

AVIGATION EASEMENT AGREEMENT

THIS AVIGATION EASEMENT AGREEMENT (this "Agreement") is made as of the _____ day of _____, 2000, by and between _____, a _____ ("Grantor"), the address of which is _____, and COUNTY OF DOUGLAS, a political subdivision of the State of Colorado ("Grantee"), the address of which is 100 Third Street, Castle Rock, Colorado, 80104.

RECITALS

A. Grantor owns certain real property in Douglas County, Colorado ("Grantor's Property"), legally described on **Exhibit A** and depicted on **Exhibit B** which exhibits are attached hereto and incorporated herein by this reference.

B. Portions of Grantor's Property lie within the Centennial Airport Review Area - Overlay District, which is a zoning and land use district within Douglas County, Colorado, created to reduce exposure to aircraft operations relating to Centennial Airport.

C. Such portions of Grantor's Property are subject to (i) Section 19 of the Douglas County Zoning Resolution dated December 10, 1997 (the "Airport Regulations"), a copy of which is attached hereto as **Exhibit C**, and (ii) 14 C.F.R. § 77 (the "Federal Regulations").

D. Pursuant to Section 1907 of the Airport Regulations, Grantor must grant to Grantee an avigation easement for the portions of Grantor's Property within the Runway Safety Zone and Fan Safety Zone (as each are defined in the Airport Regulations) prior to developing Grantor's Property, which easement must be noted on all final plats and site improvement plans pertaining to such portions of Grantor's Property.

E. Grantor is willing to grant Grantee an easement with respect to Grantor's Property in accordance with the terms and conditions of this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby covenant and agree as follows:

1. Approval of [Plat and/or Site Improvement Plan]. As of the date hereof, Grantee has approved, the final [Plat and/or Site Improvement Plan] pertaining to Grantor's Property.

2. Avigation Easement. Subject to the provisions of this Agreement, Grantor hereby grants to Grantee a non-exclusive, easement and right of way, appurtenant to the property on which Centennial Airport is located (the "Airport Property"), for the unobstructed passage of all aircraft, ("aircraft" being defined for the purposes of this

Agreement as any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air) in the air space above Grantor's Property to an infinite height (the "Avigation Easement").

3. Scope of Easement. The Avigation Easement shall be limited as follows:

(a) Land Surfaces. The Avigation Easement shall apply only to those portions of Grantor's Property within the Runway Safety Zone and the Fan Safety Zone, which portions are depicted on Exhibit B, are legally described in Exhibit D and Exhibit E, respectively, which are attached hereto and incorporated herein by this reference, and are collectively referred to herein as the "Land Surfaces."

(b) Height Zone. The Avigation Easement shall apply only to those portions of the airspace above the Land Surfaces which are above the "imaginary surfaces" defined in the Federal Regulations (the "Airspace"), as the same may apply to Grantor's Property as of the date hereof. The Airspace shall not be invaded or used by Grantor, nor shall Grantor authorize the use of the Airspace by others, without Grantee's prior written approval; provided however that this restriction shall apply only to physical obstructions and not to telecommunication, electrical or similar waves or transmissions to and from areas below the Airspace. Grantor will not construct, install, erect, or grow upon the applicable portions of Grantor's Property any structure, building, tree, or other object which extends into the Airspace, without the prior written approval of Grantee, which approval shall not be unreasonably withheld. Grantee shall have a continuing right to keep clear from the Airspace buildings, structures, or improvements of any kind, trees, or other objects, including the right to remove or demolish any portions of such obstructions which extend into the Airspace which Grantee has not previously approved.

4. Assignment and Apportionment. This Agreement, including any interest in this Agreement, may be assigned by Grantor without the prior written consent of the Grantee. The Avigation Easement may be apportioned and/or transferred by Grantee to the Arapahoe County Public Airport Authority to be utilized concurrently by the Centennial Airport Authority and Grantee without approval or consideration to Grantor, provided that Grantee shall deliver to Grantor written notice prior to such apportionment or transfer, and further provided that by accepting such apportionment, the Arapahoe County Public Airport Authority thereby agrees to be bound to the provisions of this Agreement and to use the Avigation Easement pursuant to the terms hereof.

5. Waiver of Claims. Grantor hereby waives, remises and releases any right or cause of action it may now have or which it may have in the future against the County of Douglas, as the initial grantee under this Agreement, pertaining to or resulting from the passage of aircraft in the airspace above Grantor's Property. However, nothing stated in the foregoing waiver, grant and release shall release any other person, including, without limitation, any assignee, transferee, apportionee or successor of Grantee, from (i) any cause of action pertaining to or resulting from the operation of aircraft outside the scope of this Avigation Easement, or (ii) liability for damages to any person or property resulting from the unlawful or negligent operation of any aircraft above Grantor's Property.

6. Term. The term of this Agreement shall commence as of the date hereof and continue to and including the date upon which airport operations are no longer conducted at the Airport (a)Land Surfaces. The Avigation Easement shall apply only to those portions of Grantor's Property within the Runway Safety Zone and the Fan Safety Zone, which portions are depicted on Exhibit B, are legally described in Exhibit D and Exhibit E, respectively, which are attached hereto and incorporated herein by this reference, and are collectively referred to herein as the "Land Surfaces."

7. Severability. The enforceability, invalidity or illegality of any provision of this Agreement shall not render the other provisions of this Agreement unenforceable, invalid or illegal, but rather the unenforceable, invalid or illegal provisions of this Agreement shall be deemed severed from this Agreement and this Agreement shall continue in full force and effect to the greatest extent permitted by applicable law. Notwithstanding the foregoing, in the event of any such severance that would prevent either party hereto from enjoying the benefit of its bargain for which this Agreement was negotiated, the parties hereto shall revise or modify this Agreement so as to exclude any unenforceable, invalid, or illegal provision, yet allow each party to enjoy the benefit of their respective bargains.

8. Attorney's Fees. In the event of any litigation, controversy, claim or dispute between the parties hereto arising out of or relating to this Agreement, or the breach hereof, or the interpretation hereof, the prevailing party, whether by judgment or out of court settlement, shall be entitled to recover from the losing party, reasonable expenses, attorney's fees and costs incurred in connection therewith, for the enforcement of any judgment or award rendered therein.

9. Notices. All notices provided for herein shall be in writing and shall be personally delivered or mailed by registered or certified United States mail, postage prepaid, return receipt requested, to the parties at the addresses given below, or at such other addresses as may be specified by written notice:

If to Grantor: _____

With copies to: _____

If to Grantee: _____

With a copy to:

Any communications so mailed shall be deemed delivered three (3) business days after mailing or when personally delivered.

10. Headings. The captions and headings of any sections herein are not part of and in no manner or way define, limit, amplify, change or alter any term, covenant or condition of this Agreement. For purposes of this Agreement, the neuter gender includes the feminine or masculine, and singular number includes the plural and the word "person" includes corporations, partnership, firms, associations or other entities, as applicable, when the context so requires.

11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

12. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

13. Recordation. This agreement may be recorded in the real property records of the clerk and recorder of the County of Douglas, State of Colorado.

14. No Oral Amendments or Modifications. No amendments, waivers or modifications hereof shall be made or deemed to have been made unless in writing and executed by the party to be bound thereby.

15. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same agreement.

16. Supplemental. This Agreement supplements but does not supersede the Easement Agreement dated February 17, 1984, between Meridian 901 Corporation and The Arapahoe County Public Airport Authority, which is recorded in the real property records of Douglas County, Colorado, in Book 521 at page 699, which Easement Agreement shall remain in full force and effect according to its terms.

IN WITNESS WHEREOF, the undersigned have executed this Avigation Easement Agreement as of the day and year first above written.

GRANTOR:

By: _____

Its: _____

STATE OF COLORADO

)

) ss:

COUNTY OF _____

)

The foregoing instrument was acknowledged before me this __ day of _____, 2000, by _____ as _____ of _____, a _____.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

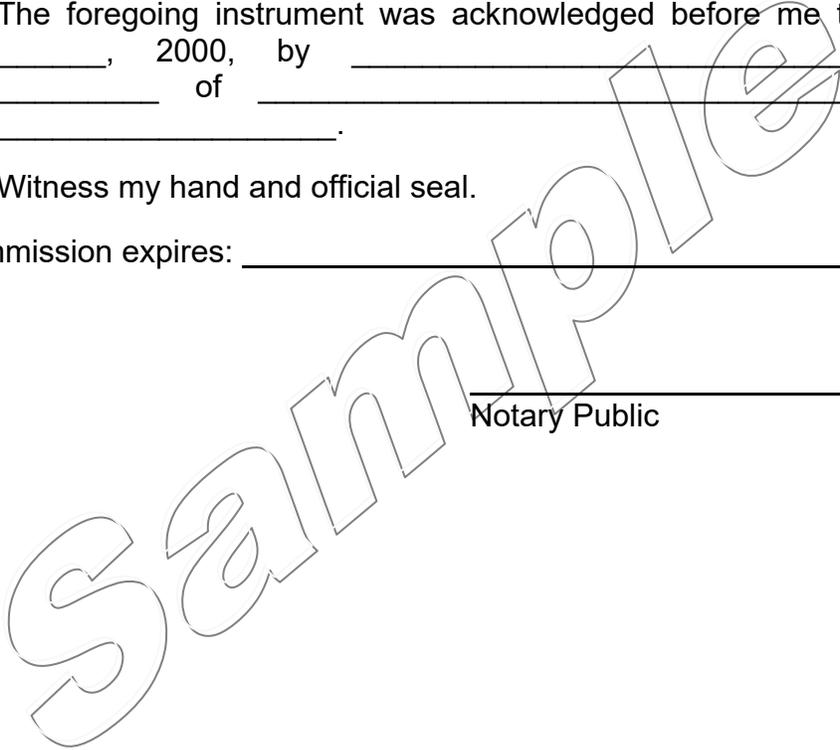


EXHIBIT A

Grantor's Property

EXHIBIT B

Map

EXHIBIT C

Airport Regulations

EXHIBIT D

Legal Description for Portion of Grantor's Property
within Runway Safety Zone

EXHIBIT E

Legal Description for Portion of Grantor's Property
within Fan Safety Zone

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