

**ORIGINAL**

Rev. 95

LEASE NO. DC-RA 84-8

DANE COUNTY, WISCONSIN

AND

CES ENTERPRISES

GROUND LEASE

DANE COUNTY REGIONAL AIRPORT - TRUAX FIELD

MADISON, WISCONSIN

FOR

(PARCEL B, CSM #928 LOT 3)

AND

OPTION TO LEASE PARCELS A AND C,

CSM #928, LOT 3

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THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1984, between Dane County, a municipal corporation located in the State of Wisconsin, hereinafter called "Lessor," and CES Enterprises, a Wisconsin general partnership, located 601 Atlas Avenue, Madison, Wisconsin, hereinafter referred to as "Lessee,"

WITNESSETH:

WHEREAS, Lessor is the owner of certain lands lying in the City of Madison, Dane County, Wisconsin, known as Truax Air Park, together with other facilities necessary and useful in connection with the operation of an airport; and

WHEREAS, Lessee desires to lease certain premises and to obtain options to lease certain other premises in said Truax Air Park, and to obtain certain rights in connection therewith more fully described hereinafter for the purpose of erecting an office/warehouse building; and

WHEREAS, Lessor deems it advantageous to itself and to the operation and development of the airport to lease these certain premises upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, it is mutually agreed by and between the parties as follows:

ARTICLE I - PREMISES

Lessor, for and in consideration of the terms, conditions and covenants of this lease to be performed by Lessee, hereby leases the following described premises situated in Truax Air Park, Madison, Wisconsin, to-wit:

Parcel "B" which is part of Lot 3, CSM928, Dane County, Wisconsin, as follows:

Commencing at the East Quarter Corner of Section 30, T8N, R10E, City of Madison; thence N88°37'19"W, 1157.50 feet; thence S01°22'41"W, 33.00 feet; thence N88°37'19"W, 568.84 feet; thence S20°10'52"W, 1970.78 feet to the point of beginning; thence S44°27'43"E, 479.57 feet; thence S45°41'03"W, 210.00 feet; thence N44°16'23"W, 380.11 feet; thence N20°10'52"E 231.00 feet to the point of beginning. Parcel "B" contains 89,966 square feet.

Lessor also grants unto Lessee an option to lease Parcels "A" and "C" as identified in Attachment A hereto. The terms and conditions of said lease(s) shall be in accordance with the terms stated in said Attachment A and further the term of the lease period shall be in accordance with Article II hereof.

ARTICLE II - TERM

This lease, together with amendments, and all rights herein granted to Lessee shall be for a period of 99 years, commencing on August 1, 1984, and ending on July 31, 2083.

ARTICLE III - RENT

A. Lessee agrees to pay Lessor ground rent for Parcel "B" described herein as follows: 89,966 square feet of land at 9½% of \$.90 per square foot per annum, which amounts to Six Hundred Forty-one and 01/100 Dollars (\$641.01) per month. Said rent shall be paid monthly in advance on the first day of each month. Rent due under this Article for any fractional part of a month shall be prorated.

The rent for Parcel "B" may be modified in accordance with the terms and conditions of Attachment A hereto, and the rent for Parcels "A" and "C", if leased, shall be as stated in Attachment A hereto.

B. CPI Index: Each year for the period of this lease, the above referenced rents shall be adjusted in accordance with the Consumer Price Index, National Series, All Items for All Urban Consumers, for the previous calendar year. Said adjustment shall be computed as follows:

$$\text{Most recent year's rate} \times \frac{(\text{CPI Index for Dec. of most recent year})}{(\text{CPI Index for Dec. of next most recent year})} = \text{New Rate}$$

$$\text{Example: } 1983 \text{ rate} \times \frac{(\text{CPI for 12/83})}{(\text{CPI for 12/82})} = 1984 \text{ rate}$$

The parties hereto understand and agree that said CPI Index adjustments shall be effective as of the anniversary date of this lease in each year.

ARTICLE IV - RIGHTS AND PRIVILEGES GRANTED TO LESSEE

Subject to the terms and conditions hereinafter set forth, Lessee is hereby granted the following rights and privileges during the term of this lease:

A. Operation of Equipment: The right to install, operate, maintain, repair and store all equipment necessary for the conduct of Lessee's business in its leased premises.

B. Lessee's Right to Contest: If it disputes the amount of or validity of any liens, taxes, assessments, charges, penalties or claims, including liens or claims of materialmen, mechanics or laborers, upon the demised premises and improvements thereon, Lessee may contest and defend against the same and in good faith diligently conduct any necessary proceedings to prevent and avoid the same; provided, however, that such contest shall be prosecuted to a final conclusion as speedily as possible. Any rebate made on account of any taxes or charges paid by Lessee shall belong to and be paid to Lessee.

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Lessor agrees to render to Lessee all reasonable assistance, at no expense to Lessor, in contesting the validity or amount of any such taxes, assessments, or charges, including joining in the signing of any reasonable protests or pleadings which Lessee may reasonably deem it advisable to file. During any contest, Lessee shall (by the payment of such disputed taxes, assessments, or charges, if necessary) prevent any foreclosure of or any divesting thereby of Lessor's title, reversion, or other interest in or to the demised premises and will further (by the payment of such disputed taxes, assessments, or charges, if necessary) prevent the public sale or foreclosure of any lien for any such taxes, assessments, or charges.

In the event Lessee fails to pay any such taxes, assessments, or charges as hereinbefore provided (if the same is not being contested in accordance with the provisions hereof) or Lessee otherwise fails to comply with the provisions of this Article IV, then and in that event Lessor may pay the same and add the amount paid, together with interest at the rate of twelve per cent (12%) per annum thereon, to the amount of the next monthly installment of Annual Net Rental to be paid by Lessee hereunder.

C. Peaceful Enjoyment - Lessor covenants and agrees with Lessee that as long as Lessee pays the rents reserved in this lease and otherwise complies with the obligations imposed upon Lessee by this lease, Lessee shall at all times during the term of the lease peacefully have, hold and enjoy the leased premises. Lessor further covenants and warrants that it is the owner in fee simple of the leased premises, that the premises are free and clear of all liens and encumbrances and that it has good right to lease the premises to Lessee.

D. Lessee shall have the right to construct one or more buildings in accordance with applicable laws, rules, regulations, and recorded covenants.

#### ARTICLE V - RIGHTS AND PRIVILEGES OF LESSOR

Lessor, in addition to any rights herein retained by it, reserves the following privileges to-wit:

A. Lessor's Airport Director is hereby designated as its official representative for the enforcement of all provisions in this lease with full power to represent Lessor with dealings with Lessee in connection with the rights herein leased.

B. All actions relating to policy determination, modification of this lease, subsequent permissive authorization under this lease, termination of

this contract, and any similar matters affecting the terms of this lease shall emanate from the Airport Commission and Lessor's Board of Supervisors, or their successors or assigns.

C. Lessor reserves the right to enter upon the premises leased by Lessee from Lessor, at any reasonable time for the purpose of making any inspection it may deem expedient to the proper enforcement of the covenants or conditions of this lease.

D. Lessor reserves the right to further develop or improve the landing and public areas of the adjacent Airport as it sees fit, regardless of the desires or views of Lessee, and without interference or hindrance.

E. Airport Protection Clause - The Lessor 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 real property herein described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing, taking off from, or operating from the Airport.

F. Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstructions, together with the right to prohibit Lessee from erecting, or permitting to be erected, any building or other structure on the Airport, which, in the opinion of the Lessor, would limit the usefulness of the Airport, or constitute a hazard to aircraft.

#### ARTICLE VI - OBLIGATIONS OF LESSEE

Throughout the term of this lease, Lessee shall be responsible for the performance of the following obligations:

A. Condition of Premises - Lessee accepts the demised premises in their present condition. Lessee agrees that there will be no outside storage of equipment, materials or supplies on the premises without proper approved screening, and will cause to be removed at Lessee's expense all trash and garbage, etc., and agrees not to deposit same on any part of the Air Park, except temporarily in connection with collection or removal. Lessee agrees to perform necessary grass mowing and snow removal from public sidewalks on the leased premises.

B. Maintenance - Lessee shall, at its sole cost and expense, maintain the leased premises in a presentable condition. Lessee shall repair all damages

to said premises caused by its employees, guests and patrons or its operation thereon.

Should Lessee fail to keep and maintain the leased premises and the improvements thereon in good order and repair, as is reasonably required, in order to preserve and protect the general appearance and value of Lessor's remaining premises in the immediate vicinity thereof, and if such maintenance and repair is not undertaken by Lessee within ten (10) days after receipt of written notice, Lessor shall have the right to enter on the demised premises and perform the necessary maintenance, the cost of which shall be borne by Lessee.

C. Additions and Alterations - Lessee shall have the right during the term of this lease to erect one or more buildings or structures, and to make alterations, attach fixtures and erect additions in or upon the premises hereby leased, provided any additions or alterations shall be erected only after advance written approval of plans by Lessor, which approval Lessor shall not unreasonably withhold. All improvements, additions, or fixtures (except trade fixtures) made to or placed upon said premises by Lessee shall be the property of the Lessee during the term of this lease, but shall become the property of Lessor at the termination of this lease.

D. Signs & Illumination - The Lessee shall secure advance written approval of the Lessor before placing exterior illumination or exterior signs on the leased premises.

E. Utilities - Lessee agrees to provide for its own connections with utilities, and to make separate arrangements with the agencies responsible for these utilities. Lessee shall pay for all utility service supplied to the said premises, and if required by the utility agencies as a condition of continuing said services, Lessee will install and pay for standard metering devices for the measurement of such services.

In the event it shall become necessary to make changes upon the premises or within the structures covered by this lease, such as any wiring, plumbing or similar installations, as a condition of the continuance of utility services and Lessee desires to continue such services, Lessee will promptly make such changes and installations, at its expense, as directed and required by the utility organizations.

F. Non-Discrimination - The Lessee, for itself, its successors and assigns, as a part of the consideration hereof, does hereby covenant and agree as a

covenant running with the land, that (1) no person on the grounds of race, color, sex, 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 land and the furnishing of services thereon, no person on the grounds of race, color, sex, 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.

G. Indemnification and Hold Harmless - Lessor shall stand indemnified by Lessee as herein provided. Lessee is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions, and Lessor shall in no way be responsible therefor. In the use of the leased premises, in the erection or construction of any improvements thereon, and in the exercise of enjoyment of the privileges herein granted, Lessee shall indemnify, save harmless and defend Lessor from any and all losses that may proximately result to Lessor because of any negligence on the part of Lessee, its agents, assigns or sublessees in their use of the leased premises, including without exclusion because of enumeration any and all damages by fire, theft, or any cause, to any property of Lessee which may at any time be situated within the limits of Dane County Regional Airport-Truax Air Park, except any damage and liability as may be caused by negligence on the part of said Lessor.

H. Insurance Requirements - Lessee shall, upon execution of this lease, provide Comprehensive General Liability Insurance for bodily injuries or death and property damage growing out of any one accident or from other cause, in a minimum sum of one million dollars (\$1,000,000). Insurance so provided shall be deemed Primary.

Lessee shall maintain said insurance with insurance underwriters authorized to do business in the State of Wisconsin satisfactory to Lessor. All policies shall name Lessor - Dane County, Lessor's Board of Supervisors, Airport Commission, Airport Director, Lessor's officers, agents and employees, as additional named-insured. Lessee shall furnish Lessor with a copy of said

Art. VI

insurance policy to certify that such insurance to be full force and effect during the entire term of this lease, or its renewal extensions.

Said policies shall contain a provision that written notice of cancellation or of any material change in said policy, by the insurer shall be delivered to Lessor ten (10) days in advance of the effective date thereof. Further, said policies shall contain a provision waiving any subrogation of the insurance company to recover damages against either Lessee or Lessor by reason of any sums paid by the insurance company under said insurance policies.

Fire and Extended Coverage Insurance - Lessee shall, at all times during the lease term keep or cause all improvements on the demised premises to be kept full insured, with companies authorized to do business in Wisconsin or other companies approved in writing by Lessor, against loss or damage by fire and other risks covered by fire insurance with standard extended coverage endorsements in an amount not less than the full insurable value of such improvements above foundation walls, with eighty per cent (80%) or more co-insurance being permitted. Insurance coverage herein provided shall be for the benefit of both Lessor and Lessee as their respective interests may appear. Lessee agrees to cause an inspection of the improvements to be made by the company or companies carrying the above insurance at least every five (5) years and to increase the insurance coverage, if necessary, so that the full insurable value of the improvements is at all times fully covered, subject to the co-insurance permitted above. Lessee shall furnish the Lessor with copies of the above inspection reports when received by it, and with certificates of insurance as policies are acquired by Lessee.

I. Assignment - Lessee shall not at any time assign this agreement, without prior written approval of Lessor and the Federal Aviation Administration, and such approval shall not unreasonably be withheld.

J. Subleasing - Lessee may sublease space in building, provided these sub-tenants are compatible with the intended use of the building and, further that all sub-lessees will be bound by the conditions of this document.

K. Taxes on Improvements and Real Estate Special Assessments - Terms of this lease are based upon the fact that all improvements excluding raw land shall be taxed as real estate, according to applicable State of Wisconsin Law. Lessee agrees to pay any and all general real estate taxes assessed against the described lease premises which taxes are assessed solely attributable to improvements to said property made by or on behalf of Lessee during the term of this lease. Lessee shall not be responsible for any real estate taxes assessed against the leased land either at the inception of this lease or at any time during the term hereof. Further, Lessor shall hold Lessee harmless from any such assessment or payment of tax. Lessee further agrees to pay all special assessments (street, sidewalk, etc.) levied upon the

*[Handwritten signature]*

property by the City of Madison, and the installments of which become due and payable during the term of this lease.

L. Indemnification of Lessor Against Charges on Leased Premises -

Lessee will at all times indemnify, hold harmless, and defend Lessor and the demised premises and the improvements thereon from any and all of the aforesaid taxes, assessments and charges, and from any and all liens and penalties in connection therewith, and also from any and all claims for damages in any way hereafter chargeable to, or payable for, or in respect of the demised premises, or the use and occupancy thereof, during the term of this lease, and will, upon written request of Lessor, furnish to Lessor for inspection and such use as may be proper in protecting the estate of Lessor in the demised premises the duly certified written evidence of any and all such payments.

M. Compliance by Lessee - Lessee agrees reasonably, promptly and effectively to comply with all applicable and lawful statutes, rules, orders, ordinances, requirements and regulations of the County of Dane, the State of Wisconsin, the Federal Government and any other governmental authority having jurisdiction over the demised premises, including the recorded Declarations and Covenants on said premises. Lessee may, if in good faith and on reasonable grounds, dispute the validity of any charge, complaint, or action taken pursuant to or under color of any statute, rule, order, ordinance, requirement, or regulation, defend against the same, and in good faith diligently conduct any necessary proceedings to prevent and avoid any adverse consequence of the same. Lessee agrees that any such contest shall be prosecuted to a final conclusion as speedily as possible and that it will hold Lessor harmless with respect to any actions taken by any lawful governmental authority with respect thereto.

N. Title to Improvements and Liens Thereon - Title to all improvements erected by Lessee on the demised premises shall be in and remain in Lessee for and during the entire initial term and any renewal or extension term, but at the expiration or other termination thereof, such improvements shall revert to Lessor free and clear of all liens and in reasonable repair, except for normal wear and tear, but subject to Lessor approved subleases entered into by Lessee. Lessee further agrees that any maintenance and repair work, alterations, replacements, and additions in connection with the improvements shall be of good workmanship and quality. Lessee covenants and agrees promptly to pay all sums legally due and payable on account of any labor performed on, or material furnished for the demised premises. Lessee further agrees not to permit any mechanics' or materialmen's liens to stand against

the demised premises on account of labor performed or material furnished, subject to the right of Lessee to contest such liens as provided in Article IV, Subparagraph B above, and to save Lessor harmless from any and all such asserted claims or liens.

O. Mortgages and Subordination -

1. Mortgage Loans Obtained by Lessee - Lessee at its option shall have the right at any time and from time to time during the initial or any renewal term of the lease, at its own expense, to negotiate and obtain a loan or loans (and to extend, renew, refinance or replace any such loan and/or to negotiate and obtain a new loan or loans) which shall be secured by a mortgage on the demised premises or any part thereof and the improvements constructed or to be constructed thereon by Lessee or any part thereof. Any such mortgage loan or loans or extension, renewal, refinancing or replacement thereof (hereinafter referred to as a "Mortgage Loan" or "Mortgage"), (i) shall be made by, and may be in such principal amount and such terms as may be obtained from, a bona fide recognized institutional lender (hereinafter referred to as a "Mortgagee"), including without limitation a mortgage banker, bank, trust company, savings and loan or building association, insurance company, or pension or profit-sharing fund; (ii), shall be due and payable in full at least five (5) years prior to the expiration of the initial term or any exercised renewal term; (iii) shall impose no personal liability on Lessor (the sole recourse of the Mortgagee to be against Lessee and/or the demised premises and the improvements); and (iv) shall, in principal amount, never exceed ninety per cent (90%) <sup>value</sup> of (a) the total construction and other costs of the improvements constructed or to be constructed by the Lessee upon the demised premises, and (b) other development costs of the improvements including, without limitation, construction interest, insurance premiums during construction, bonds, and fees of architects, engineers and attorneys.

2. Proceeds of Mortgage - It is expressly understood and agreed that the proceeds of any Mortgage Loan shall be paid to and become the property of Lessee, but shall be used only for the development of the demised premises. Upon the written request of the Lessor, the Lessee will deliver to the Lessor a written statement specifying the name of the Mortgagee, summarizing the terms of the Mortgage Loan, and showing in reasonable detail the manner in which such proceeds of the Mortgage were disbursed, which statement shall be certified by the Lessee's chief financial officer.

3. Definition of Mortgage - For the purposes of this lease, the term "Mortgage" or Mortgage Loan" shall include a mortgage, deed of trust or other such classes of security instruments as are commonly given to secure loans or advances on, or the unpaid purchase price of, real estate and leasehold interests under the laws of the State of Wisconsin and/or the credit instruments, if any, secured thereby.

4. Expenses of Mortgage Loans Obtained by Lessee - Lessee agrees to pay all charges for securing and making any Mortgage Loan, including all brokerage, commission charges, fees for examination of title, attorney's fees for drawing papers in connection therewith, recording fees, title insurance, and such other costs and expenses as any Mortgagee may require to be paid.

5. Subordination by Lessor - Lessor agrees that its right, title and interest in the fee in the demised premises shall automatically and without further action be subordinated to the lien or the extension, renewal, continuation or replacement of the lien of any Mortgage; provided, that if any Mortgagee should so require, Lessor agrees to properly join in (and execute, acknowledge and deliver), in the manner required, any Mortgage (and/or all related agreements, instruments and documents), solely for the purpose of mortgaging the fee in the demised premises, at such time or times as Lessee places, extends, renews, refinances and/or replaces any such Mortgage Loan.

6. Mortgage of Lessee's Leasehold Interests - Notwithstanding any other provision of this lease, Lessee shall have the right, from time to time and at any time, to mortgage at its own expense all or any part of its interest in this lease (including Lessee's leasehold interest in improvements) without limit as to amount, and without any other restrictions or limitations. It is expressly agreed that Lessee's right to mortgage its leasehold estate (including its leasehold interest in improvements) created hereby shall be unlimited and unrestricted; provided that Lessor's interest in the demised premises shall not be in any way encumbered by Lessee's mortgage. Lessee agrees to make all payments of principal and interest under any such leasehold mortgage as and when such payments become due, and to comply with all covenants and agreements contained in such leasehold mortgage.

7. Notice to Mortgagees - Whenever Lessor gives Lessee a notice of default, it shall also give any mortgagees of Lessee known to Lessor the same notice. Any mortgagee shall have the same right to cure a default as does Lessee. Lessor shall recognize as a valid assignee of Lessee any mortgagee who acquires the interest of Lessee by foreclosure or by assignment or other

proceedings in lieu of foreclosure. Lessor shall cooperate with Lessee to comply with any reasonable requirements of a mortgagee.

P. Site Preparation -

Site preparation work shall be at the cost of Lessee.

Q. Use of the Premises to be Compatible with Airport Operation -

The Lessee expressly agrees for itself, its successors, and assigns to prevent any use of the herein described real property which would interfere with or be a hazard to the flight of aircraft over the property or to and from the Airport or interfere with air navigation and communication facilities presently or in the future serving the Airport.

R. Height Restriction - The Lessee expressly agrees for itself, its successors, and assigns to restrict the height of structures, objects of natural growth, and other obstructions on the hereinafter described real property to a height of not more than 940 above mean sea level.

ARTICLE VII - OBLIGATIONS OF LESSOR

Throughout the term of this lease, Lessor shall be responsible for the performance of the following obligations:

A. Lessor agrees to bring all utilities, including without limiting the generality of the foregoing, sanitary sewer, to the lot line of the above described parcel.

B. Lessor represents that the leased property is presently zoned for commercial purposes, including office and warehouse use with parking. Lessor further agrees to cooperate with Lessee in obtaining zoning changes necessary to Lessee's intended use, but at no cost to the Lessor.

C. Lessor agrees to provide a boundary survey of the parcel at no cost to the Lessee within two (2) years of the execution of this lease.

D. During the term of this lease, Lessor agrees to pay any and all real estate taxes on the above described land, exclusive of improvements.

E. Lessor agrees that all special assessments, including natural gas fees, on the land will have been paid at the time of execution of this document.

ARTICLE VIII - CANCELLATION BY LESSEE

Lessee may give notice of cancellation of this agreement any time that said Lessee is not in default in its payments to Lessor hereunder, by giving Lessor not less than sixty (60) days advance written notice, to be served as hereinafter provided, upon or after any one of the following events:

A. If the premises leased hereunder and/or the building on premises leased by Lessee is destroyed, damaged, or taken by fire or the elements, or other casualty, or by condemnation, and the destruction or taking is such that in the exercise of reasonable effort it cannot be repaired or replaced within one hundred twenty (120) days, or if it is such as to exceed fifty per cent (50%) of the value of such building. Lessee may cancel this lease by written notice mailed to the other party sixty (60) days or more before the effective date of cancellation and at any time within one hundred twenty (120) days after the damage or destruction. If such building hereunder leased is totally destroyed or taken, Lessee shall have one hundred twenty (120) days in which to give Lessor written notice of Lessee's intention to rebuild, or this lease shall automatically terminate.

In case of condemnation, Lessor shall be entitled to the portion of the award attributable to the bare land, and Lessee shall be entitled to the portion of the award attributable to any buildings and improvements constructed by Lessee.

If the premises are damaged by fire or other casualty and Lessee does not exercise its right of cancellation given in this paragraph, Lessee shall be entitled to receive all proceeds of the fire and extended coverage policies, and Lessor hereby assigns all such proceeds to Lessee.

If Lessee exercises its right of cancellation as a result of damage by fire or other casualty, Lessee shall be entitled to the proceeds of the fire and extended coverage policies and Lessor hereby assigns all of said proceeds to Lessee. Lessee shall, within one hundred eighty (180) days of cancellation remove building debris and foundation, fill foundation hole, and restore ground to original condition, ordinary wear and tear excepted at Lessee's cost. In addition Lessee agrees to pay four (4) months rent from date of cancellation as provided in Article VIII as Severance and Damages.

B. The default by Lessor in the performance of any covenant or agreement herein contained or required to be performed by Lessor, and the failure of Lessor to remedy such default for a period of sixty (60) days after receipt of written notice from Lessee to remedy the same; provided however, that no notice of cancellation, as above provided, shall be of no force or effect if Lessor shall have remedied the default prior to receipt of Lessee's notice of cancellation.

C. Lessee may at any time, at its expense, request a title insurance policy to be issued with respect to the leased premises. If such policy does not show good and merchantable title vested in Lessor, free and clear of all liens and encumbrances, Lessee may cancel this lease upon giving the notice to Lessor above provided.

ARTICLE IX - CANCELLATION BY LESSOR

Lessor may give notice of cancellation of this agreement by giving Lessee not less than sixty (60) days advance written notice upon violations of Article VI hereof upon or after any one of the following events:

- A. The filing by Lessee of a voluntary petition in bankruptcy.
- B. The institution of proceedings in bankruptcy against Lessee and the adjudication of Lessee as a bankrupt pursuant to such proceedings.
- C. The taking by a court of jurisdiction of Lessee and its assets pursuant to proceedings brought under the provisions of any Federal Reorganization Act.
- D. The appointment of a receiver of Lessee's assets; or any general assignment for the benefit of Lessee's creditors.
- E. The divestiture of Lessee's estate herein by other operation of law.
- F. The abandonment by Lessee of its demised premises, except in connection with its surrender to an approved assignee, sublessee, mortgagee, or other party succeeding to Lessee's interest hereunder.
- G. The default by Lessee in the performance of any covenant or agreement required herein to be performed by Lessee.

If Lessee does not cure the default described in the notice within sixty (60) days after receipt of such notice, this lease shall terminate. Lessee shall be deemed to be complying with a notice if promptly after receipt of the notice Lessee takes reasonable steps to remedy the default and proceeds with reasonable diligence, or if damages are adequate protection for Lessor and Lessee offers to pay Lessor all damages for the breach.

In any of the aforesaid events, Lessor may take immediate possession of the demised premises and remove Lessee's effects forcibly, if necessary, without being deemed guilty of trespassing. Upon such entry, this lease shall terminate.

Failure of Lessor to declare this lease terminated upon the default of Lessee for any of the reasons set out above shall not operate to bar or destroy the right of Lessor to cancel this lease by reason of any subsequent violation of the terms of this lease. Further, the acceptance of rental by

Lessor for any period after a default of any of the terms, covenants or conditions by Lessee shall not be deemed a waiver of any right on the part of Lessor to cancel this lease.

#### ARTICLE X - RIGHTS UPON TERMINATION

Upon termination of this agreement, Lessee's rights herein shall cease, and Lessee shall immediately surrender the same. Lessee shall be entitled to remove its furniture and equipment and all trade fixtures. Lessor shall be entitled to have the premises demised herein restored to reasonable condition, except for ordinary wear and tear.

Upon lease termination, any and all property not removed shall become a part of the land on which it is located, and title thereto shall thereupon vest in Lessor; however, Lessor reserves the right to require the removal of such improvements and property at Lessee's expense.

#### ARTICLE XI - MISREPRESENTATION AND INVALID PROVISIONS

All terms and conditions with respect to this lease are expressly contained herein and both parties agree that no representative or agent of Lessor or Lessee has made any representation or promise with respect to this lease not expressly contained herein.

In the event any covenant, condition, or provision herein contained is held to be invalid by any court of competent jurisdiction, such invalidity shall in no way affect any other covenant, condition or provision herein contained.

It is expressly understood that Lessor shall not be construed or held to be partner or associate of Lessee in the conduct of its business, it being expressly understood and agreed that the relationship between the parties hereto is and shall at all times remain that of Lessor and Lessee.

ARTICLE XII - NOTICES

All rentals due under this lease shall be made payable to the Dane County Treasurer, Madison, Wisconsin, and shall be remitted to the office of the Airport Director, 4000 International Lane, Madison, Wisconsin 53704.

Notices shall be sufficient if sent by certified mail, postage prepaid, addressed to:

Lessor:

Dane County Regional Airport  
Airport Director  
4000 International Lane  
Madison, Wisconsin 53704

Lessee:

CES Enterprises, a Wisconsin  
General Partnership  
601 Atlas Avenue  
Madison, Wisconsin 53714

or such other addresses as the parties may designate to each other in writing from time to time.

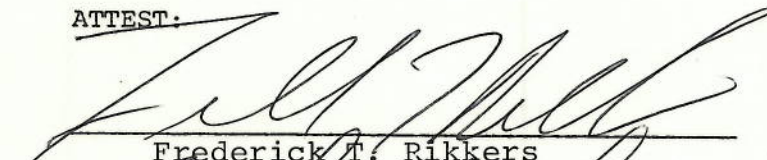
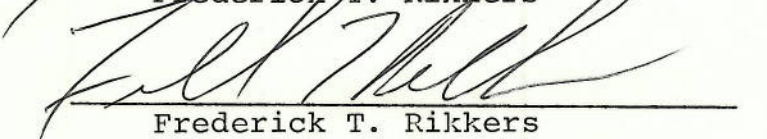
The authorized agent for the Dane County Regional Airport-Truax Field for the enforcement of all provisions in this lease shall be the Airport Director.

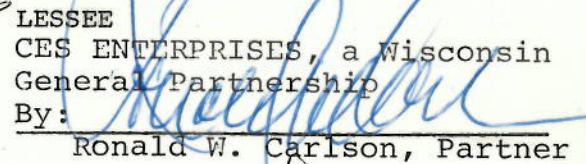
ARTICLE XIII - MEMORANDUM LEASE FOR RECORDING


Contemporaneously with the execution of this lease the parties are executing a Memorandum of Lease for recording.

IN WITNESS WHEREOF, The parties hereto have caused this agreement to be executed on this 12th day of July, 1984.

ATTEST:

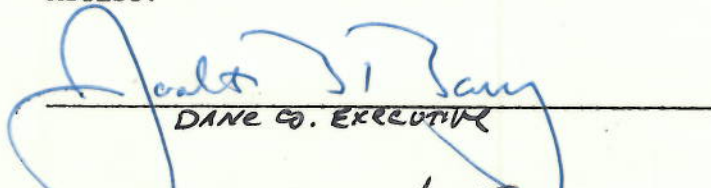

  
\_\_\_\_\_  
Frederick T. Ridders  
  
\_\_\_\_\_  
Frederick T. Ridders

LESSEE  
CES ENTERPRISES, a Wisconsin  
General Partnership  
By:   
\_\_\_\_\_  
Ronald W. Carlson, Partner



By:   
\_\_\_\_\_  
Jerry D. Shipman, Partner

Signed at Madison, Wisconsin, this 10th day of July,  
1984.

ATTEST:

  
\_\_\_\_\_  
DANE CO. EXECUTIVE  
ATTEST:   
\_\_\_\_\_

COUNTY OF DANE

  
\_\_\_\_\_  
DANE CO. CLERK  
ATTEST:   
\_\_\_\_\_

ATTACHMENT A TO LEASE DC-RA84-8

This Attachment A identifies the rents that may be charged by Lessor to Lessee for the leased portion and option portions of the subject real estate contingent upon said parcels being leased as stated below. Said contingencies are as follows:

1. From the date of execution of this lease until March 1, 1985, Lessee or its assignee shall have the option to lease Parcel C described herein, consisting of 86,944 square feet, at the rental rate of nine and one-half percent (9½%) of \$.90 per square foot per year.

In the event that Lessee or its assignee fails to exercise its option to lease said Parcel C on or before March 1, 1985, the rent for Parcel B, the original leased portion for which this lease is executed, shall be increased to nine and one-half percent (9½%) of \$1.00 per square foot per year effective as of March 1, 1985. Said increase for Parcel B shall be in addition to the rent modification potentially applicable as identified in Article III, Section B hereof, as the CPI Index modification.

2. In addition to Lessee or its assignee having the right to lease Parcel C as above described, Lessee or its assignee shall, from the date of execution of this lease until August 1, 1985, have the further right to lease the real estate described as Parcel A herein, consisting of 216,638 square feet. The rental rate to be paid by Lessee in the event that it exercises this option shall be in accordance with one of the following factors:

- a. In the event that Lessee or its assignee has previously exercised its option to lease Parcel C, the rental rate for Parcel A shall be nine and one-half percent (9½%) of \$.90 per square foot per year.
- b. In the event that Lessee or its assignee has not previously exercised its option to lease Parcel C, the rental rate for Parcel A shall be nine and one-half percent (9½%) of \$.95 per square foot per year.
- c. In the event that Lessee or its assignee fails to exercise its option to lease Parcel A on or before August 1, 1985, but has previously exercised its option to lease Parcel C herein, the rental rate for Parcel B shall be increased as of August 1, 1985, to nine and one-half percent (9½%) of \$1.00 per square foot per year, and the rent for Parcel C shall be increased as of August 1, 1985, to nine and one-half percent (9½%) of \$1.10 per square foot per year.



All rent modifications described in this paragraph 2 shall be in addition to other rent modifications potentially applicable as identified in Article III, Section B hereof, as the CPI Index modification.

3. To exercise the above options to lease, Lessee or its assignee shall give written notice to Lessor no less than thirty (30) days prior to March 1, 1985, and August 1, 1985, respectively, as hereinabove stated, and shall execute a new lease for the parcel for which it exercises said option, effective as of said date. Any costs incurred as a result of transferring the interest of Lessee to any assignee of Lessee shall be paid by Lessee.

4. In the event that Lessee or its assignee fails to exercise its options as described in this Attachment A by the prescribed dates, all rights and privileges of Lessee or its assignee over Parcels A and C shall cease, and Lessor may thereafter lease or sell said Parcels A and C to any other party without any interference by Lessee.

5. If Lessee or its assignee exercises some or all of its options to lease Parcels A or C, it shall do so in accordance with the terms and conditions of this lease, and Lessee and Lessor shall be bound by the terms and conditions of said lease.

6. Lessee further agrees to cooperate with Lessor in executing joint driveway easements and other similar documents as Lessor may require to complete a certified survey of Parcels A, B and C as described in this lease. Said certified survey is to be provided at the option of Lessor, and at Lessor's cost, in the event that the options on either Parcel A or Parcel C are not exercised by Lessee as described above.

  
\_\_\_\_\_  
Lessee  
  
\_\_\_\_\_  
Lessor

LEGAL DESCRIPTION OF PARCEL "A", LOT 3,  
CERTIFIED SURVEY 928

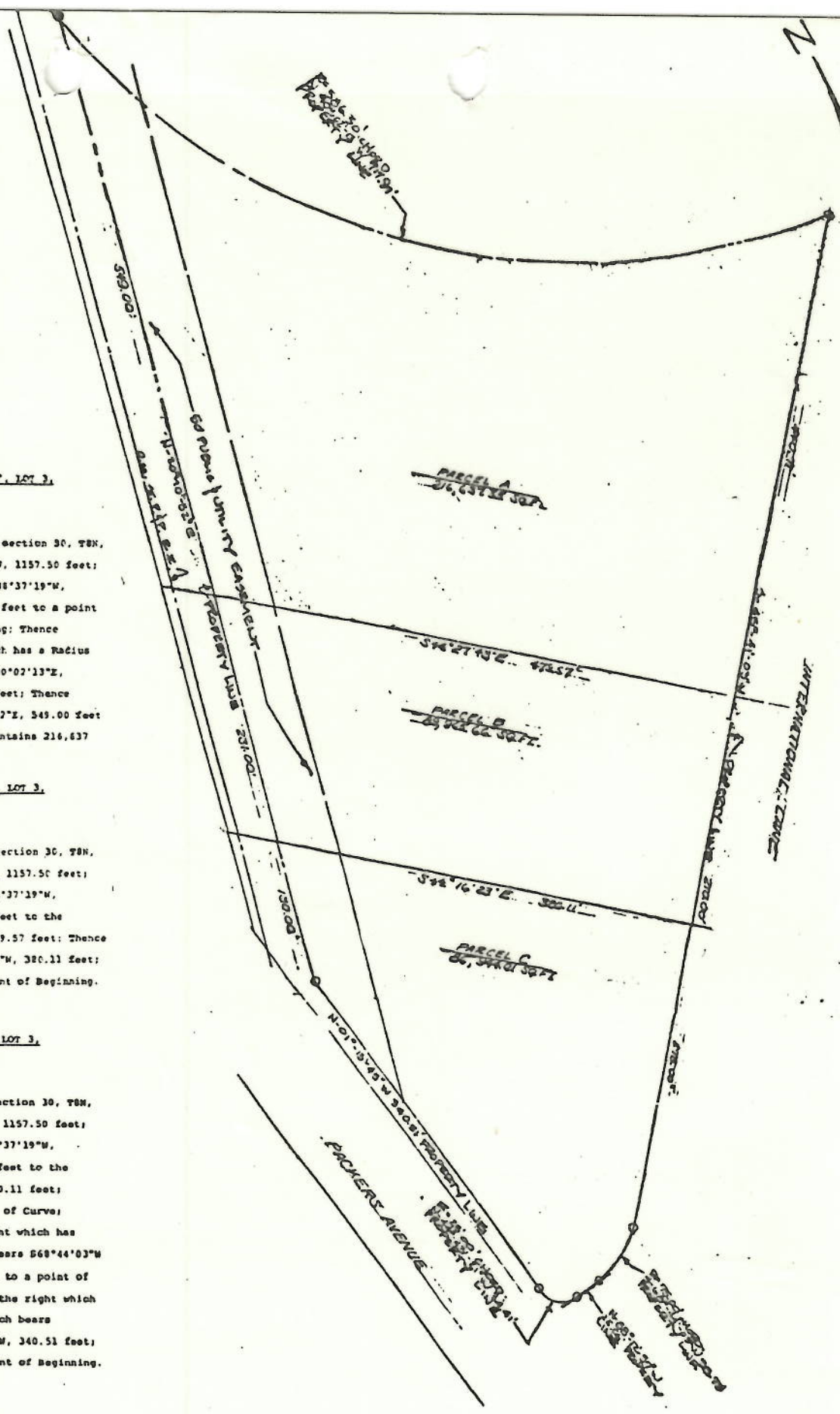
Commencing at the East Quarter Corner of section 30, T8N, R10E, City of Madison; Thence N88°37'19"W, 1157.50 feet; Thence S01°22'41"W, 33.00 feet; Thence N88°37'19"W, 361.84 feet; Thence S20°10'52"W, 1421.78 feet to a point on a curve, that is the Point of Beginning; Thence southeasterly on a curve to the left which has a Radius of 586.30 feet and a Chord which bears S40°02'13"E, 717.97 feet; Thence S45°41'03"W, 440.71 feet; Thence N44°27'43"W, 479.57 feet; Thence N70°10'52"E, 549.00 feet to the Point of Beginning. Parcel "A" contains 216,637 square feet.

LEGAL DESCRIPTION OF PARCEL "B", LOT 3,  
CERTIFIED SURVEY 928

Commencing at the East Quarter Corner of section 30, T8N, R10E, City of Madison; Thence N88°37'19"W, 1157.50 feet; Thence S01°22'41"W, 33.00 feet; Thence N88°37'19"W, 361.84 feet; Thence S20°10'52"W, 1976.78 feet to the Point of Beginning; Thence S44°27'43"E, 479.57 feet; Thence S45°41'03"W, 216.06 feet; Thence N44°16'23"W, 380.11 feet; Thence N70°10'52"E, 231.00 feet to the Point of Beginning. Parcel "B" contains 89,946 square feet.

LEGAL DESCRIPTION OF PARCEL "C", LOT 3,  
CERTIFIED SURVEY 928

Commencing at the East Quarter Corner of section 30, T8N, R10E, City of Madison; Thence N88°37'19"W, 1157.50 feet; Thence S01°22'41"W, 33.00 feet; Thence N88°37'19"W, 368.84 feet; Thence S20°10'52"W, 2,201.78 feet to the Point of Beginning; Thence S44°16'23"E, 380.11 feet; Thence S45°41'03"W, 278.00 feet to a point of Curve; Thence Southwesterly on a curve to the right which has a Radius of 75.00 feet and a Chord which bears S68°44'03"W 38.73 feet; Thence N88°12'57"W, 25.06 feet to a point of Curve; Thence Northwesterly on a curve to the right which has a Radius of 25.00 feet and a Chord which bears N44°43'21"W, 34.41 feet; Thence N01°13'45"W, 340.51 feet; Thence N20°10'52"E, 130.00 feet to the Point of Beginning. Parcel "C" contains 86,944 square feet.



LEGAL DESCRIPTION  
of CERTIFIED SURVEY #928  
LOT 3 PARCEL A, B & C  
SCALE: N.T.S.

RESOLUTION \_\_\_\_\_, 1988-89

**AUTHORIZING ASSIGNMENT OF LEASE FROM C.E.S. ENTERPRISES TO  
ELMWOOD PARTNERS LIMITED PARTNERSHIP**

Dane County has obtained a lease with C.E.S. Enterprises in the Truax Air Park West, Dane County Regional Airport, for a term of ninety-nine (99) years, commencing August 1, 1984. Provisions within the lease document allow for subletting and assignment contingent upon Dane County's approval.

C.E.S. Enterprises now wishes to assign its interests in the lease to Elmwood Partners Limited Partnership.

**NOW THEREFORE BE IT RESOLVED** that the lease assignment is approved.

**BE IT FURTHER RESOLVED** that the Dane County Clerk and the Dane County Executive are hereby authorized to execute this assignment on behalf of Dane County.

**BE IT FURTHER RESOLVED** that the County of Dane does hereby approve and consent to the assignment provided that the assignment incorporates all provisions of Lease No. DCRA 84-8 and the assignment is approved by the Corporation Counsel as to form.

**BE IT FINALLY RESOLVED** that the action of the County Executive and County Clerk in approving the assignment of lease on November 28, 1984 to Bank One (formerly Marine Bank) is hereby rescinded and repealed in its entirety and the County of Dane's consent to such prior assignment is hereby declared null and void, it appearing that no such assignment was ever executed between C.E.S. Enterprises and Bank One (formerly Marine Bank.)

**SUBMITTED BY THE AIRPORT COMMISSION**

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CJP:jl  
9/07/88  
FISCAL NOTE ATTACHED