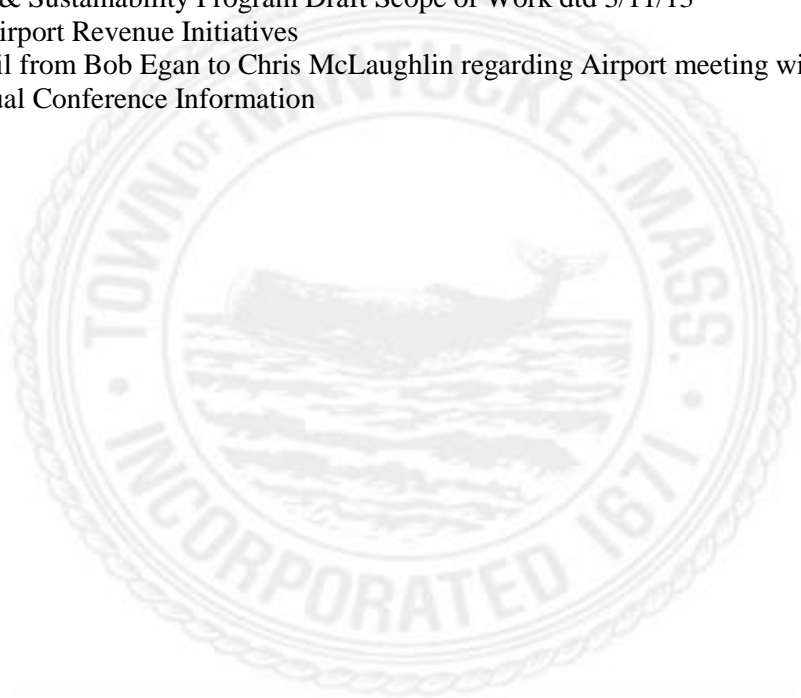


EXHIBIT 1  
PENDING LEASES/CONTRACTS/AGREEMENTS  
March 26, 2013

Type of Agreement/Description	With	Amount	Other Information	Source of Funding
Lease	Jesse Dutra Landscaping	(\$38,768)	Bunker	Rental Income
			1 Acre - 5 Yr Term w/ Five -5 Yr Options	
Lease	Planet Ack, Inc	(\$30,830.00)	Terminal Gift Shop	Rental Income
			5 Year	

Pending as of posting date

**NANTUCKET MEMORIAL AIRPORT COMMISSION  
LEASE AGREEMENT**

This **Lease Agreement** executed on the \_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the **Town of Nantucket** acting by and through the **NANTUCKET MEMORIAL AIRPORT COMMISSION**, an agency duly created by the Town of Nantucket, pursuant, to the powers contained in Massachusetts General Laws, Ch. 90, Sec. 51D, hereinafter called the "Landlord", and **Jesse Dutra Landscape, Inc.** hereinafter called the Tenant, and the Tenant hereby leases the Premises described below in accordance with the following terms and conditions.

In consideration of the mutual covenants and agreements hereinafter set forth, Landlord and Tenant agree as follows:

**ARTICLE ONE – Lease Data**

**Landlord:** Nantucket Memorial Airport Commission  
14 Airport Road  
Nantucket, MA 02554  
Attn: Airport Manager  
(508) 325-5300

**Tenant:** Jesse Dutra Landscape, Inc.  
PO Box 2578  
Nantucket, MA 02584

**Premises:** Approximately 1 Acre (± 43,560 Square Feet)  
As described on Exhibit A, attached hereto

**Permitted Use:** Landscape and Pool Construction Business

**Base Rent:** \$38,768.40 annually, or \$3,230.70 monthly  
as adjusted annually in accordance with Section 3.1

**Additional Rent:**

**Annual Business Fee** - Currently \$1,500 per year

**Amount in Lieu of Local Taxes** - Determined annually

**Bond:** \$100,000

**Commencement Date:** April 1, 2013

**Initial Term:** Five (5) Years

**Options to Extend:** No more than five (5) – 5 Year Options

**Security Deposit:** \$9,700

**Initial Public Liability Insurance Coverage:** \$1,000,000



## **ARTICLE TWO - Premises**

2.1 Premises. Landlord hereby leases to the Tenant and the Tenant hereby leases from the Landlord, the Premises, as described on Exhibit A attached hereto and incorporated herein, upon and subject to the terms of this Lease.

2.2 Obligations of Tenant. The Tenant shall be solely responsible for obtaining all permits, licenses and approvals required by federal, state or local law applicable to the use of the Premises or the construction of any buildings and improvements on the Premises, and present a copy to the Airport office for the file. This Lease is contingent upon Tenant successfully obtaining all required permits, licenses and approvals for construction within 120 days of the date of execution this Lease. Tenant also agrees to have any construction completed within one year from the date of this Lease

2.3 Condition of Premises. The Premises are hereby leased in an "as is" condition, it being expressly understood and agreed that Landlord is not obligated to install services or facilities in the Premises beyond those now in place.

2.4 Additional Charges. Tenant will be responsible for bringing to the Premises and for making all connection to public utilities. All connection charges will be paid for by the Tenant.

## **ARTICLE THREE – Rent and Other Charges**

3.1 Base Rent. Tenant shall pay to the Landlord, during the term hereof, the Base Rent set forth in Article One, above, such amount to be paid in twelve equal monthly installments, in advance on or before the first day of each month. Base Rent shall be increased, but not decreased, annually based on the change in the federal CPI-W rate as published by the United States Bureau of Labor Statistics, effective on the anniversary of the Commencement Date specified in Article One, above. Further, on each five year anniversary of the Commencement Date, the Base Rent shall be increased, but not decreased, based on the greater of (i) the change in the CPI-W, as described above and (ii) the fair market rental value of the Premises as of such date as determined by an a qualified independent real estate appraiser identified by the Landlord to which the Tenant has no reasonable objection.

3.2 Additional Rent. In addition to the Base Rent, the Tenant shall pay annually, as Additional Rent:

- (i) an annual Business Fee in the amount set forth in Article One, above, as it may be adjusted from time to time by the Landlord for all tenants;
- (ii) a payment in lieu of local real estate and personal property taxes which would have been levied by the Town of Nantucket on the Premises and improvements constructed upon the Premises by Tenant for that tax year; and
- (iii) such other consideration as is specified by the Nantucket Memorial Airport's Fees and Charges that, as the same may be amended from time to time.

The Landlord will bill the Tenant for these amounts annually and the payment will be due within 15 days thereafter.

3.3 Security Deposit. On or before the Commencement Date, as set forth in Article One, above, the Tenant shall pay to the Landlord the amount of the Security Deposit, as set forth in Article One, above, which shall be held by the Landlord, without obligation for interest, as security for the performance of the Tenant's covenants and obligations under this Lease. If the Landlord draws upon the Security Deposit, the Tenant shall, within fifteen (15) days after receipt of written notice, replenish the amount of the Security Deposit held by the Landlord.

3.4 Bond. At least ninety (90) days prior to expiration of the Lease, if the then-current term has not been extended or otherwise renewed, the Tenant shall post a bond in an amount sufficient to assure the restoration of the Premises to its original condition, such amount to be the amount set forth in Article One, subject to such reasonable adjustment as the Landlord may determine.

3.5 Late Payment Fee. Any amount due from Tenant to Landlord under this Article Three or otherwise due under this Lease that is not paid when due shall bear and accrue interest at the rate of one and one-half percent (1.5%) per month from the due date until receipt of payment. Any partial payments received on said indebtedness shall be applied first to interest, and then to principal. With respect to any payment of additional Percentage Rent that is determined to be due as a result of an audit, the late payment fee shall be assessed beginning on the date such additional amount of Percentage Rent should have been paid.

#### **ARTICLE FOUR – Term and Extensions**

4.1 Term. This Lease shall commence on the Commencement Date set forth in Article One, above and, subject to earlier termination in accordance with the terms hereof, continue for the Initial Term set forth in Article One, above.

4.2 Extension Options. The Tenant shall have such options to extend this Lease as set forth in Article One, above, provided that, (i) at the time of both the exercise and extension of the this Lease, the Tenant is in full compliance with the terms and conditions here and (ii) throughout the term of the Lease, the Tenant has not been in any material default hereunder. The Tenant shall exercise any option hereunder by giving written notice to the Landlord by certified mail, return receipt requested, postage prepaid to Landlord, no later than six (6) months prior to the expiration of the then-current term.

Except as the terms may not be relevant or applicable, and except as to any further options, all the terms and conditions of the Lease shall apply for the extended period, except that the Base Rent for the initial year of the extension period shall be the Base Rent for the final year of the then-current term, as adjusted as provided in Section 3.1, above, and be increased similarly thereafter.

4.3 Holding Over. If, after the termination or expiration of this Lease, Tenant shall remain in possession without any express written agreement as to such holding over, Tenant shall be deemed to be a tenant at sufferance from day to day at a daily rental rate equal to two hundred fifty percent (250%) of the Base Rent previously in effect. During such continued occupancy, all other provisions of this Agreement (except as to the term) shall be in effect.

#### **ARTICLE FIVE - Rules and Regulations Governing the Airport**

5.1 Acceptance of Airport Rules and Regulations. Tenant shall observe and obey all other rules and regulations promulgated by the Landlord and other appropriate local, state and federal entities having jurisdiction over the Nantucket Memorial Airport, including the Federal Aviation Administration (FAA) and the Massachusetts Aeronautics Commission. In addition to, and not to the exclusion of, all other applicable rules promulgated by the FAA, Tenant agrees to conduct its operations in compliance with the Federal Aviation Regulations, including all amendments hereafter made, embodied in 49 C.F.R. Part 107. Tenant further agrees to comply with all fire fighting and safety equipment requirements consistent with the nature of the premises to comply with local codes and fire regulations of the Town of Nantucket and will not take, or fail to take, any action that would adversely affect the insurability of the Premises or any other portion of the Airport.

5.2 Non-Discrimination Assurances. The Tenant, for itself, its heirs, personal representatives and its successors and assigns, does hereby covenant and agree:

(a) That in the event facilities are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended;

(b) As a covenant running with the Premises that (i) no person on the grounds of race, color, handicap, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (ii) that in the construction of any improvements on, over, or under such Premises and the furnishing of services thereon, no person on the grounds of race, color, handicap, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; (iii) that the Tenant shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended;

(c) If the Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended;

(d) That the breach of any of the above nondiscrimination covenants constitutes a material breach of this Lease and the Landlord shall have the right to terminate the Lease and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

5.3 Liability for Fines and Penalties. Should Tenant, its customers, agents, employees, officers or guests violate said rules, regulations or covenants, and should said violations result in a citation or fine to the Landlord, then Tenant shall fully reimburse the Landlord for said citation or fine and for all costs and expenses, including reasonable attorney's fees, incurred by the Landlord in defending against the citation or fine. All such amounts shall constitute additional amounts due under the Lease and shall be paid within fifteen (15) days of Tenant's receipt of notice thereof.

#### **ARTICLE SIX – Use of Premises**

6.1 Use of Premises: The Tenant shall use the Premises solely for the purposes set forth in Article One and activities necessary and incidental thereto, including any additional activities as approved by the Landlord.

#### **ARTICLE SEVEN – Tenant Covenants and Restrictions**

7.1 Liens and Alterations: Tenant shall not permit any mechanic's liens or similar liens to remain upon the Premises for labor and materials furnished to Tenant in connection with work of any character performed at the direction of the Tenant and shall cause any such lien to be released of record without cost to

Landlord within sixty (60) days of the filing of the lien. Landlord shall not, under any circumstances, be liable for the payment of any expenses incurred or for the value of any work done or material furnished to the Premises or any part thereof, but all such shall cause all contractors to carry workers' compensation insurance in accordance with statutory requirements and comprehensive public liability insurance and automobile liability insurance covering such contracts on or about the Premises in amounts reasonably acceptable to Landlord and agrees to submit certificates evidencing such coverage to Landlord prior to the commencement of and during the continuance of such work.

Tenant shall not make any alterations, additions or improvements to the Premises without the prior written consent of the Landlord, which may be withheld in Landlord's sole and absolute discretion. All such alterations, additions or improvements shall be at Tenant's expense.

Tenant shall procure all necessary permits before undertaking any work on the Premises, and shall cause all such work to be performed in a good and first-class workmanlike manner and in accordance with the requirements of insurers, employing new materials of prime quality and shall defend, hold harmless, exonerate and indemnify Landlord from all injury, loss or damage to any person or property occasioned by such work. Tenant improvements, alterations and repairs shall be done and materials and labor furnished at Tenant's expense, and the laborers and material men furnishing labor and materials to the Premises or any part thereof shall release Landlord and the Premises from any liability.

All structural improvements and additions made by Tenant shall be the exclusive property of the Landlord, and all nonstructural alterations and additions shall be the exclusive property of Tenant. Tenant may at any time, at its sole option, remove any such nonstructural alteration or addition and restore the Premises to the same conditions as prior to such alteration or addition, reasonable wear and tear and damage by fire or other casualty only excepted.

7.2 Assignment and Subletting: Tenant shall not sublet, underlet, mortgage, pledge or encumber this Lease any portion of the Premises without, in each instance, having first obtained the prior written consent of Landlord. Any assignment or sublease under such consent shall be void unless the assignee or sub Tenant acknowledges in writing that it will be bound by and subject to the terms of this Agreement. No permitted assignment or subletting shall in any way impair the continuing primary liability of the Tenant hereunder and no consent by the Landlord in a particular instance shall be deemed to be a waiver of the obligation to obtain the Landlord's consent in a subsequent instance. As used herein, the term "assign" or "assignment" shall be deemed to include, without limitation, any transfer of Tenants interest in the Lease by operation of law.

7.3 Aeronautics Restrictions. Tenant shall have the right to operate in the manner authorized by proper governmental authority and agencies, and shall be subject to the following restrictions:

(a) The Landlord reserves unto itself, its successors and assigns, for the use and benefit of the public a right of flight for the passage of aircraft in the airspace above the surface of the real property as described in this Lease, together with the right to cause in said airspace such sound as may be inherent in the operation of aircraft, now known or hereafter used for the navigation of or flight in said airspace, together with the emission of fumes or particles incidental to aircraft navigation, and for the use of said airspace for the landing on, taking off from or operating on Nantucket Memorial Airport.

(b) The Tenant expressly agrees for itself, its successors and assigns to prevent the use of the Premises for purposes which will create or result in hazards to flight such as, but not limited to, purposes which will (i) produce electrical interference with radio communications, (ii) make it difficult for pilots to distinguish between airport lights and others, (iii) project glare in the eyes of the pilots, (iv) impair visibility in the vicinity of the airport, or (v) otherwise endanger the landing, take-off or maneuvering of aircraft.

(c) The Landlord retains the continuing right in the Premises to prevent the erection or growth of any building, structure, tree, or other objects extending in to the airspace (above 45 feet Mean Ground Level) and to remove from said airspace, at the Tenant's expense or at the sole option of the Landlord, as an alternative, to mark and light as obstructions to air navigation, any such building, structure, tree, or other object now upon, or which in the future may be upon the property together with the right of ingress to, passage over, and egress from Tenant's property for the above purposes.

(d) The Tenant expressly agrees for itself, its successors and assigns, that the reservations and restrictions set forth in this instrument shall run with the land which shall be the servient tenement, it being intended that the lands now and hereafter comprising the Airport shall be the dominant tenement; excepting, however, that such reservations and restrictions shall become void and of no force and effect on such date as the lands comprised in the aforesaid Airport shall cease to be used for Airport purposes.

(e) The Tenant for itself, its heirs, personal representatives, successors in interest and assigns do hereby agree that if any aeronautical services or activities are to be offered, performed or conducted upon the Premises that:

In the exercise of the rights and privileges granted for the furnishing of aeronautical services to the public, Tenant will

(i) furnish said service on a fair, equal, and not unjustly discriminatory basis to all users thereof, and

(ii) charge fair, reasonable, and not unjustly discriminatory prices for each unit or service; provided that the Tenant may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

(f) It is mutually understood and agreed by the parties hereto that nothing contained in this Lease shall be construed as granting or as authorizing the granting of an exclusive right within the meaning of Section 308 (a) of the Federal Aviation Act of 1958.

7.4 Maintenance and Repair; Nuisance. Tenant will maintain the Premises and any structures or other improvements constructed thereon in good condition and repair, including painting the exterior of the building to prevent rusting or deterioration of any portions thereof; shrubbery, plantings and lighting will also be maintained. Any visible damage or defacement to the building, windows, or appurtenances will be corrected by the Tenant as quickly as possible to prevent a continuing condition of apparent disrepair or will remove the damaged remains from the Premises, and any replacement structure will be subject to the same terms and conditions as the original structure. The Tenant will not make or suffer any unlawful, improper, noisy or offensive use of the Premises, or permit any use that shall be liable to endanger, affect, or make voidable any insurance on the Premises, or the building or any of its contents, or to increase the cost of any such insurance. Tenant covenants and agrees that the Premises shall not be used for any objectionable, unlawful purpose, or for any purpose which will constitute a nuisance; that it will permit Landlord to enter the Premises at all reasonable times for the purpose of inspecting the same and that upon the termination of this Lease it will quietly and peacefully surrender possession of the Premises to Landlord in good order and condition, ordinary wear and tear, damage by the elements and unavoidable casualty only excepted. If Tenant shall fail to keep the Premises in the condition required herein, or if repairs are required to be made by Tenant pursuant to the terms hereof, within thirty (30) days after notice by Landlord (or without notice in any emergency), Landlord shall have the right (but shall not be obligated) to make such repairs or perform maintenance work or any other work required of Tenant pursuant to this Lease and charge the reasonable cost thereof to Tenant as Additional Rent.

7.5 Sanitation. Tenant shall supply at its own expense a receptacle suitable for the disposal of refuse and shall be responsible for the disposal of all refuse. Tenant shall not permit any refuse to accumulate so as to constitute a fire or health hazard within the premises. If Tenant fails or neglects to keep the Premises and area herein described in a clean and sanitary condition at all times, Landlord shall have the right, without any obligation to do so, to enter upon the Premises and put them in a clean and sanitary condition in the event that Tenant fails to do so within twenty-four (24) hours after notice of any such condition. In the event the Tenant fails to comply with any such notice and Landlord acts to clean the Premises, Tenant shall reimburse Landlord for all cost and expense incurred by Landlord to clean the Premises

7.6 Airport Construction and Development. Tenant recognizes that from time to time during the term of this Lease it may be necessary for Landlord to initiate and carry forward programs of construction, expansion, maintenance and repair, and that such construction, expansion, maintenance and repair or relocation to an equal or better location may temporarily inconvenience or temporarily interrupt Tenant in its operations at the Airport. Tenant agrees that no liability shall be attached to Landlord, its agents or employees by reason of such relocation, temporary inconvenience or temporary interruption, so long as Landlord has made reasonable efforts to mitigate the effect of such work on the Tenant, and Tenant waives any right or claim to damages or other consideration therefor, except for reasonable and proportionate rental abatement in the event the Premises may not be used during any such period of time, or, in the alternative, the cost of the relocating the Tenant to an alternative location.

7.7 Hazardous Materials. Tenant shall not use, handle, store or dispose of any Hazardous Waste, Hazardous Material, Oil or radioactive material, as such terms are used or defined in Section 2 of Chapter 21C, Section 2 of Chapter 21D, and Section 2 of Chapter 21E of the General Laws of Massachusetts, and the regulations promulgated thereunder, as such laws and regulations may be amended from time to time (collectively "Hazardous Materials") in, under, on or about the Premises except for such storage and use consented to by Landlord in advance in writing, which consent may be withheld in Landlord's sole and absolute discretion. Any Hazardous Materials on the Premises, and all containers therefore, shall be used, kept, stored and disposed of in conformity with all applicable laws, ordinances, codes, rules, regulations and orders of governmental authorities. Any violation of said laws, rules or regulations shall be deemed a material breach of this Lease for which Landlord may terminate this Lease. Tenant shall (i) notify Landlord immediately of any release or threat of release of any Hazardous Materials on or from the Premises and any loss or damage or claim of loss or damage resulting therefrom, (ii) be solely responsible for remediating all contamination in full compliance with all applicable statutes, regulations and standards, at Tenant's sole cost and expense, and (iii) indemnify, defend and hold Landlord harmless from and against all liability, loss, damage, costs and expenses (including without limitation, reasonable attorney's fees and expenses), causes of action, suits, claims, demands, or judgments of any nature in any way suffered, incurred, or paid as a result of the presence or release or threatened release of Hazardous Materials on or from the Premises which is caused or exacerbated by Tenant, its agents, employees, contractors, representatives, licensees, or invitees. Tenant hereby acknowledges and agrees that Landlord shall have no responsibility to Tenant, its agents, employees, representatives, permittees and invitees, for the presence of such Hazardous Materials on the Premises or be required to abate or remediate the same. This provision shall survive the expiration or termination of this Lease.

## **ARTICLE EIGHT - Indemnity and Public Liability Insurance**

8.1 Tenant's Indemnity. To the maximum extent this agreement may be made effective according to law, Tenant agrees to defend, indemnify and save harmless Landlord from and against all claims, expenses or liability of whatever nature from any suits, claims and demands arising directly or indirectly (i) from the failure of the Tenant's or Tenant's contractors, agents, employees or invitees to comply with the terms of this Lease or with any applicable laws, codes, bylaws, rules, orders regulations or lawful direction now or hereafter in force of any public authority and any accident, injury or damage whatsoever to any person, or to the property of any person, occurring on or about the Premises or (ii) from any accident, injury or damage however caused to any person or property on the Premises or occurring outside of the Premises but on the Airport property, in each case where such accident, damage or injury results or is claimed to have resulted from any act, omission or

negligence on the part of Tenant or Tenant's contractors, agents, employees, or invitees or anyone claiming by or through the Tenant; and (iii) from any and all costs and expenses incurred in connection with any cleanup, remediation, removal or restoration work required by any federal, state or local governmental authority because of the presence of any Hazardous Materials on or about the Premises to the extent that Tenant or Tenant's contractors, agents, employees or invitees or anyone claiming by or through the Tenant caused or contributed to such environmental occurrence, in these cases, occurring after the date of this Lease until the end of the term of this Lease and thereafter so long as Tenant is in occupancy of any part of the Premises. This indemnity and hold harmless agreement shall include indemnity against all costs, expenses and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof, including, without limitation, reasonable attorneys' fees at both the trial and appellate levels.

8.2 Insurance. Tenant agrees to maintain in full force from the date upon which Tenant first enters the Premises for any reason, throughout the term of this Lease, and thereafter so long as Tenant is in occupancy of any part of the Premises and agrees prior to the commencement of the Lease, and thereafter on or before January 1 of each term of this Lease, to deliver to the Landlord a certificate of insurance evidencing compliance with the requirements herein:

(a) A policy of general liability and property damage insurance with respect to the Premises and the property of which the Premises are a part, naming the Tenant as an insured and the Landlord as an additional named insured, in the minimum amount of \$1,000,000 bodily injury and property damage for each occurrence, with a combined single limit of \$3,000,000 annual aggregate limit under which Tenant and Landlord are named as an insured. Landlord shall have the right from time to time to increase such minimum amounts upon notice to Tenant, provided that any such increase shall provide for coverage in amounts similar to like coverage being carried on like coverage being carried on similar property in the Nantucket area. ;

(b) A policy of fire and extended coverage insurance upon its building and leasehold improvements, furniture, furnishings, fixtures and equipment to the full insurable value thereof and any applicable equipment vendors or lenders give the Airport satisfactory releases from fire and extended coverage liability;

(c) A policy of Workers' Compensation insurance during any construction, maintenance or repair of the Premises by the Tenant or any of its contractors, covering the obligations of the Tenant and or its contractors in accordance with Massachusetts Workers' Compensation or Benefits law. Prior to the commencement of any construction, maintenance or repair of the Premises, the Tenant shall deliver to the Landlord a copy of the certificate of insurance which shall also name the Landlord as an additional insured.;

(d) Automobile Liability Insurance of not less than \$1,000,000 per occurrence covering owned, hired and non-hired vehicle use and shall name the Landlord as an additional insured.;

(e) Such other insurance as may reasonably be required by the Landlord.

Without limiting Landlord's other rights under any other provisions of this Lease, if Tenant shall fail to keep the Premises insured as provided herein, and if such failure shall continue for a period of ten (10) days following written notice by Landlord to Tenant thereof, then Landlord, without further notice to Tenant, may take out and pay for such insurance, and the amount of such payment shall become due and payable as Additional Rent on demand.

8.3 Tenant's Risk. To the maximum extent this agreement may be made effective according to law, Tenant agrees that all of the furnishings, fixtures, equipment, effects and property of every kind, nature and description of Tenant and all persons claiming by, through or under Tenant which, during the Term of this Lease or any occupancy of the Premises by Tenant or anyone claiming under Tenant, may be on the Premises or elsewhere on the Property, shall be at the sole risk and hazard of Tenant, and if the whole or any part thereof

Jesse Dutra Landscaping Lease Page 8 of 12

shall be destroyed or damaged by fire, water or otherwise, or by the leakage or bursting of water pipes or sprinklers, by theft or from any other cause, no part of said loss of damage is to be charged to or be borne by Landlord unless due to the negligence or misconduct of Landlord, its employees, agents, or contractors.

8.4 Injury Caused By Third Parties. To the maximum extent this agreement may be made effective according to law, Tenant agrees that Landlord shall not be responsible or liable to Tenant, or to those claiming by, through or under Tenant, for any loss or damage that may be occasioned by or through the acts or omissions of persons other than Landlord and Landlord's employees, agents and contractors.

8.5 Waiver of Subrogation. Insofar as, and to the extent that, the following provision shall not make it impossible to secure insurance coverage obtainable from responsible insurance companies doing business in the locality in which the Property is located (even though extra premium may result therefrom) Landlord and Tenant mutually agree that any property damage insurance carried by either shall provide for the waiver by the insurance carrier of any right of subrogation against the other, and they further mutually agree that, with respect to any damage to property, the loss from which is covered by insurance then being carried by them, respectively, the one carrying such insurance and suffering such loss releases the other of and from any and all claims with respect to such loss to the extent of the insurance proceeds paid with respect thereto.

**THE TENANT SHALL DEPOSIT WITH THE LANDLORD CERTIFICATES FOR ALL INSURANCE REQUIREMENTS LISTED ABOVE PRIOR TO THE COMMENCEMENT OF THEIR TERM, AND THEREAFTER WITHIN THIRTY (30) DAYS PRIOR TO THE EXPIRATION OF ANY SUCH POLICIES. ALL SUCH INSURANCE CERTIFICATES SHALL PROVIDE THAT SUCH POLICIES SHALL NOT BE MATERIALLY CHANGED, ALTERED OR CANCELED WITHOUT AT LEAST TEN (10) DAYS PRIOR WRITTEN NOTICE TO EACH ASSURED NAMED THEREIN.**

#### **ARTICLE NINE – Default and Landlord’s Remedies**

9.1 Tenant's Default. If at any time subsequent to the date of this Lease any one or more of the following events (herein referred to as a "Default of Tenant") shall happen:

- (i) Tenant shall fail to pay the Base Rent, payment of Additional Rent when due and such failure shall continue for ten (10) days after written notice thereof ; or
- (ii) Tenant shall fail to pay charges hereunder when due and such failure shall continue for ten (10) days after notice to Tenant; or
- (iii) Tenant shall neglect or fail to perform or observe any other covenant herein contained on Tenant's part to be performed or observed and Tenant shall fail to remedy the same as soon as practicable and in any event within thirty (30) days after written notice to Tenant specifying such neglect or failure, or if such failure is of such a nature that Tenant cannot reasonably remedy the same within such thirty (30) day period, Tenant shall fail to commence promptly (and in any event within such thirty (30) day period) to remedy the same and to prosecute such remedy to completion with diligence and continuity; or
- (iv) Tenant's leasehold interest in the Premises shall be taken on execution or by other process of law directed against Tenant; or
- (v) Tenant shall make an assignment for the benefit of creditors or shall file a voluntary petition in bankruptcy or shall be adjudicated bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future Federal, State or other statute, law or regulation for the relief of debtors, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Tenant or of all or any part of its properties, or shall admit in writing its inability to pay its debts generally as they become due; or



(vi) A petition shall be filed against Tenant in bankruptcy or under any other law seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future Federal, State or other statute, law or regulation and shall remain undismissed or unstayed for an aggregate of sixty (60) days (whether or not consecutive), or if any debtor in possession (whether or not Tenant) trustee, receiver or liquidator of Tenant or of all or any substantial part of its properties or of the Premises shall be appointed without the consent or acquiescence of Tenant and such appointment shall remain unvacated or unstayed for an aggregate of ninety (90) days (whether or not consecutive); or

(vii) If a Default of Tenant of the kind set forth in clauses (i) and (ii) above shall occur and Tenant shall cure such Default within the applicable grace period and an event which would constitute a similar Default after the applicable grace period shall occur more than twice within the next 365 days, whether or not such similar Default is cured within the applicable grace period; then, in any such case, Landlord may terminate this Lease by notice to Tenant along with written notice to Tenant specifying a date not less than five (5) days after the giving of such notice on which this Lease shall terminate and this Lease shall come to an end on the date specified therein as fully and completely as if such date were the date herein originally fixed for the expiration of the Term of this Lease (Tenant hereby waiving any rights of redemption under Massachusetts General Laws c. 186 §11), and Tenant will then quit and surrender the Premises to Landlord, but Tenant shall remain liable as hereinafter provided.

9.2 Re-entry by Landlord. If this Lease shall have been terminated as provided in this Article, or if any execution or attachment shall be issued against Tenant or any Tenant's property whereupon the Premises shall be taken or occupied by someone other than Tenant, then Landlord may, without notice, re-enter the Premises, either by force, summary proceedings, ejectment or otherwise, and remove and dispossess Tenant and all other persons and any and all property from the same, as if this Lease had not been made, and Tenant hereby waives the service of notice of intention to re-enter or to institute legal proceedings to that end.

9.3 Damages. In the event of any termination as provided in this Article, Tenant shall pay the Base Rent and other sums payable hereunder up to the time of such termination, and thereafter Tenant, until the end of what would have been the Term of this Lease in the absence of such termination, and whether or not the Premises shall have been relet, shall be liable to Landlord for, and shall pay to Landlord, as liquidated current damages, the Base Rent and other sums which would be payable hereunder if such termination had not occurred, less the net proceeds, if any, of any reletting of the Premises, after deducting all reasonable expenses in connection with such reletting, including, without limitation, all repossession costs, brokerage commissions, legal expenses, attorneys' fees, advertising, expenses of employees, alteration costs and expenses of preparation for such reletting. Tenant shall pay such current damages to Landlord monthly on the dates which the Base Rent would have been payable hereunder if this Lease had not been terminated.

(i) At any time after such termination, whether or not Landlord shall have collected any current damages as set forth in Section 9.3, as liquidated final damages and in lieu of all such current damages beyond the date of such demand, at Landlord's election Tenant shall pay to Landlord an amount equal to the excess, if any, of the Base Rent and other sums as hereinbefore provided which would be payable hereunder from the date of such for what would be the then unexpired Term of this Lease if the same remained in effect, discounted to present value at a rate of 8% per year, over the then fair net rental value of the Premises for the same period, also discounted to present value at a rate of 8% per year.

9.4 Reletting of Premises. In case of any Default by Tenant, re-entry, expiration and dispossession by summary proceedings or otherwise, Landlord may (i) re-let the Premises or any part or parts thereof, either in the name of Landlord or otherwise, for a term or terms which may at Landlord's option be equal to or less than or exceed the period which would otherwise have constituted the balance of the Term of this Lease and may grant concessions or free rent to the extent that Landlord considers reasonably advisable and necessary for the purpose of reletting the Premises; and such actions and the making of any alterations, repairs and decorations to

Jesse Dutra Landscaping Lease

the Premises in connection therewith shall not operate or be construed to release Tenant from liability hereunder as aforesaid. Landlord shall in no event be liable in any way whatsoever for failure to re-let the Premises, or, in the event that the Premises are re-let, for failure to collect the rent under such re-letting. Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Tenant being evicted or dispossessed, or in the event of Landlord obtaining possession of the Premises, by reason of the violation by Tenant of any of the covenants and conditions of this Lease.

9.5 No Limitation of Remedies. The specified remedies to which Landlord may resort hereunder are not intended to be exclusive of any remedies or means of redress to which Landlord may at any time be entitled lawfully, and Landlord may invoke any remedy (including the remedy of specific performance) allowed at law or in equity as if specific remedies were not herein provided for.

9.6 Costs. All reasonable costs and expenses incurred by or on behalf of Landlord (including, without limitation, reasonable attorneys' fees and expenses at both the trial and appellate levels) in enforcing its rights hereunder in connection with any Default of Tenant shall be paid by Tenant.

#### ARTICLE TEN – Tenant Obligation Upon Lease Termination

10.1 Restoration of Premises. Subject to the provisions hereof, upon the expiration or earlier termination of this Lease, the Tenant shall have the obligation, at its expense, to dismantle and remove the structures it has constructed upon the Premises and to remove and dispose of any hazardous waste deposited thereon by the Tenant. Such removal and restoration shall be commenced only after written notice is given to the Landlord and shall be completed within forty-five (45) days; provided, however, that if, upon receipt of such notice, the Landlord determines that Tenant is in default of any provision hereof, Landlord, in its discretion may elect by written notice to instruct the Tenant not to remove the improvements, or any part thereof, and may take possession thereof as security for the performance of the terms hereof. Landlord, in its discretion may elect by written notice to instruct the Tenant not to remove the improvements, or any part thereof, and may take possession thereof as security for the performance of the terms hereof. Notwithstanding Landlord's election to take possession of the improvements, Tenant shall continue to be obligated to restore the Premises as aforesaid.

10.2 Removal of Personal Property. The Tenant shall at the expiration or other termination of this Lease remove all Tenant's goods and effects from the Premises, (including, without hereby limiting the generality of the foregoing, all signs and lettering affixed or painted by the Tenant, either inside or outside the Premises). Tenant shall deliver to the Landlord the Premises and all keys, locks thereto, and other fixtures connected therewith and all alterations and additions made to or upon the Premises, in good condition, damage by fire or other casualty only excepted. In the event of the Tenant's failure to remove any of Tenant's property from the Premises, Landlord is hereby authorized, without liability to Tenant for loss or damage thereto, and at the sole risk of Tenant, to remove and store any of the property at Tenant's expense, or to retain same.

10.3 Environmental Inspection. Within forty-five (45) days before or after the termination of the Lease, Tenant shall at its sole cost and expense have a Site Assessment performed by a certified engineer to be performed on the Premises as to the presence of Hazardous Materials as defined in G.L. c. 21E, and will promptly forward a copy thereof to the Landlord.

#### **ARTICLE ELEVEN – Miscellaneous**

11.1 Notices. Whenever under this Lease a provision is made for any demand, notice, or declaration of any kind or where it is deemed desirable or necessary by either party to give or serve any such notice, demand, or declaration to the other, it shall be in writing sent by certified or registered mail, return receipt requested with postage prepaid at the address set forth in Article One, above, or at such other addresses as the parties may from time to time designate by written notice to the other party, as it may be changed by notice duly given hereunder.

11.2 Waiver. One or more waivers of any covenant, term, or condition of this Lease by either party shall not be construed by the other party as a waiver of a subsequent breach of the same covenant, term, or condition. The consent or approval of either party to or of any act by the other party of a nature requiring consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

11.3 Relationship of Parties. Nothing contained in this Lease shall be deemed or construed by the parties or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association between Landlord and Tenant, it being expressly understood and agreed that neither the method of computation of rent nor any of the other provisions contained in this Lease nor any act or acts of the parties shall be deemed to create any relationship between Landlord and Tenant other than the relationship of landlord and tenant.

11.4 Governing Law. The law of the Commonwealth of Massachusetts shall govern the validity, performance, and enforcement of this Lease.

11.5 Successors. The provisions, covenants, and conditions of this Lease shall be binding on the legal representatives, heirs, successors, and permitted assigns of the respective parties.

11.7 Amendments. Except as provided herein, no subsequent alterations, amendments, changes, or additions to this Lease shall be binding upon Landlord or Tenant unless and until reduced to writing and signed by both parties. Submission of this Lease by Landlord to Tenant for examination shall not bind Landlord in any manner, and no lease, contract, option, agreement to lease, or other obligation of Landlord shall arise until this Lease is signed by Landlord and delivered to Tenant.

11.8 Quiet Enjoyment: Landlord agrees that, on payment of the rentals herein provided for and the performance of the covenants and agreements on the part of the Tenant to be performed hereunder, Tenant shall have peaceful and quiet use and possession of the Premises.

11.9 Severability. If any provision of this Lease is declared to be illegal, unenforceable, or void, then both parties shall be relieved of all obligations under that provision, provided, however, that the remainder of the Lease shall be enforced to the fullest extent permitted by law.

**IN WITNESS WHEREOF**, the Landlord and Tenant have caused this Lease Agreement to be executed under seal as of the day and year first above written.

NANTUCKET MEMORIAL AIRPORT  
COMMISSION

TENANT: JESSE DUTRA LANDSCAPE, INC.

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

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

Jesse Dutra, President

\_\_\_\_\_

447766v2/NANTAIR/0001

**NANTUCKET MEMORIAL AIRPORT COMMISSION**  
**LEASE AGREEMENT**

**LESSEE NAME:** Planet Ack Inc.,  
dba O&Co Nantucket

**ADDRESS:** c/o 7 Appleton Road  
Nantucket, MA 02554

**PHONE:** 508-360-4059

**PREMISES:** Retail / Common

**INTENDED USE:** Gift Shop

**LOCATION:** Terminal Building  
Nantucket Memorial Airport

**SIZE:** 1238 (Sq Ft)  
(738 Retail/500Common)  
(\$35/\$10)

**ANNUAL FEES :** \$1,500 (Business Fee)  
**Plus an Amount In Lieu of Taxes (Determined Annually)**

**MONTHLY FEE:** \$2,569.17 \*

**SECURITY DEPOSIT:** \$6,400.00

**STARTING DATE:** April 1, 2013

**ENDING DATE:** March 31, 2018

This Lease Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and the Town of Nantucket acting by and through the Nantucket Memorial Airport Commission, an agency duly created by the Town of Nantucket, pursuant to the powers contained in G.L.c. 90, Section 51D, having an address of Nantucket Memorial Airport, 14 Airport Road, Nantucket, Massachusetts 02554 hereinafter called "LESSOR" and Planet Ack Inc., dba O&Co Nantucket, named above hereinafter called "LESSEE".

In consideration of the mutual covenants and agreements hereinafter set forth, LESSOR and LESSEE agree as follows:

1. **PREMISES:** LESSOR agrees to lease to LESSEE the above Premises (the "Premises") at the Nantucket Memorial Airport (the "Airport"), all on the terms and subject to the conditions of this Agreement.
2. **TERM:** The term of this Agreement shall be for a period of up to sixty (60) months, commencing on the starting date above set forth above and ending on March 31, 2018. After the termination of this Lease, LESSEE shall be deemed to be a tenant from day to day at a daily fee for use and occupancy as may be established by the LESSOR, then LESSEE shall remain a tenant subject to the terms of this Lease.
3. **RENT:** LESSEE shall pay LESSOR during the term hereof, the sum of \$ 30,830.00 annually, or \$2,569.17 \* monthly, in advance of the first day of the term and on the first day of each month thereafter if the rent is paid monthly. \* Monthly rent payments may be adjusted so that a lesser amount will be paid the months of January through June as well as October through December; and a greater amount will be paid the months of July through September, so long as the annual rent amount is paid within a twelve (12) month time frame. Payment shall be made at LESSOR's office located at the Airport. LESSEE shall also be responsible for Airport fees as set forth above determined annually by LESSOR. The rent shall be increased, but not decreased, on a yearly basis on the anniversary date of the Lease based upon the change in the federal CPI-W rate as published by the United States Bureau of Labor Statistics. LESSOR shall submit their request for seasonal rent payments within thirty (30) days of the annual anniversary date after receiving notification of the CPI-

W adjustment. In the event that the square footage of the retail space or the common space of the Premises changes during the term of the Lease, then LESSOR may adjust the rent accordingly.

4. Hours of Operation. LESSEE agrees to be open daily, except for Thanksgiving Day, Christmas Day, New Year's Day and Easter Sunday from 7:00 am until 7:00 pm for the period of June 1<sup>st</sup> through Labor Day; and 8:00 am until 5:00 pm from Labor Day through the following May of each year except for days the airport terminal may be closed due to adverse weather conditions. LESSEE reserves the right to alter winter hours of operation, by reducing hours open, should total Enplanements fall below 150,000 for the prior 12 month period ending November 30<sup>th</sup>, upon 30 day written notice. LESSEE at their sole discretion can increase hours of operation to accommodate busy Holiday weekends or Island special events.

5. Permitted Use of Premises. The Premises shall be used and occupied by LESSEE solely for its intended use as a gift shop as stated above, and may not be used for any other purpose. No commercial activity of any kind whatsoever shall be conducted by LESSEE in, from, or around the Premises, without the prior written consent of the LESSOR. In utilizing the space, LESSEE agrees to and shall comply with all applicable laws, codes by-laws ordinances, resolutions, rules and regulations established by Federal, State, Local Government Agency, or by the LESSOR.

6. Maintenance and Use of Premises.

(a) The LESSEE shall at its own cost and expense, keep the Premises, including all furniture, equipment, fixtures and improvements that may be a part of the Premises or immediately adjoining the Premises in good, sanitary and neat order and condition and repair, and restore or replace any furniture, equipment, improvements or fixtures of any kind that may be damaged or destroyed by any cause whatsoever. If LESSEE shall fail to keep the Premises in the condition required herein, or if repairs are required to be made by LESSEE pursuant to the terms hereof, within thirty (30) days after notice by the LESSOR (or without notice in any emergency), LESSOR shall have the right but not be obligated to make such repairs or perform maintenance work or any other work required of LESSEE pursuant to this Lease and charge the reasonable cost thereof to LESSEE as Additional Rent.

(b) In addition the LESSEE is responsible at its expense for all rubbish to be properly bagged in accordance with Town of Nantucket Solid Waste Management and Mandatory Recycling Program and delivered to the proper area for disposal designated by the LESSOR at the Airport. Additionally, all cardboard must be flattened and delivered to the proper area for disposal as designated by the LESSOR at the Airport. Hazardous waste including button batteries or other products containing Mercury are not permitted in rubbish and proper disposal is the responsibility and expense of the LESSEE. Removal and disposal of items considered to be Bulk Waste (furniture, fixtures, etc.) are the responsibility and expense of the LESSEE. (ek. LESSOR is responsible to keep the Premises and the improvements free of any condition that may pose a threat or risk damage or injury to person or property. LESSOR shall have the right, without any obligation to do so, to enter upon the Premises and put them in a clean and sanitary condition in the event that LESSEE fails to do so within twenty-four (24) hours after notice of such condition. In the event the LESSEE fails to comply with any such notice and LESSOR acts to clean the Premises, LESSEE shall reimburse the LESSOR for all cost and expense incurred by the LESSOR to clean the Premises.

(c) The LESSEE shall furnish, install and maintain in the Premises equipment and fixtures necessary for carrying on the purpose as hereinabove described, together with electrical rearrangements, decorating and other work, all at LESSEE's sole cost and expense, and all subject to the prior written Planet Ack Inc Lease

approval of the Board of Commissioners of the Nantucket Memorial Airport or such Commissioners acting through the Airport Manager of the Nantucket Memorial Airport (the "Airport Commissioners") who may require that said fixtures and equipment be of the same design and appearance as other lessees.

(d) The LESSEE shall not exhibit any sign or advertisements in or about the Premises without the prior written approval of the Airport Commissioners.

(e) The LESSEE shall remedy promptly any condition or discontinue any practice to which the Airport Commissioners may reasonably object.

7. Alterations; Additions. The LESSEE shall not make any structural alterations or additions to the Premises or non-structural alterations without the LESSOR's prior written consent. All such permitted alterations shall be at LESSEE's sole cost and expense and shall be completed in a good and workmanlike and in a condition at least equal to the present construction. All local state and federal permits for renovations are to be provided to the LESSOR for the files. LESSEE shall not permit any mechanics' liens, or similar liens, to remain upon the leased premises for labor and material furnished to LESSEE or claimed to have been furnished to LESSEE in connection with work of any character performed or claimed to have been performed at the direction of LESSEE and shall cause any such lien to be released of record forthwith without cost to LESSOR. At the termination of occupancy, as provided herein, any alterations or improvements made by the LESSEE shall become the property of the LESSOR, at the discretion of the LESSOR.

8. Utilities. LESSEE will have all telephone and other services used by it, in its own name, where practicable and shall pay the bills therefor. The LESSOR agrees to pay for electricity, heating and cooling costs to the Premises, all subject to interruption due to any accident, to the making of repairs, alterations, or improvements, to labor difficulties, to trouble in obtaining fuel, electricity, service, or supplies from the sources from which they are usually obtained for said building, or to any cause beyond the LESSOR's control. LESSOR shall have no obligation to provide utilities or equipment other than the utilities and equipment within the Premises as of the commencement date of this Lease. In the event LESSEE requires additional utilities or equipment, the installation and maintenance thereof shall be the LESSEE'S sole obligation, provided that such installation shall be at the LESSEE's expense and, shall be subject to the prior written consent of the LESSOR.

9. LESSOR Rights Reserved. LESSOR reserves for itself the following rights, which LESSEE agrees to observe, and LESSEE agrees that the same may be exercised by LESSOR and that any such exercise of said rights shall not be deemed to effect an eviction or to render LESSOR liable for damages by abatement of rent or otherwise to relieve LESSEE from any of its obligations.

(a) To adopt from time to time rules and regulations not inconsistent with terms of this lease for the use, protection and welfare of Nantucket Memorial Airport and its occupants, with which LESSEE agrees to comply.

(b) To enter upon the Premises of the LESSEE at any reasonable time for the purpose of inspection or for any purpose incident to the performance of its obligations hereunder, in the exercise of any of its governmental functions or by others with the permission from the LESSOR. LESSOR in such case is to use its best efforts to avoid disruption of LESSEE's operation.

No compensation or claim will be allowed or paid by the LESSOR, by reason of inconvenience, annoyance or injury to business, arising from the necessity of repairing, altering, or developing any portion of the Airport.

10. Compliance with Airport and Regulatory Rules. Rules and regulations of Nantucket Memorial Airport, any Airport standards of operation and procedures, if any, as adopted by the LESSOR, any applicable rules or regulations of the FAA or any other state or federal regulatory agency having jurisdiction shall be an integral part of this agreement. The Airport Commissioners of Nantucket Memorial Airport shall furnish LESSEE with a copy of the Airport rules and/or standards, and it shall be the responsibility of the LESSEE to be familiar with those and any other applicable rules and regulations. LESSEE, its agents, contractors, invitees, members or visitors, shall comply with all provisions of said procedures.

**11. INSURANCE: THE LESSEE SHALL DEPOSIT WITH THE LESSOR CERTIFICATES FOR ALL INSURANCE REQUIREMENTS LISTED BELOW PRIOR TO THE COMMENCEMENT OF ITS TERM, AND THEREAFTER WITHIN THIRTY (30) DAYS PRIOR TO THE EXPIRATION OF ANY SUCH POLICIES. ALL SUCH INSURANCE CERTIFICATES SHALL PROVIDE THAT SUCH POLICIES SHALL NOT BE MATERIALLY CHANGED, ALTERED OR CANCELED WITHOUT AT LEAST TEN (10) DAYS PRIOR WRITTEN NOTICE TO EACH ASSURED NAMED THEREIN.**

ADDITIONAL INSURED: All certificates will indicate the "**Town of Nantucket/Nantucket Memorial Airport (LESSOR)**" as an additional insured.

INDEMNIFICATION: LESSEE shall defend, indemnify and hold harmless the LESSOR, its Commissioners, officers, agents and employees, from and against any and all claims, expenses or liabilities of whatever nature from any suits, claims and demands (including without limitation reasonable attorney's fees and experts' fees), (a) arising directly or indirectly from the failure of the LESSEE or LESSEE'S contractors, agents, employees or invitees to comply with the terms of this Lease or with any applicable laws, codes, bylaws, rules, orders, regulations or lawful direction now or hereafter in force of any public authority and (b) arising directly or indirectly from any accident, injury or damage, however, caused, to any person or property, on or about the Premises where such accident, injury, or damage results, or is claimed to have resulted, from any act, omission, or negligence on the part of the LESSEE, or LESSEE's contractors, licensee, agents, employees or customers, or anyone claiming by or through the LESSEE.

LESSEE'S LIABILITY INSURANCE: The LESSEE shall maintain in full force from the date of commencement of the Lease throughout the Term, and thereafter so long as LESSEE is in occupancy of the Premises (a) policy of comprehensive public liability insurance, with respect to the Premises and the property of which the Premises are a part, comprehensive public liability insurance, in the amount of \$1,000,000, for each occurrence with property damage insurance in limits of \$500,000 for each occurrence. The policy shall be written with an insurance company licensed to do business in Massachusetts, and in good standing therein, insuring the LESSOR as well as LESSEE against injury to persons or damage to property as provided..*(I recommend that the Airport review with its insurance carrier if these amounts are sufficient insurance coverage and if they should be peroccurrence or in the aggregate.)*

FIRE INSURANCE: The LESSEE shall procure and keep in force, fire and extended coverage insurance upon its leasehold improvements, furniture, furnishings, fixtures and equipment to the full insurable value thereof and any applicable equipment vendors or lenders give the Airport satisfactory releases from fire and extended coverage liability.

Worker's Compensation Insurance. The LESSEE and any of its contractors shall maintain and keep in force Workers' Compensation Insurance as required by the Commonwealth of Massachusetts and shall deliver to the LESSOR copies of certificates of insurance naming the LESSOR as an additional insured.

Without limiting LESSOR'S other rights under any other provisions of this Lease, if LESSEE shall fail to keep the Premises insured as provided herein, and if such failure shall continue for a period of ten (10) days following written notice by LESSOR to LESSEE thereof, then LESSOR, without further notice to LESSEE, may take out and pay for such insurance, and the amount of such payment shall become due and payable as Additional Rent on demand.

12. Default and Bankruptcy. If at any time subsequent to the date of this Lease any of the following events shall occur, LESSEE shall be in default under the terms and provisions of this Lease::

(a) The failure of the LESSEE to make payment when due of any installment of Rent, or payment of Additional Rent, or other sum therein specified and such default shall continue for ten (10) days after written notice thereof; or

(b) The failure of the LESSEE to observe or perform any other of the LESSEE's covenants, agreements, or obligations hereunder and such default shall not be corrected within thirty (30) days after written notice thereof or if such failure is of such a nature that LESSEE cannot reasonably remedy the same within such thirty (30) day period, LESSEE shall fail to commence promptly (and in any event within such thirty (30) day period) to remedy the same and to prosecute such remedy to completion with diligence and continuity; or

(c) The filing by LESSEE of a voluntary petition, or the filing against LESSEE of an involuntary petition, in bankruptcy or insolvency or adjudication of bankruptcy or insolvency of LESSEE, or the filing by LESSEE of any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or future applicable federal, state, or other statute or law, or the assignment by LESSEE for the benefit of creditors, or appointment of a Trustee, receiver, or liquidator of all or any part of the assets of LESSEE, and within one hundred sixty (60) days after the commencement of any such proceeding against LESSEE, such proceeding shall not have been dismissed, or if within ninety (90) days after the appointment of any such trustee, receiver, or liquidator of LESSEE or of all or any part of LESSEE'S property, without the acquiescence of LESSEE, such appointment shall not have been vacated or otherwise discharged, or if any execution or attachment shall be issued against LESSEE or any of LESSEE'S property pursuant to which the Premises shall be taken or occupied or attempted to be taken or occupied; or

(d) The cessation or deterioration of service by the LESSEE for its intended purpose for a period which, in the sole opinion of the Airport Commission, materially and adversely affects the operation of service required to be performed by LESSEE under this Agreement;

Then, in any such case, LESSOR may terminate this Lease by written notice to LESSEE specifying a date not less than five (5) days after the giving of such notice on which this Lease shall terminate, and LESSEE shall then quit and surrender the Premises to LESSOR, but LESSEE shall remain liable as hereinafter provided.

If LESSEE defaults under the terms of this Lease as defined above, then the LESSOR shall have the right thereafter, while such default continues, to re-enter and take complete possession of the Premises, to declare the term of this lease ended, and remove the LESSEES's effects, without Planet Ack Inc Lease



prejudice to any remedies which might be otherwise used for arrears of rent or other default. The LESSEE shall indemnify the LESSOR against all loss of rent and other payments which the LESSOR may incur by reason of such termination during the remainder of the term. If the LESSEE shall default, after reasonable notice thereof, in the observance or performance of any conditions or covenants on LESSEE's part to be observed or performed under or by virtue of any of the provisions in any article of this lease, the LESSOR, without being under any obligation to do so and without thereby waiving such default, may remedy such default for the account and at the expense of the LESSEE. If the LESSOR makes any expenditures or incurs any obligations for the payment of money in connection therewith, including but not limited to, reasonable attorney's fees in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations incurred, with interest at the rate of ten percent (10%) per annum and costs, shall be paid to the LESSOR by the LESSEE as additional rent.

13. Surrender. Upon the expiration of the term of this Lease or other termination of this Lease, LESSEE shall peaceably and quietly leave, surrender, and yield to the Premises and all other improvements thereon in good order, repair and condition, ordinary wear and tear excepted. LESSEE shall remove all of its personal property from the Premises, (including, without hereby limiting the generality of the foregoing, all signs and lettering affixed or painted by the LESSEE, either inside or outside the Premises). LESSEE shall deliver to the LESSOR the Premises and all keys, locks thereto, and other fixtures connected therewith and all alterations and additions and shall repair any and all damage to the Premises resulting from or caused by the removal of such property. In the event of the LESSEE's failure to remove any of LESSEE's property from the Premises within thirty (30 ) days of the termination or expiration of this Lease, the property shall be considered abandoned by LESSEE, and LESSOR is hereby authorized, without liability to LESSEE for loss or damage thereto, and at the sole risk of LESSEE, to remove and store any of the property at LESSEE's expense, or to retain same.

#### 14. Department of Transportation Assurances

(a) The LESSEE for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended,

that in the event of breach of any of the above nondiscrimination covenants, the LESSOR shall have the right to terminate this Lease and to re-enter and repossess the Premises, and hold the same as if said Lease had never been made or issued.

(b) The LESSEE for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant that

(1) no person on the grounds of race, color, handicap, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

(2) that in the construction of any improvements on, over, or under such premises and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination,

(3) that the LESSEE shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(4) that the breach of any of the above nondiscrimination covenants constitutes a material breach of this Lease and the LESSOR shall have the right to terminate the Lease and to re-enter and repossess said Premises and the facilities thereon, and hold the same as if said Lease had never been made or issued.

This agreement is subject to the requirements of the U. S. Department of Transportation's regulations, 49 CFR part 23, subpart F. The LESSEE agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR part 23, subpart F.

The LESSEE agrees to include the above statements in any subsequent lease agreements that it enters and cause those businesses to similarly include the statements in further agreements.

(c) Should Lessee, its customers, agents, employees, officers or guests violate said rules, regulation or covenants, and should said violations result in a citation or fine to the LESSOR, then LESSEE shall fully reimburse the LESSOR for said citation or fine and for all costs and expenses, including reasonable attorney's fees, incurred by the LESSOR in defending against the citation or fine. All such amounts shall constitute additional amounts due under the Lease and shall be paid within fifteen (15) days of LESSEE'S receipt of notice thereof.

#### 15. General Provisions.

(a) Subordination of Lease. This Lease shall be subordinated to the provisions of: (1) any existing or future agreement between LESSOR and the United States relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development or improvement of the Airport; and

(2) any pledge, transfer, hypothecation or assignment made at any time by the LESSOR to secure bonds or other financing.

(b) Compliance by Other Tenants. LESSOR shall, whenever possible, make reasonable efforts to obtain, uniform compliance with its rules and regulations; however, LESSOR shall not be liable to LESSEE for any violation or non-observance of such rules and regulations by any tenant, concessionaire or LESSEE at the Airport.

(c) Independent Contractor. It is agreed that LESSEE is an independent contractor hereunder and not an agent or employee of LESSOR with respect to its acts or omissions.

(d) Sublease; Successors and Assigns. LESSEE may not sublet the Premises or assign this Agreement without the prior written approval of LESSOR. All of the terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the respective parties hereto.

(e) Notices. All notices required to be given to LESSOR or LESSEE shall be in writing and shall be given personally or sent by certified mail, return receipt requested, addressed to such party at its latest address of record. Notices to LESSOR shall be addressed to Airport Commissioners, Nantucket Memorial Airport, 14 Airport Road, Nantucket, MA 02554 and notices to LESSEE addressed to its address on the first page of this Agreement, or to such other addresses as the parties may designate to each other by such notice from time to time.

(f) Governing Law. This Lease is read and construed in accordance with the laws of the Commonwealth of Massachusetts except where State law shall be preempted by any rules, laws or regulations of the government of the United States of America. The parties hereto agree that any court of proper jurisdiction sitting in Nantucket County, Massachusetts, shall be the proper forum for any actions brought hereunder.

(g) Entire Agreement; Amendment Interpretation. This Agreement with attachments mentioned constitutes the entire agreement between the parties superseding all prior or contemporaneous terms of the Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof, and duly executed by the parties hereto. No waiver of default by either party of any of the terms, covenants, and conditions herein to be performed, kept, and observed by the other party shall be construed as, or shall operate, a waiver of any subsequent default of any of the terms, covenants, or conditions herein contained, to be performed, kept, and observed by the other party. If one or more clauses, sections, or provisions of this Lease shall be held to be unlawful, invalid, or unenforceable, it is agreed that the remainder of the Lease shall not be affected thereby. The paragraph headings contained herein are for the convenience in reference and are not intended to define or limit the scope of any provisions of this lease.

**NOTICE TO LESSEE:**

**DO NOT SIGN THIS AGREEMENT BEFORE YOU HAVE READ THE AGREEMENT SET FORTH ABOVE. YOU ARE ENTITLED TO A COPY OF THIS AGREEMENT AND SHOULD KEEP A COPY OF THIS AGREEMENT TO PROTECT YOUR LEGAL RIGHTS.**

**N WITNESS WHEREOF,** LESSOR and LESSEE have caused this Lease Agreement to be executed under seal as of the day and year first above written.

**Name: Planet Ack Inc., dba O&Co Nantucket  
(LESSEE)**

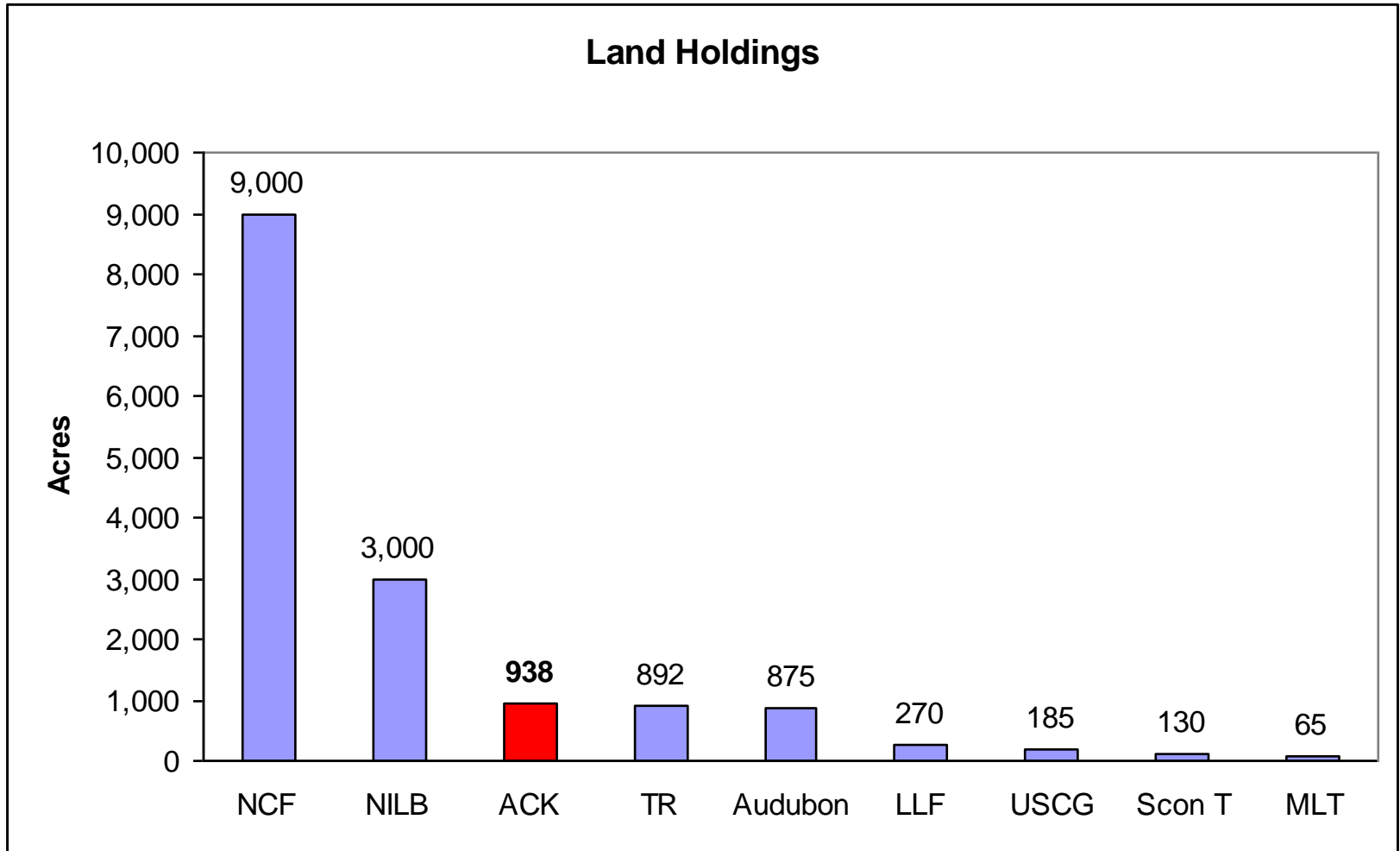
**Name: Nantucket Memorial Airport Commission  
(LESSOR)**

\_\_\_\_\_  
Diana Nascimento, President

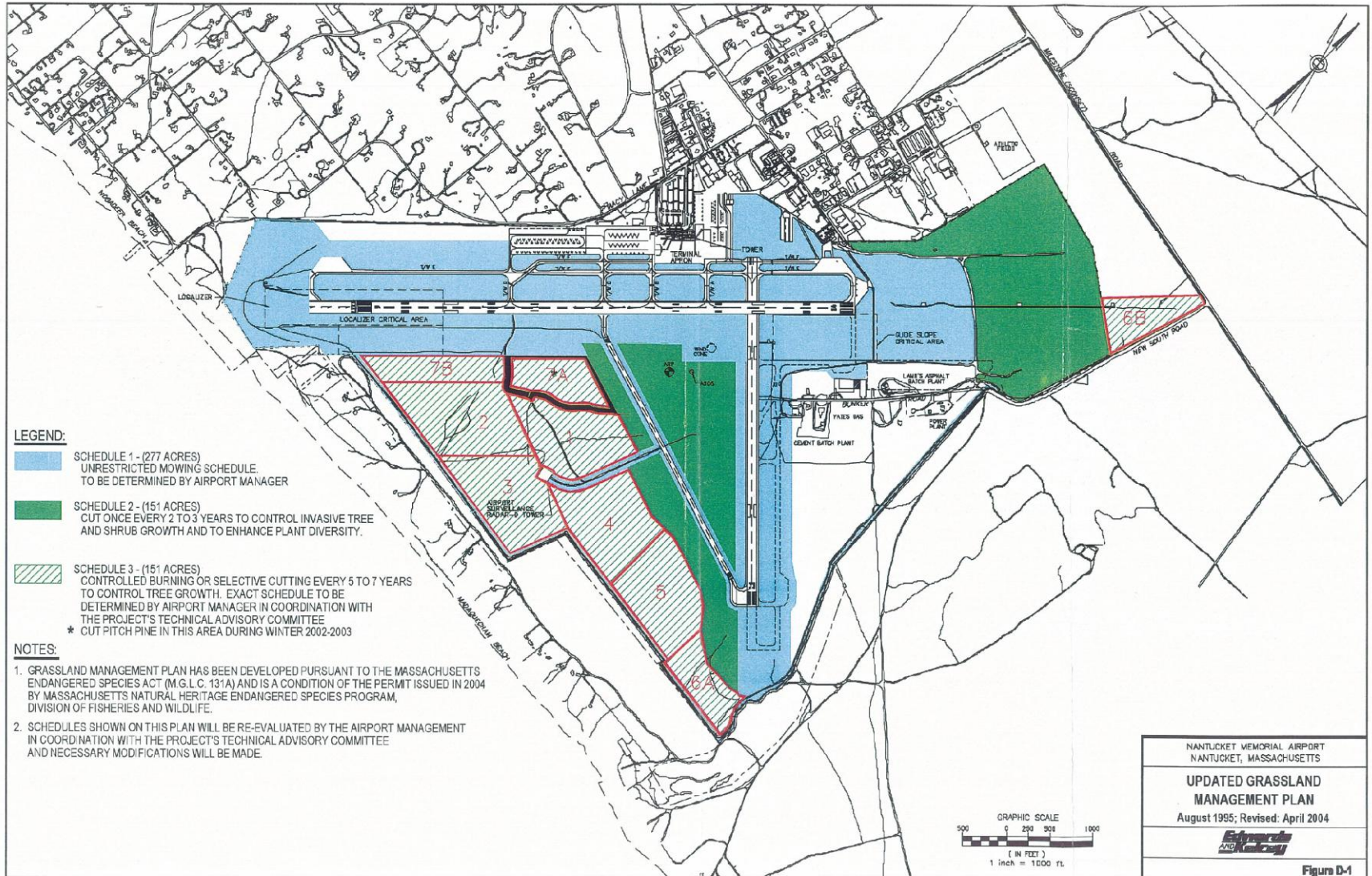
\_\_\_\_\_  
**Chairman**

# ACK is a Significant Island Landowner

(especially since focus is non-conservation)



# Quality of Habitat is also Significant



# Rare Habitat = Rare Species

## State-listed Plant Species of Conservation Concern

<u>Common name</u>	<u>Status<sup>1</sup></u>
Purple needlegrass	T
Bushy rockrose	SC
New England blazing star	SC
Lion's foot	E
Papillose nut sedge	E
Sandplain blue-eyed grass	SC
Sandplain flax	SC

<sup>1</sup>SC = Special Concern, T = Threatened, E = Endangered

# State-listed Moth Species of Conservation Concern

<u>Common name</u>	<u>Status<sup>1</sup></u>
Barren's daggermoth	T
Gerhard's underwing	T
Waxed sallow	SC
Melsheimer's sack bearer	T
Chain-dotted geometer	SC
Barrens buckmoth	SC
Sandplain heterocampa	T
Coastal swamp metarranthis	SC
Pink sallow	SC

<sup>1</sup>SC = Special Concern, T = Threatened, E = Endangered

# Plant Surveys, 2011



800 400 0 800 1,600 Feet

**LEGEND**

- Airport Property
- Apron Targeted Plant Survey Area
- Botanic Survey Areas
- Management Area 2
- Management Area 3

**Airport Investigation Areas**

**Rare Species Monitoring Report 2011  
Nantucket Memorial Airport  
Nantucket, Massachusetts**

MassGIS Orthophoto (2009)

Data obtained from MASS GIS, Commonwealth of Massachusetts Executive Office of Energy and Environmental Affairs (EEA).

Project No:  
15.0166222.00

Drawn by:  
ERH

Checked by:  
ERH

Date:  
11/30/11

Figure No:  
**1**





# Moth Surveys 2011

<p>1,000 500 0 1,000 2,000 Feet</p>	<p><b>Rare Moth Survey Findings</b></p>	<p>Project No: 15.0166222.00</p>
<p><b>LEGEND</b></p> <ul style="list-style-type: none"> <li>● Moth Stations</li> <li>● Chain-Dotted Geometers</li> <li>→ Geometer Survey Path</li> <li>→ Buckmoth Survey Path</li> <li>MA3</li> <li>MA2</li> </ul>	<p>Rare Species Monitoring Report 2011 Nantucket Memorial Airport Nantucket, Massachusetts</p> <p>MassGIS Orthophoto (2009)</p>	<p>Drawn by: ERH</p> <p>Checked by: ERH</p> <p>Date: 11/29/11</p> <p>Figure No: <b>4</b></p>
<p>GZA GeoEnvironmental, Inc. Springfield, Massachusetts</p>	<p>Data obtained from MASS GIS, Commonwealth of Massachusetts Executive Office of Energy and Environmental Affairs (EEA).</p>	

# Prescribed Fire Plan

## Nantucket Memorial Airport: Southeast Burn Unit (Subunits: 1 - 13)

Nantucket Memorial Airport - Southeast Burn Area  
Nantucket, Massachusetts

Unit Ends



- |                     |                  |            |                   |
|---------------------|------------------|------------|-------------------|
| Subunit             | Chain Link Fence | SH3 (Open) | SH8 (Open)        |
| Gate                | Dirt/Grass Rd    | GR1 (Open) | SH9 (Open)        |
| Sign, Post, or Pipe | Paved Rd         | GS3 (Open) | SH6 (Open Pine)   |
| Structure           | Soft Fire Break  | NB1        | SH8 (Closed Pine) |
| Staging             |                  | SH6 (Open) |                   |

# BURN UNIT GOALS:

Ecological maintenance of habitat (paraphrased).

**Date:** 12/13/2012

**Subunit:** 10 **Acres Burned:** 10.5

Reduce 1 Hour and fine dead fuel loads **(met objective)**

Expose 25 to 75% of the upper duff layer **(met objective)**

Top kill greater than 25% of trees/50% of shrubs **(met objective)**

Reduce shrub fuel loading by 25 to 35% **(objective not met)**  
– 15% was reduced)

**Date:** 12/14/2012

**Subunits:** 8 &9 (both partial)

**Acres burned:** 8 – 4.0; 9 – 2.8 acres

Reduce 1 Hour and fine dead fuel loads **(met objective)**

Expose 25 to 75% of the upper duff layer **(met objective)**

Top kill greater than 25% of trees/50% of shrubs **(met objective)**

Reduce shrub fuel loading by 25 to 35% **(objective not met)**  
– 30% was reduced)

# Nantucket WEB GIS – “Airport”



An incomplete picture is an apt metaphor.

There are many pieces to the puzzle

**ACK Staff:**

Noah, Tom, Art, Janine, David, John, Jack

**Consultants:**

Peggy, Meredith, Bill, Erin

**State and Feds:**

Katie, Eve, Tim, Michelle

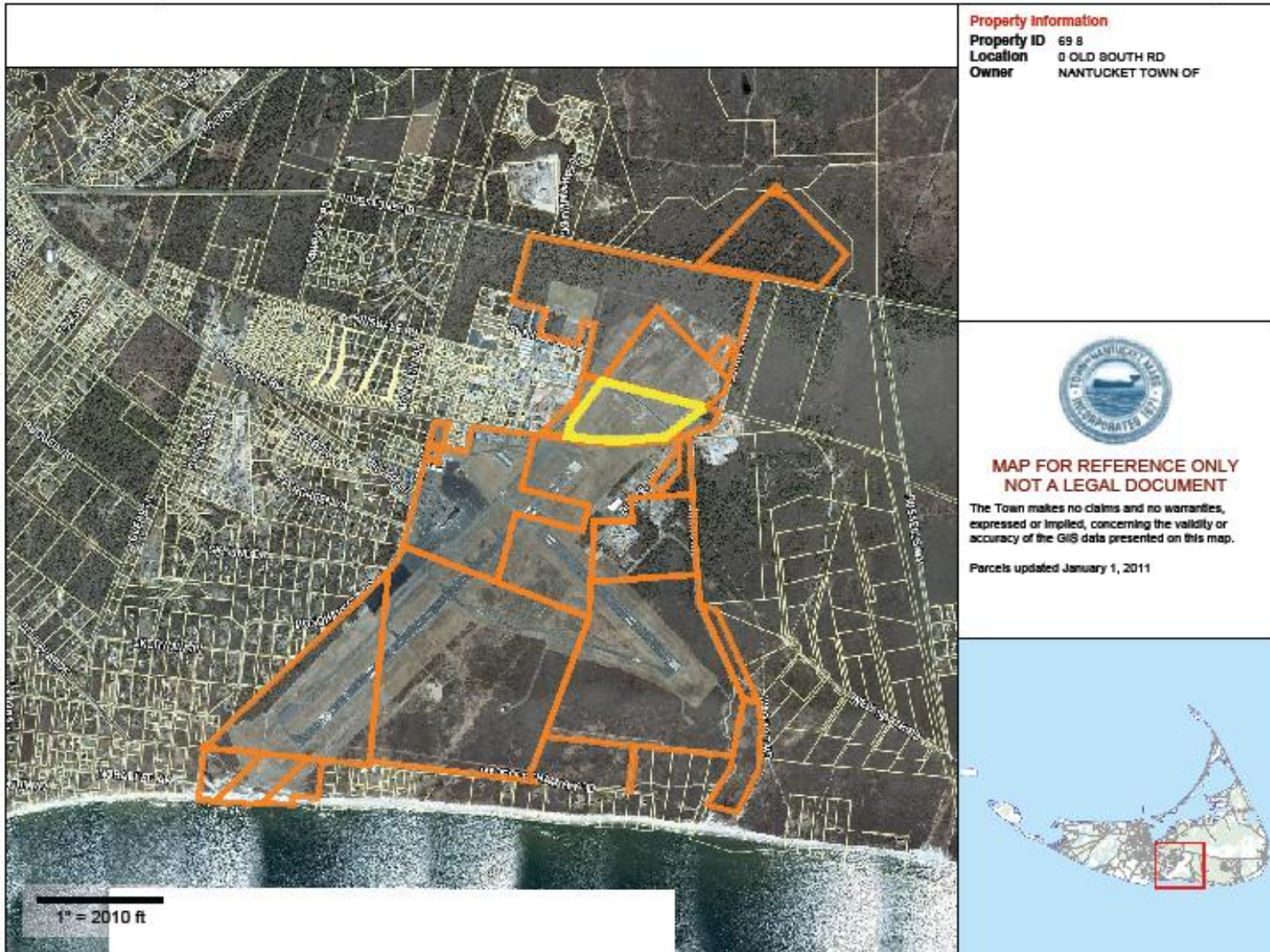
**Town and Misc:**

Bruce, Karen, Jen, Jeff, Andrew, Carl

I don't think any one person has grasped the whole picture

Town and County of Nantucket

March 4, 2013



# ACK has not followed through on permitting requirements

Issued by Mass Wildlife (NHESP) in 2008

- Technical Advisory Committee
- Inventory and Monitoring
- Comprehensive Management Plan
- Reporting updates
- Conservation Funding and Planning

# Plans

- Baseline inventory scheduled for 2013
  - Can't implement management without knowing the Baseline
- TAC meeting – April 10
  - Monitoring schedules and intervals
    - Plan intervals and bid process in advance
  - Drafted CEMP: review and implement
    - No way to judge success or respond to failure



# Plans, continued

- Future Mitigation
  - We have a commitment to maintain
  - Any future Airfield or Facility upgrade
  - We only have a marginal 80 acres
- ACK needs to look off-site
  - Most pressing development need
  - FAA land, USCG, Town Bank Concept

## Nantucket Airport Commission Meeting – October 12, 2004

and the Airport Manager. These plants will be taken care of and allowed to grow. Commissioner Macintyre wanted to know if mowing would harm the plants. Manager Peterson stated the mowing helps the plants. The contractor will start work on this project this week.

Jack Wheeler gave a reminder of the final meeting on the terminal design which is scheduled for October 13, 2004, at 5:00 PM at the Nantucket New School. The Special Town Meeting is scheduled for Tuesday, October 19, 2004, at 7 PM in the high school auditorium to vote on the warrant article for the terminal.

Airport Hangar Rental - Manager Peterson stated he has received a request from the Council on Aging to use the terminal for a fashion show. The Airport continually receives request for space to hold special functions. Manager Peterson asked for direction from the Commission on this and recommended that the Commission restrict use to aviation related uses only. The Airport has the issue of liability and security with these functions. Otherwise we have to look at each project individually. Chairman Vaughan asked if that restriction would apply to the terminal or only hangars? Commissioner Gibson reminded the Commission the terminal was used at one time for Chamber after hours functions, because the airlines are members of the Chamber of Commerce. Manager Peterson stated the terminal is a separate issue. Manager Peterson reminded the Commission that the hangars are already leased to aircraft owners. Chairman Vaughan wanted to know what if the lessee comes to the Commission with such a request? Manager Peterson stated more than one person leases some of the hangars. Commissioner Hull wanted to know if you would need approval from all of the people who lease the hangar? Commissioner Egan asked what if the lessees wanted to let someone use the hangar for a non-aviation related event, as long as they ask permission from the Commission, would that be possible? Chairman Vaughan stated if the Commission sets a policy which states no non-aviation use, then that would be the no. Commissioner Macintyre asked if the Commission has a list of policies, something to point to in writing? The Commission should have a policy book.

Commissioner Egan asked what the leases say about special events? Chairman Vaughan pointed out the leases stated we are renting it to you for the following reasons. Manager Peterson pointed out, there are very few places where you can have large functions. Chairman Vaughan stated the Manager's recommendation is that the Commission restrict the use of hangars to aviation related events. Commissioner Macintyre stated as a follow up, we need to adopt this as a policy. It was unanimously M/S/P to adopt the policy of no non-aviation related events are to be held in the hangars, unless specifically approved.

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## Nantucket Airport Commission Meeting – January 10, 2005

**Nantucket Auto Body** - Manager Peterson stated the Airport received a request from Nantucket Auto Body for a secure area to store approximately 20 vehicles. Commissioner Hull reminded the Commission that there is a list of people requesting rental space from the Airport and it would not be fair to place any one ahead of them. The Commission asked for the list of long and short-term land lease requests. After discussion it was determined that the Commission could not honor this request.

Manager Peterson reported the Airport has received several requests from charitable groups for use of hangar space. Manager Peterson proposed that the Commission designate the Nantucket Hangar for this type of use, to be considered on a case-by-case basis. Commissioner Hull stated the Commission has a policy that hangars are for aviation use only. After discussion, the Commission unanimously M/S/P to keep the policy that hangars are for aeronautical use only and to use the Bunker area, old asphalt plant site, on a case-by-case basis and advise a tent may be used in this area, for such requests.

Terminal Design and Public Relations - The subcommittee for terminal design met last week and the calendar of events will be posted on the airport's web site. Tours can be scheduled for interested groups. Commissioner Macintyre asked if TSA had provided any more information. Manager Peterson reported a meeting is scheduled for Thursday with TSA and members of the design team. Commissioner Macintyre asked if there would be any inside floor plans for viewing? Manager Peterson reported that is being worked on now.

Manager Peterson reported meeting with FAA and MAC to justify continued expenditures for further design work for the terminal. FAA and MAC have agreed to the continuance so the Airport can be eligible for funds for this project.