RESOLUTION 15D-23

RESOLUTION AUTHORIZING A DEVELOPMENT AGREEMENT ESTOPPEL AND AGREEMENT AND A GROUND LEASE ESTOPPEL AND AGREEMENT RELATED TO CIRRUS DESIGN CORPORATION

RESOLVED, by the Duluth Economic Development Authority ("DEDA"), that the proper DEDA officials are hereby authorized to execute a Development Agreement Estoppel and Agreement, substantially in the form of that attached hereto (Contract No. _____), related to Cirrus Design Corporation ("Cirrus").

BE IT FURTHER RESOLVED, that the proper DEDA officials are hereby authorized to execute a Ground Lease Estoppel and Agreement, substantially in the form of that attached hereto (DEDA Contract No. _____) with the Duluth Airport Authority related to Cirrus.

Approved by the Duluth Economic Development Authority this 24th day of June, 2015.

ATTEST:

APPROVED AS TO FORM

JMC

DEDA Attorney

APPROVED FOR PRESENTATION

CTE

Executive Director

_____

Executive Director

STATEMENT OF PURPOSE: In 1993, the Airport Authority, as lessor, entered into a ground lease with DEDA, as lessee, which through a series of transactions is now sublet by Cirrus. Additionally, in 2005, DEDA and Cirrus entered into a development agreement which provided, in part, that Cirrus would enter into one or more ground leases with the Airport Authority. This commitment was fulfilled when Cirrus entered into two additional separate ground leases with the Airport Authority.

Cirrus is establishing new financing for its Vision SF50 personal jet project with Nanyang Commercial Bank, Limited (the "Lender"). This financing is larger in scope than the 2014 loan to Cirrus from Republic Bank, and the 2014 Republic Bank loan will be satisfied by Cirrus in full before loan proceeds are provided from Nanyang Commercial Bank to Cirrus. In support of the financing, the Lender requires certain assurances from DEDA.

The Lender will have a first-in-priority security position in the ground leases. Under the estoppel agreements, DEDA provides the Lender assurance that there is no default under the development agreement or the ground leases and agrees to provide the Lender with notice of any future default. In the event of default by Cirrus, the Lender is given the right to cure. If the Lender becomes the lessee due to a foreclosure on Cirrus' leasehold interest, DEDA agrees it will not unreasonably withhold its consent to a transfer by Lender of the leasehold interest to a third party.

GROUND LEASE ESTOPPEL AND AGREEMENT

_____, 2015

Nanyang Commercial Bank, Limited
505 Montgomery Street, Suite 1200
San Francisco, California 94111
Telephone: (415) 398-8866

Re: Ground Leases described on Exhibit A hereto (individually or collectively, as the context may require, the "Ground Lease") affecting real property more particularly described therein (the "Property"), as encumbered by that certain "Combination Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Rents and Leases" (the "Mortgage") in favor of Nanyang Commercial Bank, Limited ("Lender").

Ladies and Gentlemen:

This Ground Lease Estoppel and Agreement is given as of the above date with the understanding that it will be relied upon in a material manner by Lender in making a loan to Cirrus Design Corporation, a Wisconsin corporation ("Lessee"). The undersigned, Duluth Airport Authority ("Lessor"), is the lessor under the Ground Lease for the Property. The undersigned, Duluth Economic Development Authority ("DEDA") is the sublessor of the Ground Lease No. 1 (as described in Exhibit A attached hereto). Lessor and DEDA, as applicable, hereby represent and agree as follows as of the date hereof:

1. The City of Duluth is the record and beneficial owner of an undivided fee simple interest in the Property, and Lessor is authorized by the statutes of the State of Minnesota to execute the Ground Lease with regard to the Property and otherwise encumber and manage the Property. Lessor has not assigned, conveyed, transferred, sold, encumbered, pledged, or mortgaged its interest in the Ground Lease or the Property, and there are no mortgages, deeds of trust or other security interests encumbering Lessor's fee interest in the Property.

2. DEDA is the record and beneficial owner of an undivided leasehold interest in a portion of the Property pursuant to Ground Lease No. 1. DEDA subleased and assigned its interests under Ground Lease No. 1 to Industrial Resource Corporation, a Minnesota corporation ("IRC"). Pursuant to a series of transactions set forth in Exhibit A, the current lessee under Ground Lease

No. 1 is Lessee which pursuant to the Sublease described in Exhibit A has assumed all obligations and has been assigned and subleased all rights under Ground Lease No. 1. DEDA has not otherwise assigned, conveyed, transferred, sold, encumbered, pledged, or mortgaged its interest in the Sublease or the Property.

3. The term of Ground Lease No. 1 and the Sublease commenced on August 12, 1993, and expires on December 31, 2018. The term of Ground Lease No. 2 (as identified on Exhibit A) commenced on September 12, 2005, and expires on September 30, 2030. The term of Ground Lease No. 3 (as identified on Exhibit A) commenced on September 23, 2005, and expires on September 23, 2030. Lessee has the right and option to extend the term of each Ground Lease and the Sublease for two (2) periods of 25 years each.

4. Currently, no rental payments or any other charges (including, without limitation, as applicable, taxes, maintenance, operating expenses or otherwise) are delinquent under the Ground Lease or the Sublease.

5. The Ground Lease and Sublease are in full force and effect and have not been modified, supplemented or amended in any way whatsoever, except as described on Exhibit A. Lessor agrees that a termination of the Ground Lease by Lessee or a surrender of the Property by Lessee shall not be accepted by Lessor, without the prior written consent of Lender. DEDA agrees that a termination of the Sublease by Lessee or a surrender of the Property by Lessee shall not be accepted by DEDA, without the prior written consent of Lender.

6. Lessor hereby confirms that in the event that the Ground Lease or any portion thereof (including the Sublease) is terminated or cancelled prior to its expiration for any reason including, without limitation, as a result of a rejection of the Ground Lease in a bankruptcy proceeding, upon Lender's request, Lessor shall enter into a new ground lease with Lender or its affiliate, and such new ground lease shall be upon the same terms and conditions of the unexpired term of the Ground Lease immediately prior to such termination or cancellation; provided Lender then agrees to cure any defaults existing under the Ground Lease at the time of termination or cancellation. To the extent necessary to effect the foregoing, DEDA agrees to reasonably cooperate with respect to the termination or assignment of the Sublease.

7. Lessor has not delivered or received any notice of any default under the Ground Lease; there is no default by Lessor or, to the best of Lessor's knowledge, by Lessee under the Ground Lease or the Sublease, nor has any event or omission occurred which, with the giving of notice or the passage of time, or both, would constitute a default thereunder. Lessor acknowledges the execution of the Mortgage and agrees that such execution does not constitute a default under the Ground Lease.

8. DEDA has not delivered or received any notice of any default under the Sublease; there is no default by DEDA or, to the best of DEDA's knowledge, by Lessee under the Sublease, nor has any event or omission occurred which, with the giving of notice or the passage of time, or both, would constitute a default thereunder. DEDA acknowledges the execution of the Mortgage and agrees that such execution does not constitute a default under the Sublease.

9. Lessor agrees to provide written notice to Lender of any default under the Ground Lease, regardless of whether Lessee is entitled to notice of any such default. Lender shall have the right, but not the obligation, to cure any default under the Ground Lease or the Sublease. Prior to the exercise of any remedies under the Ground Lease, Lessor agrees that it will allow Lender to cure any default under the Ground Lease so long as such cure occurs before the later of (a) the expiration of any cure period afforded to Lessee under the Ground Lease with respect to such default or (b) thirty (30) days following Lender's receipt of written notice from Lessor identifying such default. Lessor shall extend the foregoing time period for the cure of any non-monetary default to the extent reasonably necessary for Lender to gain access to the Property, provided Lender diligently pursues remedies necessary and available under its loan documents to facilitate such access. Lessor and DEDA, as applicable, agree that they will accept curative actions undertaken by Lender in satisfaction of the obligations under the Ground Lease and Sublease as though such actions were performed by Lessee.

10. Lessor and DEDA agree that, in the event Lender or an affiliate of Lender becomes the lessee or the owner of the leasehold estate under the Ground Lease or the Sublease by foreclosure, deed in lieu of foreclosure, or otherwise, Lessor and DEDA shall not unreasonably withhold their consent to any future transfer of such leasehold interest to a third party.

11. Lessor and DEDA acknowledge and agree that Lender has or will be given a first-in-priority security position in and to the Ground Lease, and Lessor and DEDA shall recognize Lender, or its assignee as allowed under the preceding paragraph, as being able to exercise all rights of Lessee under the Ground Lease following any foreclosure or deed in lieu thereof with respect to Lender's security interest. In addition, Lessor and DEDA acknowledge that Lessee has granted Lender a binding and irrevocable power of attorney to extend the term of the Ground Lease on behalf of Lessee pursuant to terms of the Ground Lease, and Lessor and DEDA agree that they will each recognize any such extension as the valid and binding act of Lessee.

12. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of the same in person to the intended addressee, or by depositing the same with a reputable private courier service for next business day delivery, or by depositing the same in the United States mail, postage prepaid, registered or certified mail, return receipt requested, in any event addressed to the intended addressee at its address set forth below:

Lessor:
Duluth Airport Authority
4701 Airport Drive
Duluth International Airport
Duluth, Minnesota 55811

DEDA:
Duluth Economic Development Authority
Room 402, City Hall
Duluth, Minnesota 55802

Tenant:
Cirrus Design Corporation
4515 Taylor Circle
Duluth, Minnesota 55811

Lender:
Nanyang Commercial Bank, Limited
505 Montgomery Street, Suite 1200
San Francisco, California 94111
Telephone: (415) 398-8866_

All notices, demands and requests shall be effective upon such personal delivery, or one (1) business day after being deposited with the private courier service, or two (2) business days after being deposited in the United States mail as required above. By giving to the other party hereto. at least fifteen (15) days' prior written notice thereof in accordance with the provisions hereof, the parties hereto shall have the right from time to time to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

13. This instrument may be executed in counterparts, each of which shall constitute an original, although not fully executed, but all of which when taken together shall constitute one instrument.

14. Delivery of an executed counterpart of this instrument by telecopier or facsimile shall be as effective as delivery of an original executed counterpart hereof.

15. This instrument shall be binding upon the successors and assigns of Lessor, DEDA, or any of them. This instrument shall inure to the benefit of the successors and assigns of Lender.

[EXECUTION ON FOLLOWING PAGE]

DULUTH AIRPORT AUTHORITY

By _____
Name: Michael G. Lundstrom
Its: President

By: _____
Name: Patrick K. Mullen
Its: Secretary

STATE OF MINNESOTA)
) ss
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me on _____, 2015, by Michael G. Lundstrom and Patrick K. Mullen, the President and Secretary respectively of the Duluth Airport Authority, on behalf of the authority.

(NOTARIAL SEAL)

_____
Print Name: _____
NOTARY PUBLIC
My Commission Expires: _____

[EXECUTION CONTINUES ON FOLLOWING PAGE]

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

By _____
Name: Nancy Norr
Its: President

By: _____
Name: Emily Larson
Its: Secretary

STATE OF MINNESOTA)
) ss
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me on _____, 2015, by Nancy Norr and Emily Larson, the President and Secretary respectively of the Duluth Economic Development Authority, on behalf of the authority.

(NOTARIAL SEAL)

_____
Print Name: _____
NOTARY PUBLIC
My Commission Expires: _____

Prepared by and upon
recordation return to:

Curtis Landherr
Senior Vice President and General Counsel
Cirrus Design Corporation
4515 Taylor Circle
Duluth, Minnesota 55811

[END OF EXECUTION]

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EXHIBIT A

Description of Ground Lease

Ground Lease No. 1

That certain Airport Ground Lease and Agreement, dated August 12, 1993, recorded on August 12, 1993 as Doc. No. 568874, St. Louis County Records, as between Duluth Airport Authority ("DAA"), as lessor, and Duluth Economic Development Authority ("DEDA"), as lessee, as modified, assigned or subleased by (a) that certain Acknowledgment of Exercise of Option and Inclusion of Real Property, dated August 11, 1997, recorded on September 16, 1997 as Doc. No. 633975, (b) that certain Lease, dated August 5, 1993 (the "Sublease"), recorded on August 12, 1993 as Doc. No. 568875, between DEDA, as lessor, and Industrial Resource Corporation ("IRC"), as lessee, (c) that certain Assignment and Assumption Agreement dated August 12, 1997, and recorded on September 16, 1997 as Doc. No. 633976, pursuant to which IRC assigned Ground Lease 1 to Aileron, LLC ("Aileron")(d) that certain Assignment of Right and Ground Lease and Consents, dated February 5, 2002, recorded on February 23, 2002 as Doc. No. 718310, (e) that certain Quit Claim Deed between IRC as grantor and Aileron as grantee dated August 13, 1997, recorded September 16, 1997 as Doc. No. 633977, and (f) that certain Assignment of Ground Leases and Consents pursuant to which Aileron reassigned to CDC all of its interests in Ground Lease No. 1 by document dated March 5, 2015, recorded on April 9, 2015 as Doc. No. 956045.

Ground Lease No. 2

That certain Airport Ground Lease – West Production Expansion, dated September 12, 2005, and recorded on December 8, 2005 as Doc. No. 809941 between DAA, as lessor, and Cirrus Design Corporation, a Wisconsin corporation ("CDC"), as lessee, as assigned to and assumed by Aileron by document dated February 5, 2006 and recorded in the St. Louis County Records as Document No. 813246 on February 14, 2006, and as later reassigned by Aileron back to CDC by document dated March 5, 2015, as Doc. No. 956045 on April 9, 2015.

Ground Lease No. 3

That certain Airport Ground Lease – Site 102, dated September 23, 2005, and recorded on December 8, 2005 as Doc. No. 809942 between DAA, as lessor, and CDC, as lessee, as assigned to and assumed by Aileron by document dated February 5, 2006 and recorded in the St. Louis County Records as Doc. No. 813246 on February 14, 2006, and as later reassigned by Aileron back to CDC by document dated March 5, 2015 and recorded in St. Louis County Records as Doc. No. 956045 on April 9, 2015.

DEVELOPMENT AGREEMENT ESTOPPEL AND AGREEMENT

_____, 2015

Nanyang Commercial Bank, Limited
505 Montgomery Street, Suite 1200
San Francisco, California 94111
Telephone: (415) 398-8866

Re: Development Agreement by and between Cirrus Design Corporation ("CDC") and Duluth Economic Development Authority ("DEDA") dated September 12, 2005, filed December 8, 2005 as Document No. 809940, as amended (the "Development Agreement") with respect to real property described therein (the "Property"), as encumbered by that certain "Combination Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Rents and Leases" (the "Mortgage"), in favor of Nanyang Commercial Bank, Limited ("Lender").

Ladies and Gentlemen:

This Development Agreement Estoppel and Agreement (this "Instrument") is given as of the above date with the understanding that it will be relied upon in a material manner by Lender in making a loan to CDC. With such understanding, DEDA hereby represents and agrees as follows, as of the date hereof:

1. DEDA is party to the Development Agreement and has not assigned its rights or obligations thereunder to any other party.

2. The Development Agreement is in full force and effect and has not been modified, supplemented or amended in any way whatsoever. DEDA shall not accept any termination or cancellation thereof by CDC, without the prior written consent of Lender.

3. DEDA has not delivered or received any notice of any default under the Development Agreement; there is no default by DEDA or, to the best of DEDA's knowledge, by CDC under the Development Agreement, nor has any event or omission occurred which, with the giving of notice or the passage of time, or both, would constitute a default thereunder. Currently, no payments or any other charges are owed or delinquent under the Development Agreement.

4. DEDA acknowledges the execution of the Mortgage and agrees that such execution does not constitute a default under the Development Agreement. DEDA further acknowledges that pursuant to Assignment of Rights and Ground Lease and Consent dated February 9, 2006 filed February 14, 2006 as Document No. 813246 and with the consent of DEDA and the Duluth Airport Authority ("DAA"), CDC assigned its interest to Aileron, LLC ("Aileron") under (a) that certain Airport Ground Lease - West Production Expansion, dated September 12, 2005, and recorded as Doc. No. 809941 in the St. Louis County Records, between DAA, as lessor, and CDC, as lessee ("Ground Lease 2"), and (b) that certain Airport Ground Lease — Site 102; dated September 23, 2005, and recorded as Doc. No. 809942 between DAA, as lessor, and CDC, as lessee ("Ground Lease 3"). Notwithstanding the foregoing assignments, CDC remained obligated to DEDA in all respects under Ground Lease 2 and Ground Lease 3. DEDA further acknowledges that pursuant to Assignment of Ground Leases and consents dated March 5, 2015, and filed April 9, 2015, as Document No. 956045, and with the consent of DEDA and DAA, Aileron assigned its interest in Ground Lease 1, Ground Lease 2 and Ground Lease 3 to CDC and CDC accepted and assumed such assignments.

5. DEDA agrees to provide written notice to Lender of any default under the Development Agreement, regardless of whether CDC is entitled to notice of any such default. Lender shall have the right but not the obligation, to cure any default under the Development Agreement. Prior to the exercise of any remedies under the Development Agreement, DEDA agrees that it will allow Lender to cure any default under the Development Agreement so long as such cure occurs before the later of (a) the expiration of any cure period afforded to CDC under the Development Agreement with respect to such default or (b) thirty (30) days following Lender's receipt of written notice from DEDA identifying such default. DEDA shall extend the foregoing time period for the cure of any non-monetary default to the extent reasonably necessary for Lender to gain access to the Property, provided Lender diligently pursues remedies necessary and available under its loan documents to facilitate such access. DEDA agrees that it will accept curative actions undertaken by Lender in satisfaction of the obligations under the Development Agreement as though such actions were performed by CDC.

6. DEDA agrees that, in the event Lender or an affiliate of Lender becomes the lessee or the owner of the leasehold estate in the Property by foreclosure, deed in lieu of foreclosure, or otherwise, DEDA shall not unreasonably withhold its consent to any future transfer of such leasehold interest to a third party.

7. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of the same in .person to the intended addressee, or by depositing the same with a reputable private courier service for next business day delivery, or by depositing the same in the United States mail, postage prepaid, registered or certified mail, return receipt requested, in any event addressed to the intended addressee at its address set forth below:

DEDA:
Duluth Economic Development Authority
Room 402, City Hall
Duluth, Minnesota 55802

Borrower:
Cirrus Design Corporation
4515 Taylor Circle
Duluth, Minnesota 55811

Lender:

Nanyang Commercial Bank, Limited
505 Montgomery Street, Suite 1200
San Francisco, California 94111
Telephone: (415) 398-8866_

All notices, demands and requests shall be effective upon such personal delivery, or one (1) business day after being deposited with the private courier service, or two (2) business days after being deposited in the United States mail as required above. By giving to the other party hereto at least fifteen (15) days' prior written notice thereof in accordance with the provisions hereof, the parties hereto shall have the right from time to time to change their respective addresses and each shall have the right to specify as its address any other address within the. United States of America.

8. This Instrument shall be binding upon the successors and assigns of DEDA. This Instrument shall inure to the benefit of the successors and assigns of Lender.

[EXECUTION ON FOLLOWING PAGE]

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

By _____
Name: Nancy Norr
Its: President

By: _____
Name: Emily Larson
Its: Secretary

STATE OF MINNESOTA)
) ss
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me on _____, 2015, by Nancy Norr and Emily Larson, the President and Secretary respectively of the Duluth Economic Development Authority, on behalf of the authority.

(NOTARIAL SEAL)

_____
Print Name: _____
NOTARY PUBLIC
My Commission Expires: _____

Prepared by and upon
recordation return to:

Curtis Landherr
Senior Vice President and General Counsel
Cirrus Design Corporation
4515 Taylor Circle
Duluth, Minnesota 55811

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