

Exhibit 2

AIRPORT-AIRLINE USE AND LEASE AGREEMENT

by and between

City of Philadelphia, Pennsylvania

AND

insert name of airline

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EXHIBITS

Exhibit

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Exhibit B – Airline’s Leased Premises

Exhibit C – Airline Space

Exhibit D – Airport Cost Centers; Airport Layout Plan; Northeast
Philadelphia Airport

Exhibit E – Pre-Approved Capital Improvement Program

Exhibit F – City Maintenance of Terminal Area and Ramp Area

Exhibit G – Rates and Charges Schedule

Exhibit H – Sample Form of Monthly Activity Reports

CITY OF PHILADELPHIA, PENNSYLVANIA
 PHILADELPHIA INTERNATIONAL AIRPORT
 AIRPORT- AIRLINE USE AND LEASE AGREEMENT

THIS AIRPORT-AIRLINE USE AND LEASE Agreement, (hereinafter referred to as "Agreement") made and entered into on the dates designated on the signature pages hereof, effective however on the 1st day of July, 2007, by and between City of Philadelphia (hereinafter referred to as "City") a municipal corporation of the Commonwealth of Pennsylvania and City of the First Class, acting by and through its Department of Commerce, Division of Aviation, which operates the Philadelphia International Airport (hereinafter referred to as "Airport)" and _____ (hereinafter referred to as "Airline"), a corporation organized and existing under and by virtue of the laws of the State of _____, and registered to do business in the Commonwealth of Pennsylvania, appearing herein through its duly authorized representative as evidenced by the certification of the corporate secretary of Airline delivered contemporaneously with the execution and delivery of this Agreement by Airline;

PREMISES:

WHEREAS, City is the owner and operator of the Airport, located in City of Philadelphia and Delaware County, Commonwealth of Pennsylvania; and

WHEREAS, City manages and operates the Airport for the promotion, accommodation and development of air commerce and air transportation between the Philadelphia area and other cities of the United States and cities of other nations of the world; and

WHEREAS, Airline is engaged in the business of commercial air transportation of persons, property, cargo, and/or mail and is authorized by the United States of America government to engage in such commercial air transportation business; and

WHEREAS, Airline desires to obtain certain rights, services and privileges in connection with the use of the Airport and its facilities, and City is willing to grant and lease the same to Airline upon the terms and conditions hereinafter set forth; and

WHEREAS, Airline has met City's minimum qualifications for entering into this Agreement, which include (a) having Scheduled Service at the Airport, (b) not having any undisputed past due debts (including pre-petition and post-petition debts if Airline is in bankruptcy) under any lease or contract with City when this Agreement is executed by City, (c) not being currently in default under any lease or contract with City when this Agreement is executed by City, and (d) obtaining

bankruptcy court approval to execute this Agreement by filing a motion in a form approved by City if Airline is in bankruptcy before this Agreement is executed by City, if necessary.

WHEREAS, to the extent that any Use and Lease Agreement is in effect at the time of the enactment of the Seventh Supplemental Ordinance to the Amended and Restated General Airport Revenue Bond Ordinance (Seventh Supplemental Ordinance), which shall be substantially in the same form as attached as Exhibit A, and the determinations required therein, Airline hereby consents to the use of the definitions of "Project Revenues" and "Operating Expenses", both as defined and described in the Seventh Supplemental Ordinance.

NOW THEREFORE, for and in consideration of the mutual covenants and Agreements contained herein, City does hereby demise and let unto Airline, and Airline does hereby lease from City certain areas of the Airport and agrees to pay certain rates and charges, in accordance with the terms and conditions agreed to herein and City through and on behalf of City does hereby grant unto Airline, its employees, passengers, guests, patrons and invitees (in common with other duly authorized users) the right to use the Airport together with the appurtenances, facilities, improvements, equipment and services which have been or may hereafter be provided for common use at or in connection with City through and on behalf of City in accordance with the terms and conditions mutually agreed to herein.

Article 1 RECITALS

The premises set forth above are hereby made a part of this Agreement.

Article 2 DEFINITIONS

Any terms not specifically defined in this Agreement as follows shall have the meaning as set forth in the Bond Ordinance if related thereto:

"Active Loading" shall mean that period of time that commences (i) 30 minutes prior to the scheduled departure time, for an aircraft with less than 100 seats, (ii) 60 minutes prior to the scheduled departure time, for an aircraft with a number of seats between 100 and 200 or (iii) 90 minutes prior to the scheduled departure time, for an aircraft with more than 200 seats and that expires 15 minutes after the scheduled departure time of the aircraft.

“Active Unloading” shall mean that period of time that commences 15 minutes prior to the scheduled arrival time of an aircraft and expires (i) 30 minutes after the scheduled arrival time, for an aircraft with less than 100 seats, (ii) 60 minutes after the scheduled arrival time, for an aircraft with a number of seats between 100 and 200, or (iii) 90 minutes after the scheduled arrival time, for an aircraft with more than 200 seats.

“Activity Report” or “Supplemental Activity Report” shall mean those reports required to be submitted by Airline to City within ten (10) days following the end of each calendar month in a form acceptable to City setting forth aircraft and passenger activity and other statistical information reasonably required by City related to Airline’s operations at the Airport in the form of Exhibit H attached hereto, as may be modified from time to time by the City, without amendment to this Agreement.

“Additional Rents” shall mean Landing Fees, Ground Handling Fees, International Common Use Fees, FIS Area Fees, Domestic Common Use Terminal Area Rates and Fees and any other rental, concession or fee required to be paid together with an Activity Report for each calendar month during the term of this Agreement.

“Affiliate” shall mean any Air Transportation Company that is either a Subsidiary Airline or operates under essentially the same trade name as Airline at the Airport and uses essentially the same livery as Airline. Airline and any Affiliate shall be counted as one entity for the purposes of computing any Joint Use Area Formula, MII formulas and Minimum Use Requirement.

“Agreement” shall mean this Airline-Airport Use and Lease Agreement between Airline and City as it may be amended, supplemented or modified from time to time, pursuant to the terms of this Agreement and in accordance with City law.

“Air Transportation Business” shall mean the carriage by aircraft of persons, cargo or property as a common airline for compensation or hire, or the carriage of mail, by aircraft, in commerce as defined in the Federal Aviation Act of 1958, as amended.

“Air Transportation Company” shall mean an entity conducting an Air Transportation Business at the Airport.

“Aircraft Parking and Storage Areas” shall mean those portions of the Airfield Area, that are designated by the Director for the parking and storage of aircraft and aircraft support vehicles, and, if necessary, the loading and unloading of aircraft, which areas are subject to change from time to time.

“Airfield Area MII Formula” shall mean for those Capital Improvements that will only impact the Airfield Area Requirement, the MII requires no less than (i) 50% plus one of the number of Eligible Signatory Airlines, and (ii) more than 50% of the

Total Maximum Landed Weight. This measure will be calculated for the most recent Calendar Year for which data are available.

"Airfield Area Requirement" shall mean that amount calculated per Article 22.

"Airline" shall mean the individual Air Transportation Company that is a party to this Agreement.

"Airline Cost Centers" shall mean (i) the Airfield Cost Center, (ii) the Terminal Area Cost Center; (iii) the Ramp Area Cost Center, (iv) the Other Buildings and Areas Cost Center and (v) the Northeast Philadelphia Airport Cost Center.

"Airline Equipment" shall mean those moveable trade fixtures, furniture and equipment located on or affixed to Airline's Leased Premises, or elsewhere at the Airport, purchased and/or constructed at the sole cost and expense of Airline which are considered the personal property of Airline.

"Airline Improvements" shall mean those fixtures and construction related additions, modifications and improvements located on or affixed to Airline's Leased Premises, or elsewhere at the Airport, which have been purchased and/or constructed at the sole cost and expense of Airline.

"Airline's Exclusive Use Premises" shall mean that portion of Airline's Leased Premises which Airline has exclusive use of under this Agreement; including generally but not limited to, ticket counter back office areas, operations and training offices and private clubroom/lounges.

"Airline's Joint Use Premises" shall mean those portions of the Joint Use Terminal Area that are directly used by Airline on a shared or joint use basis with other Air Transportation Companies at the Airport.

"Airline's Leased Premises" shall mean the areas of the Airline Space, that are directly leased to Airline hereunder, together with Airline's Ramp Premises as set forth in Exhibit B attached to this Agreement, as such Exhibit B may be modified from time to time by the parties without amendment to this Agreement.

"Airline's Preferential Use Premises" shall mean that portion of Airline's Leased Premises which Airline has Preferential Use of under this Agreement; including ticket counter areas, holdroom space, associated Airline's Ramp Premises for aircraft parking, and associated boarding bridge(s), including all fixtures and equipment located thereon (that are not Airline Equipment)

"Airline's Ramp Premises" shall mean that portion of the Ramp Area from the face of the terminal building in the Terminal Area to the aircraft parking restriction line ("Aircraft Parking Restriction Line" or "APRL") as set forth in Exhibit B, and that is

leased specifically to Airline for its Preferential Use. Unless specifically stated otherwise, "Airline's Preferential Use Premises" shall be deemed to include "Airline's Ramp Premises".

"Airline Revenues" shall mean all Rents, Additional Rents, fees and other operating revenues paid by Signatory Airlines and their Affiliates that have executed an Operating License in the Airline Cost Centers under this Agreement.

"Airline Revenue Allocation" shall mean an amount determined by City in accordance with Article 16.

"Airline Space" shall mean the aggregate of the total square footage of all the Leased Premises Terminal Area plus the square footage attributable to the Joint Use Terminal Areas and the International Common Use Areas, as determined by City at the beginning of any given Fiscal Year during the term of this Agreement, as shown on Exhibit C, as same may be modified from time to time by the parties without formal amendment hereto.

"Airport" shall mean the Philadelphia International Airport, together with any modifications thereto.

"Airport Cost Centers" or "Cost Centers" shall mean collectively the following cost centers, as illustrated on Exhibit D and as the same may hereafter be amended from time to time. Such Airport Cost Centers shall be used for purposes of accounting for Airport Revenues and Airport Expenses and for calculating and adjusting certain rentals, fees and charges as specified in this Agreement:

1. "Airfield Area" or "Airfield Area Cost Center" shall include all existing and future City owned and operated airfield areas at the Airport, specifically:
 - (a) the areas of the Airport comprising hard surface and grass areas within the airfield perimeter fence, reserved for aircraft operations and aircraft-related activities, including but not limited to areas provided for aircraft landing, taking-off, taxiing, safety overruns and parking, as designated from time to time; and
 - (b) other appurtenances on the Airport related to the aeronautical use of the Airport, including but not limited to City-owned or controlled easement areas designated as approach and transition zones, obstacle-free areas, clear zones, avigation areas or other easements, including any property purchased for direct aviation operations purposes including noise mitigation purposes, as they now exist or may be developed, extended or improved from time to time. The Airfield Area

shall exclude any property owned or purchased for purposes other than direct aviation operations.

2. "Terminal Area" or "Terminal Area Cost Center" shall include the Airport passenger terminal buildings, including the areas available for use as baggage make-up, the sidewalk and curb adjacent to the landside of the terminal buildings, the boarding bridges and all pedestrian bridges connecting the terminal buildings with the landside vehicular parking garages, as such areas now exist or may be developed, extended or improved from time to time.
3. "Ramp Area" or "Ramp Area Cost Center" shall mean those outside airport operations areas of the Airport designated for the Terminal Area consisting of the aircraft parking positions, ramp space and canopy space (and including any other equipment located on the Ramp Area that are owned by City and provided for the use by Air Transportation Companies) that extend from the face of the Terminal Area to the outer limits of the vehicle service road to the South, bordering the fence line on the West, and to the taxilane object free area to the Northeast (as shown on Exhibit D), as may be subject to change from time to time.
4. "Other Buildings and Areas" or "Other Buildings and Areas Cost Center" shall include those Airport facilities including but not limited to: airline, general aviation and corporate hangars; cominissary; fueling facilities; industrial facilities, certain airline freight, express and mail handling facilities; the former hangars, renovated and improved by City in 1972 and the north and south international terminal aprons associated with the area formerly known as the Overseas Terminal; and certain non-airline facilities (including office, retail, warehouses, etc.) including any property purchased for indirect aviation purposes, such as concurrent commercial development as they now exist or may be developed, demolished, extended, expanded or improved from time to time.
5. "Northeast Philadelphia Airport" or "Northeast Philadelphia Airport Cost Center" shall include the airport facilities operated by the Division of Aviation located in the northeast portion of City as it now exists or may be developed, extended or improved from time to time.
6. "Outside Terminal Area" or "Outside Terminal Area Cost Center", shall include the roadway, hotel, service station, vehicular parking and car rental facilities appurtenant, adjacent to or used in connection with the Airport as they now exist or may be developed, extended, or improved from time to time.

7. "Airport Services" or "Airport Services Cost Center" shall include the Airport Expenses and Airport Revenues associated with the operation of the Airport System or any part thereof, which are not directly accounted for in the Airfield Area, Terminal Areas, Outside Terminal Area, Other Buildings and Areas, Northeast Philadelphia Airport, and Ramp Area Cost Centers.

"Airport Expenses" shall mean the Operating Expenses, Debt Service, and Fund Requirements associated with the operation of the Airport System or any part thereof for any Fiscal Year.

"Airport Revenues" shall mean Project Revenues as set forth in the Bond Ordinance.

"Airport System" shall mean the Philadelphia International Airport and the Northeast Philadelphia Airport.

"ALP" or "Airport Layout Plan" shall mean the currently FAA approved layout plan for the Airport depicting the physical characteristics of the Airport and identifying the location and configuration of current runways, taxiways, buildings, roadways, utilities, nav aids and other improvements, as shown on Exhibit D attached hereto and as may be subject to change from time to time. When appropriate, ALP shall also include the physical layout of the Northeast Philadelphia Airport, as may be subject to change from time to time.

"Annual Budget" shall mean the capital and operating budget and annual rates and charges report of the Airport System, prepared and adopted by City for each Fiscal Year during the term of this Agreement.

"Bonds" shall have the meaning as set forth in the Bond Ordinance.

"Bond Documents" shall mean those contracts, agreements, certificates, resolutions or other materials, ancillary to and including the Bond Ordinance, evidencing the issuance of Bonds.

"Bond Ordinance" shall mean the Amended and Restated General Airport Revenue Bond Ordinance, executed June 16, 1995, as amended and supplemented, and any ordinance or resolution of City regulating or authorizing the issuance of Bonds, payable from Airport Revenues.

"Bond Redemption and Improvement Account" shall mean an account established by City pursuant to this Agreement to provide for the purposes specified in Article 16 herein. The Bond Redemption and Improvement Account will be initially funded and maintained from the sources and according to the schedule set forth in Article 16.

“Bond Redemption and Improvement Requirement” shall mean the amount required to be deposited in the Bond Redemption and Improvement Account in each Fiscal Year for the term of this Agreement determined by City as set forth in Article 16.

“Calendar Year” shall mean the twelve (12) month period commencing on January 1st of each year.

“Capital Expenditure” shall mean: (i) a single item of equipment, vehicles, non-recurring capital outlays, and other items of personal property purchased, leased or constructed at a cost to City, net of PFC, AIP, Federal, State, or City’s Discretionary Account funds, in excess of five hundred thousand dollars (\$500,000), which City determines to have a useful life in excess of five (5) years, which, along with all other equipment, vehicles, non-recurring capital outlays, and other items of personal property exceed an aggregate net cost of five million dollars (\$5,000,000) in any Fiscal Year or (ii) any other Capital Improvement Project(s) purchased, leased, or constructed at an aggregate cost to City, net of PFC, AIP, Federal, State, or City’s Discretionary Account funds, in excess of one million two hundred fifty thousand dollars (\$1,250,000) in any Fiscal Year, which City determines to have a useful life of more than five (5) years.

“Capital Improvement Project” shall mean a project under which an asset is purchased, leased or constructed by City for the Airport System which City determines to have a useful life of more than five (5) years and a capital cost of more than \$10,000.

“Cargo Air Transportation Company” shall mean an entity engaged in the Air Transportation Business of transporting property or cargo by air, but not passengers at the Airport.

“Cart Tunnel/Baggage Recheck Area” shall mean that area within the Joint Use Terminal Area for baggage cart movement and are jointly used by certain Air Transportation Companies, as designated by City.

“Category Terminal Rental Rates” shall mean those rental rates established for Airline Space classified according to Types of Space by location and function as calculated in accordance with Article 18 hereof.

“City” shall mean City of Philadelphia in the Commonwealth of Pennsylvania, a municipal corporation of the Commonwealth of Pennsylvania and City of the First Class, acting by and through its Department of Commerce, Division of Aviation.

“City Revenue Allocation” shall mean an amount as determined by City, as follows: For each Fiscal Year during the term of this Agreement, the prior Fiscal Year’s total

net revenue from the Outside Terminal Areas Cost Center, if any, shall be reduced by the sum of Seven Million Dollars (\$7,000,000). Of the then remaining net revenue balance, if any, an amount equal to fifty percent (50%) thereof, which together with the aforementioned Seven Million Dollar (\$7,000,000) allocation, shall be City Revenue Allocation. City Revenue Allocation for each Fiscal Year shall be applied to the Discretionary Account or to such other fund or account of the Airport System as determined by City.

“Code” shall mean the Internal Revenue Code of 1986, as amended, supplemented, or replaced, and the regulations and rulings issued thereunder.

“Debt Service” shall mean Debt Service Requirements; the debt service requirements, net of interest earnings, if any, of any outstanding General Obligation Bonds (including General Obligation Bonds that have not been adjudged to be self-sustaining on the basis of expected Project Revenues) issued for improvements to the Airport System; the debt service requirements of any outstanding Subordinate Obligations and any other subordinate indebtedness secured by Amounts Available for Debt Service; and amounts required to repay any loans among the Aviation Capital Fund, the Renewal Fund, and the Aviation Operating Fund made pursuant to Section 4.05(c) of the Bond Ordinance.

“Debt Service Requirements” shall have the meaning as set forth in the Bond Ordinance.

“Default Rate” shall mean five percent (5%) plus the Prime Rate.

“Deplaned Passenger” shall mean any passenger, including any non revenue passenger but excluding the flight crew, disembarking from an aircraft at the Airport, even if such passenger subsequently departs from the Airport on another aircraft of the same or a different Air Transportation Company. Where Deplaned Passenger data are used to calculate Rents, the number of Deplaned Passengers for the most recent complete Calendar Year shall be used.

“Director” shall mean the Director of Aviation of City’s Division of Aviation or his successor in functions.

“Discretionary Account” shall mean an account established by this Agreement and funded with City Revenue Allocation or other sources, reflecting funds available for City’s use in its sole discretion for any Airport System purpose.

“Division of Aviation” shall mean that operating agency of City directly responsible for the operation, management, maintenance, improvement, repair and administration of the Airport System, or such other duties and responsibilities as

directed by City or any successor division or department charged by law with such responsibility.

“Domestic Baggage Claim Individual Areas” shall mean those portions of those areas within the Joint Use Terminal Area, where Deplaned Passengers collect their checked baggage, the baggage cart movement areas and inbound baggage areas associated therewith, in each case that are jointly used by certain Air Transportation Companies.

“Domestic Baggage Make-Up Individual Areas” shall mean those areas within the Joint Use Terminal Area jointly utilized by Air Transportation Companies, where Air Transportation Companies route checked baggage for delivery to aircraft, and the baggage cart movement areas associated therewith.

“Domestic Common Use Gates” shall mean any City controlled gates not directly leased to an individual airline on a preferential basis, for which City reserves for the flexible and temporary use of any Air Transportation Company. Domestic Common Use Gates shall include the associated Ramp Area and all equipment necessary to operate from the gates, including loading bridges, ground power units and potable water supply (that are not the property of Airline or any other Air Transportation Company).

“Domestic Common Use Gate Fee” shall mean those rates, fees and charges established by City for any given Fiscal Year, as set forth in the Rules and Regulations for Signatory Airlines and Affiliates utilizing a Domestic Common Use Gate.

“Domestic Common Use Terminal Area” shall mean that portion of the General Terminal Areas within the Terminal Area that could be directly leased to an individual airline on a preferential basis, but are available for use for individual flights or other limited use upon agreement by City, and include but are not limited to, Domestic Common Use Gates and Domestic Common Use Ticket Counters.

“Domestic Common Use Ticket Counters” shall mean any ticket counter not directly leased to an individual airline on a preferential basis, for which City reserves for the flexible and/or temporary use of any Air Transportation Company. Domestic Common Use Ticket Counters shall include the associated back office, baggage make up areas and baggage conveyors.

“Domestic Common Use Ticket Counter Fee” shall mean those rates, fees and charges paid per Turnaround Use for any given Fiscal Year as set forth in the Rules and Regulations, established by City for Signatory Airlines and Affiliates utilizing Domestic Common Use Ticket Counters.

"Effective Date" shall mean July 1, 2007.

"Eligible" shall mean an entity for which there is no uncured Event of Default under the terms of this Agreement.

"Enplaned Passenger" shall mean any passenger, including any non-revenue passenger but excluding the flight crew, boarding an aircraft at the Airport, even if such passenger previously disembarked from a different aircraft of the same or a different Passenger Air Transportation Company. Unless established otherwise where Enplaned Passenger data are used to calculate Rents, the number of Enplaned Passengers is for the most recent complete Calendar Year for which data is available.

"Event of Default" shall include those occurrences, actions or inactions as set forth in Article 32 of this Agreement.

"FAA" shall mean the Federal Aviation Administration, or its authorized successor(s).

"Fiscal Year" shall mean the twelve-month period commencing on July 1st of each year, or such other twelve-month period as may be established by City from time to time.

"Fueling Services" shall mean the transportation, sale, delivery, dispensing, storage, or draining of fuel or fuel waste products to or from aircraft, vehicles or equipment in the Airport System.

"Fund Requirements" shall mean the amount, if any, required to be paid into the Sinking Fund Reserve Account or Renewal Fund; any amounts required to be paid under Exchange Agreements; the Bond Redemption and Improvement Requirement; and the O&M Reserve Requirement.

"Gate Position" shall mean passenger gate(s) in the Terminal Area and Ramp Area, including a holdroom and loading bridge (if any), and all fixtures, furnishings and equipment located thereon, or appurtenant thereto that are reasonably necessary for flight operations.

"General Terminal Areas" shall mean those areas of the Terminal Area Cost Center including (i) those occupied or designated as space for any Division of Aviation or City function; (ii) Public Areas; (iii) those used by City to support the operations of the Airport System, including, but not limited to, utility rooms, ductways, janitorial rooms and closets, telephone rooms, and other such areas as designated by City; (iv) Domestic Common Use Terminal Areas and (v) those designated by City and leased directly to concessionaires or other non-Air Transportation Company tenants within the Terminal Area Cost Center.

“Gross Receipts” shall mean the total amount received or realized by or accruing to Airline from all Ground Handling Services authorized by this Agreement rendered by Airline to an Air Transportation Company other than Airline, Airline’s Affiliates and other Signatory Airlines at or from the Airport. The amount due Airline at the time of each transaction, whether for cash or credit, shall be used to determine Gross Receipts and not the amount due at the time of billing or payment, unless otherwise specifically stated in this Agreement; provided, however, that any taxes imposed by law and the Ground Handling Fee which are separately stated and paid by the customer to Airline, which are directly payable to the taxing authority or to City by Airline, shall be excluded from Gross Receipts.

“Ground Handling Fees” shall mean payments received by City from Air Transportation Company(ies) or service providers authorized at the Airport to provide Ground Handling Services.

“Ground Handling Services” shall mean services provided to Air Transportation Companies to include, but not necessarily be limited to, Fueling Services; loading and unloading of passengers, baggage and freight into aircraft; providing passenger service agents; assisting in processing of passengers and crews; furnishing and operating ground support equipment in support of aircraft operations; aircraft cleaning and lavatory service activities; deicing; and aircraft maintenance activities.

“International Common Use Areas” shall mean the International Common Use Ticket Counter Areas, the International Common Use Enplaning Areas, the International Common Use Deplaning Areas and the FIS Areas as identified on Exhibit C attached to this Agreement, as Exhibit C may be modified from time to time without amendment to this Agreement.

“International Common Use Area Revenue” shall mean the aggregate of all International Common Use Ticket Counter Area, International Common Use Enplaning Area, International Common Use Deplaning Area and FIS Area Fees received by City from each and every Air Transportation Company for use of the International Common Use Area for any given Fiscal Year.

“International Common Use Deplaning Areas” shall mean the baggage make-up, holdroom, Ramp Area Premises, boarding bridges, and associated fixtures and equipment located thereon (that are not the property of Airline) as identified on Exhibit C attached to this Agreement, as Exhibit C may be modified from time to time without amendment to this Agreement.

“International Common Use Deplaning Area Cost” shall be equal to the Category Terminal Rental Rates for the Types of Space contained in the International Common Use Deplaning Area multiplied by the corresponding square footage of

the International Common Use Deplaning Area for any given Fiscal Year, calculated in accordance with Article 19.

“International Common Use Deplaning Area Fee” shall mean that fee established by City for any given Fiscal Year, to be charged to each Signatory Airline for each of its Deplaned Passengers who utilizes the International Common Use Deplaning Area, calculated in accordance with Article 19.

“International Common Use Enplaning Areas” shall mean the baggage make-up, holdroom, Ramp Premises Area, boarding bridges, and associated fixtures and equipment located thereon (that are not the property of Airline) as identified on Exhibit C attached to this Agreement, as Exhibit C may be modified from time to time without amendment to this Agreement.

“International Common Use Enplaning Area Cost” shall be equal to the Category Terminal Rental Rates for the Types of Space contained in the International Common Use Enplaning Area multiplied by the corresponding square footage of the International Common Use Enplaning Area for any given Fiscal Year, calculated in accordance with Article 19.

“International Common Use Enplaning Area Fee” shall mean that fee established by City for any given Fiscal Year, to be charged to each Signatory Airline for each of its Enplaned Passengers who utilizes the International Common Use Enplaning Area, calculated in accordance with Article 19.

“International Common Use Ticket Counter Areas” shall mean the ticket counter areas and associated fixtures and equipment located thereon (that are not the property of Airline) as identified on Exhibit C attached to this Agreement, as Exhibit C may be modified from time to time without amendment to this Agreement.

“International Common Use Ticket Counter Area Cost” shall be equal to the Category Terminal Rental Rates for the Types of Space contained in the International Common Use Ticket Counter Area multiplied by the corresponding square footage of the International Common Use Ticket Counter Area for any given Fiscal Year, calculated in accordance with Article 19.

“International Common Use Ticket Counter Area Fee” shall mean that fee established by City for any given Fiscal Year, to be charged to each Signatory Airline for each of its Enplaned Passengers who utilizes the International Common Use Ticket Counter Area, calculated in accordance with Article 19.

“International FIS Area” or “FIS Areas” shall mean those areas where international Deplaned Passengers are processed and collect their checked baggage and the baggage cart movement areas associated therewith as identified on Exhibit C

attached to this Agreement, as Exhibit C may be modified from time to time without amendment to this Agreement.

“International FIS Areas Costs” or “FIS Area Costs” shall be equal to the Category Terminal Rental Rates for the Types of Space contained in the FIS Area multiplied by the corresponding square footage of the FIS Area in any given Fiscal Year calculated in accordance with Article 19.

“International FIS Area Fee” or “FIS Area Fee” shall mean that fee established by City for any given Fiscal Year to be charged to each Signatory Airline for each of its international Deplaned Passengers that exits through the FIS Area calculated in accordance with Article 19.

“Joint Use Terminal Area” shall mean the premises within or attached to the Terminal Area Cost Center contained in the Domestic Baggage Claim Individual Areas, Cart Tunnel/Baggage Recheck Areas and Domestic Baggage Make-up Individual Areas.

“Joint Use Area Formula” shall mean the formula used to prorate a specified square footage for an area within the Joint Use Terminal Area on the basis of twenty percent (20%) of the square footage divided equally among all such Signatory Airlines using such area. The remaining eighty percent (80%) of the square footage shall be apportioned among all such Signatory Airlines using such area based upon the ratio of the number of Enplaned Passengers of each Signatory Airline, its Affiliate(s) and those Non-Signatory Airline(s) that operate from each Signatory Airline’s Leased Premises under City-approved subleases or ground handling agreements, to the total number of Enplaned Passengers of all such Signatory Airlines, their Affiliate(s), and Non-Signatory Airline(s) that operate from such Signatory Airlines’ Leased Premises under City-approved subleases or ground handling agreements using such area, during the most recent complete Calendar Year for which such information is available.

“Landing Fees” shall mean those fees, calculated by multiplying the Landing Fee Rate by the Maximum Landed Weight (1,000 lb. units) established to pay the Airfield Area Cost Center Requirement.

“Landing Fee Rate” shall mean a rate calculated by dividing the Airfield Area Requirement by the aggregate Maximum Landed Weight (1,000 lb. units) of the Signatory Airlines and Affiliates having executed an Operating License for any given Fiscal Year.

“Leased Premises Terminal Area” shall mean the aggregate of all Airline’s Leased Premises (except the Airline’s Ramp Premises) as set forth in Exhibit B attached to this Agreement, as same may be modified from time to time.

“Majority in Interest” or “MII” shall mean the mechanism by which the Signatory Airlines may disapprove a Capital Expenditure, as set forth in Article 30 hereof.

“Maximum Landed Weight” shall mean the maximum certificated gross landed weight in one thousand pound units, as stated in the flight operations manual of each aircraft operated at the Airport by an Air Transportation Company.

“Minimum Use Requirement” shall mean the continuous scheduling of that number of flight operations at the Airport in the Official Airline Guide publication or its successor publication by a Signatory Passenger Airline combined with its Affiliate(s) and/or Air Transportation Companies operating from the Airline’s Leased Premises under City-approved subleases or ground handling agreements equal to an average of at least four and one-quarter (4.25) jet aircraft daily departures for the aggregate Gate Positions, as applicable, determined using the weighted formula set forth in Article 15.

“Monthly Rents” shall mean payments of one-twelfth (1/12) of the total annual Rent associated with Airline’s Leased Premises, one-twelfth (1/12) of Airline’s total annual Domestic Baggage Claim Individual Area fees, and one-twelfth (1/12) of Airline’s total annual Domestic Baggage Make Up Individual Area fees, and one-twelfth (1/12) of any other Rents that City may determine during the Term of this Agreement to be paid on a monthly basis.

“Non-Airline Revenues” shall mean all rentals, charges, fees, ground handling fees, user charges, concession and other operating revenues received by or on behalf of City from the operation of the Airline Cost Centers or any part thereof; but excluding however, all Airline Revenues, and also excluding all gifts, grants, reimbursements, restricted funds or payments received from governmental units or public agencies or any other source, passenger facility charges, customer facility charges, and federal, state or City subsidies or incentives deposited in the Aviation Capital Fund.

“Non-Signatory Airline” shall mean any Air Transportation Company that has not entered into an agreement substantially similar to this Agreement with City. Such Non-Signatory Airlines, (excluding Affiliates of Signatory Airlines that have executed an Operating License), are charged a fifteen percent (15%) premium on all rates and charges as set forth by City from time to time, and do not have all of the same rights and privileges afforded to a Signatory Airline or Affiliates having executed an Operating License. No MII voting rights are available to Non-Signatory Airlines.

“Non-Signatory Landing Fee Rate” shall mean a rate that includes a fifteen percent (15%) premium over the Landing Fee Rate for any given Fiscal Year.

“Northeast Philadelphia Airport” shall mean the Airport as shown on Exhibit D with any additions or enlargements thereto.

“Operating Expenses” shall have the meaning as set forth in the Bond Ordinance. Operating Expenses allocable to the Airport Services Cost Center shall be allocated to the other Cost Centers (Airfield Area, Terminal Area, Ramp Area, Other Buildings and Areas, Northeast Philadelphia Airport and Outside Terminal Area) fifty percent (50%) based on each such Cost Center’s proportionate share of the Operating Expenses of the Airport directly allocated to such Cost Center, and fifty percent (50%) based on each such Cost Center’s proportionate share of Non-Airline Revenues.

“Operating License” shall mean the contract for the conduct of commercial flight operations at the Airport that has been executed by City and an Air Transportation Company.

“Operation and Maintenance Account” or “O&M Account” shall mean a fund established by City for the necessary expenses for the maintenance, operation, repairs and ordinary replacement and reconstruction of the Airport to the extent that other funding allocated for Operating Expenses in the Annual Budget is not sufficient for such purposes.

“O&M Requirement” shall mean an amount not to exceed one million dollars (\$1,000,000) per Fiscal Year, as same may be allocated to a particular Cost Center, to be deposited in the O&M Account to maintain a balance equal to ten percent (10%) of Operating Expenses as set forth in Article 16.

“Other Fees” shall mean those fees and charges imposed by City and paid by Air Transportation Companies for certain uses and operations at the Airport, including, but not limited to Tenant Surcharges for Proprietary Equipment as set forth in the Rules and Regulations, or as imposed pursuant to this Agreement, and any federal, state or local law, regulation, ordinance, statute or directive.

“Passenger Air Transportation Company” shall mean an entity engaged in or desiring to engage in the Air Transportation Business at the Airport primarily for the carriage of persons.

“PFC” shall mean federally approved Passenger Facility Charges or passenger facility fees, as authorized by 49 USC App. Section 1513 and regulated by 14 CFR Part 158, as such statute and regulation currently exist or as they may be amended during the term of Agreement.

“Pre-Approved Capital Improvement Program” or “Pre-Approved CIP” shall mean those Capital Improvement Projects shown on Exhibit E.

"Preferential Use" shall mean a right or use having priority, but not exclusivity, over a use by other Passenger Air Transportation Companies.

"Prime Rate" shall mean the prime rate as published in the Wall Street Journal as being the base rate on corporate loans posted by at least seventy five percent (75%) of the nations' thirty largest banks.

"Project Revenues" or "Airport Revenues" shall mean Project Revenues as specifically defined in the Bond Ordinance.

"Proprietary Equipment" shall mean those moveable or permanent fixtures, furniture and equipment located on or affixed to Airline's Leased Premises, or elsewhere at the Airport, purchased and/or constructed at the cost and expense of City which are made available for use by Airline and subject to the Tenant Surcharge for Proprietary Equipment, if any, as set forth in a separate written agreement between City and Airline.

"Public Areas" shall mean those areas of the Terminal Area designated by City for the public ingress and egress of the Airport's customers, passengers, employees and tenants within the Terminal Area including public circulation areas, restrooms, stairwells, elevators, and passenger queuing space.

"Ramp Area Premises" shall mean that square footage of the Ramp Area (in the aggregate) attributable to either the Signatory Airlines' Ramp Premises leased specifically to the Signatory Airlines for their Preferential Use or the International Common Use Areas measured from the face of the building to the aircraft parking limit line, as further described in Exhibit B, as may be subject to change from time to time.

"Ramp Area Premises Rate" shall mean that rate for any given Fiscal Year per linear foot of the Aircraft Parking Restriction Line, to be paid by Signatory Airlines for the length of the Aircraft Parking Restriction Line in each respective Signatory Airline's Ramp Premises for any given Fiscal Year, calculated in accordance with Article 20 hereof.

"Ramp Area Rentals" shall mean those rentals, fees and charges calculated in accordance with Article 20 hereof, established to pay the Ramp Area Requirement for any given Fiscal Year.

"Ramp Area Requirement" shall mean that amount determined by City for any given Fiscal Year calculated in accordance with Article 20 hereof.

"Regional Aircraft" shall mean aircraft with fewer than fifty-one (51) seats.

“Rents” shall mean all Terminal Rentals, Ramp Area Rentals, Other Fees, other rents, charges, fines, costs, reimbursements, penalties, taxes, late charges, liquidated damages, and interest of all types and of all nature that Airline is required to pay pursuant to this Agreement.

“Rental Car Concession Fees” shall mean those fees imposed under City’s ground transportation regulation that corresponds to either a percentage of a car rental company’s gross revenues or any minimum annual guarantee, as applicable.

“Requesting Air Transportation Company” shall mean an Air Transportation Company requesting accommodation on the Airline’s Preferential Use Premises and the same with respect to other Signatory Passenger Airlines as set forth in Article 14 hereof.

“Revenue Aircraft Arrival” shall mean any passenger aircraft arrival at the Airport for which Airline has received or made a monetary fee or charge, including but not limited to, scheduled trips and charters, sightseeing and other trips for which revenue is received, but excluding, without limitation, ferry, test, courtesy, and inspection or other trips for which there is no fee or charge. Training flights shall be excluded from Revenue Aircraft Arrivals, except to the extent that the number of training flights operated by Airline during any Fiscal Year exceeds five (5) per Fiscal Year. Flights which are diverted to the Airport because of mechanical, meteorological or other causes shall be considered the same as a Revenue Aircraft Arrival, except that if a revenue flight is required to return to the Airport because of such mechanical, meteorological or other precautionary reasons, such arrival shall not be considered a Revenue Aircraft Arrival.

“Rules and Regulations” shall mean those rules and regulations promulgated by City for the use of the Airport, including but not limited to Airport Rates and Charges Regulation for the Use of Facilities at Philadelphia International Airport and Northeast Philadelphia Airport, as the same may be amended, modified or supplemented from time to time by City.

“Scheduled Service” shall mean the scheduled flights of a Signatory Airline and/or in combination with its Affiliates as applicable, at the Airport as published in the Official Airline Guide or successor publication referenced and used by City of at least two (2) flights, or one (1) round trip, a week at the Airport on the same day or days of the week for eight (8) or more weeks within the immediately preceding ninety (90) consecutive day period.

“Signatory Airline” shall mean an Air Transportation Company which: (i) has no uncured default under any agreement with City; and (ii) has Scheduled Service; and (iii) has signed a Signatory Airline Use and Lease Agreement with City which is substantially similar to this Agreement. When used in plural, this term means the

collective group of Signatory Airlines. Signatory Airlines include Signatory Passenger Airlines and Signatory Cargo Airlines.

“Signatory Cargo Airline” shall mean a Cargo Air Transportation Company that is a Signatory Airline.

“Signatory Passenger Airline” shall mean a Passenger Air Transportation Company that is a Signatory Airline.

“State” shall mean Commonwealth of Pennsylvania.

“Substantial Completion Date” shall mean the earlier of (i) the date that a Capital Improvement is ready to be used for its intended purpose or (ii) the date of the completion of the capitalized interest period for any Bonds related to the Capital Expenditure, as determined by City.

“Subsidiary Airline” shall mean any Air Transportation Company that is a directly or indirectly wholly-owned subsidiary of Airline or of Airline’s parent company.

“Terminal Area Requirement” shall mean that amount each Fiscal Year determined as set forth in Article 18 of this Agreement.

“Terminal Area Requirement MII Formula” shall mean for those Capital Improvement Projects that will only impact the Terminal Area Requirement, the MII will require no less than 50% plus one of the number of Eligible Signatory Passenger Airlines and representing more than 50% of the Eligible Signatory Passenger Airline Enplaned Passengers, including passengers from Affiliates. This measure will be calculated for the most recent complete Calendar Year for which data are available.

“Terminal Rentals” shall mean those rentals, fees and charges, calculated in accordance with Article 19 hereof, established to pay the Terminal Area Requirement for any given Fiscal Year. |

“Tenant Surcharge for Proprietary Equipment” shall mean that amount to be paid by Air Transportation Company(ies) as may be as determined by City from time to time, for the use of Proprietary Equipment, for which the Air Transportation Company(ies) would otherwise be responsible for providing at its (their) own expense for its (their) use.

“Ticket Counter Positions” shall mean a ticket counter area, including the associated back office, baggage make-up areas and baggage conveyors.

“Total Airline Leased Premises” shall mean the total square footage in the Terminal Area attributable to an individual Signatory Airline in any given Fiscal Year during

the term of this Agreement, which is the sum of the Airline's Leased Premises and Airline's Joint Use Premises.

"Total Maximum Landed Weight" shall mean the sum of the maximum gross certificated landed weight in 1,000 lb. units of all Signatory Airlines and Affiliates over a stated period of time.

"Total Passengers" shall mean all Enplaned Passengers and Deplaned Passengers at the Airport.

"TSA" shall mean the Transportation Security Administration or its authorized successor(s).

"Type 1 Rental Rate" shall mean that Category Terminal Rental Rate which is the premium (100%) rental rate as calculated by the formula in Article 18, for any given Fiscal Year.

"Types of Space" shall mean the classification of the square footage attributable to the Leased Premises Terminal Area in any given Fiscal Year for the purpose of establishing Category Terminal Rental Rates, as set forth in Article 18 hereof.

"Turnaround Use" shall mean that each aircraft arrival and departure or other utilization of a Gate Position by an Air Transportation Company for a turnaround aircraft operation not to exceed one hundred eighty (180) minutes, consistent with the definitions of Active Loading and Active Unloading.

Article 3 TERM

Notwithstanding City's rights of early termination under this Agreement, the term of this Agreement shall commence on July 1, 2007 and shall terminate on June 30, 2011, unless terminated earlier as provided in this Agreement.

Article 4 RIGHTS OF AIRLINE

A. Airline's Air Transportation Business

The rights granted hereunder are in addition to all rights elsewhere granted in this Agreement and relate to the conduct of Airline's Air Transportation Business at the Airport. Airline shall have the right, at its own cost and expense, and in common with others as may be so authorized by City, to:

1. Air Transportation. Operate an Air Transportation Business at the Airport, including all activities reasonably necessary for such operation.
2. Airport Use. Use facilities, equipment and improvements at the Airport for the operation of Airline's Air Transportation Business.
3. Aircraft Operations. Land, take-off, load, unload, repair, condition, service, park and store aircraft or other equipment, in areas designated by City; provided, however, that Airline shall not use Terminal Areas including the Ramp Area to load or unload all-cargo aircraft unless otherwise authorized in writing by City.
4. Aircraft Maintenance. Service aircraft or equipment operated by Airline with line maintenance or materials or supplies at City-designated locations.
5. Conveyance Rights. Sell tickets, document shipments, handle reservations, and load and unload persons, property, cargo and/or mail at the Airport by using motor vehicles or such other means of conveyance as Airline may desire or require in the operation of its Air Transportation Business, which means of conveyance is subject to the approval of City through and on behalf of City.
6. Procurement. Purchase, either on or off the Airport, Airline's requirements of gasoline, fuel, lubricating oil, grease, food and other passenger supplies, and any other materials and supplies, from any person or company of Airline's choice, and the right to make arrangements with any person or company of Airline's choice for work to be done for Airline, subject, however, to City's right to require such person or company to enter into a contract or secure a permit and/or license to conduct such business at the Airport and subject to such person's or company's compliance with federal, local and State security requirements.
7. Aircraft Testing. Test aircraft and other equipment being utilized at the Airport in the operation of Airline's Air Transportation Business; provided, however, that said testing shall be incidental to the use of the Airport in the operation by Airline of its Air Transportation Business and shall not unreasonably hamper or interfere with the use of the Airport and its facilities by others entitled to the use of same. City reserves the right to restrict or prohibit such testing operations which it deems to interfere with the use of the Airport, including excessive noise as reasonably determined by City.
8. Signage. Install and maintain identifying signs at the Airport, the general type, design and location of which shall be subject to the Airport permit

processes and the prior approval of City, which approval shall be at the sole discretion of City. The general type, design and location of such signs shall be compatible with and not detract from the pattern and décor of the Terminal Area.

9. **Communication Devices.** Install, maintain and operate such electronic or electrical devices, radio, communication, meteorological and aerial navigation equipment and facilities in, on and about the Airport as may be necessary or convenient in the opinion of Airline for its operations; provided that the location and nature of such devices, equipment and facilities shall be subject to the prior approval of City and shall not unreasonably hamper or interfere with the use of the Airport and its facilities by others entitled to the use of same. City reserves the right to restrict or prohibit such electronic or electrical devices, radio, communication, meteorological and aerial navigation equipment and facilities which it deems will interfere with the use of the Airport.
10. **Hire and Train.** Hire and train, on the Airport, personnel in the employ of, or to be employed by Airline or any other Air Transportation Company, provided that such right shall not be construed as authorizing the conduct of a separate business by Airline, but shall permit Airline to perform such functions as are incidental to the conduct of its Air Transportation Business.
11. **Ingress and Egress.** Ingress to and egress from the Airport and Airline's Leased Premises, Public Areas and common use areas for Airline's officers, employees, agents, subcontractors and invitees, including, but not limited to, passengers, suppliers of materials, and furnishers of services, aircraft equipment, vehicles, machinery and other property. Such right shall be subject to Federal Aviation Regulations (FAR) Part 107, 49 CFR Part 1542 and any successor regulations, applicable laws, and City's right in accordance with applicable law to establish reasonable and not unjustly discriminatory Rules and Regulations; provided, however, that any such Rules and Regulations of Airport shall not unreasonably interfere with the operation of Airline's Air Transportation Business. As set forth in Article 26, City may at any time temporarily or permanently close or re-route any roadway, door, passageway or other access to the Airline's Leased Premises or to the Airport, so long as a means of ingress and egress reasonably equivalent is concurrently made available to Airline. Airline hereby releases and discharges City through and on behalf of City from any and all claims, demands, or causes of action which Airline may now or at any time hereafter have arising or alleged to arise out of such a closing or re-routing.

12. Vending Machines. Airline may install a limited number of soft drink vending machines and snack vending machines, subject to the prior approval of City, in non-public Airline's Leased Premises for the exclusive use of Airline's employees and agents.
13. Food Service. Subject to any restrictions in City's existing agreement(s) with its food and beverage service provider(s); (i) provide under a separate contract with City through and on behalf of City for its own flight kitchen, (ii) serve food or beverages to its passengers and crews for consumption aboard its aircraft, except that no such food or beverages may be sold by Airline in the Terminal Area or elsewhere at the Airport without the prior approval of City. If in-flight food or beverages are supplied to Airline by an off-Airport caterer or supplier, or other Air Transportation Company, or concessionaires other than City's on-Airport food and beverage service provider(s), City shall require such off-Airport caterer or supplier, or other Air Transportation Company, to pay a fee at a rate not to exceed the rate that would be payable to City for comparable deliveries made on the Airport by City's on-Airport food and beverage service provider, as such rate may be amended from time to time.
14. Porter/Skycap. Provide either alone or in conjunction with other Air Transportation Companies or through a sub-contractor, porter/skycap service for the convenience of the public.
15. Wireless Applications and Similar Technology. To the extent not preempted by Federal Communications Commission rulings and regulations, Airline will not install, deploy or otherwise engage in the use of any transmitting wireless device, application and/or technologies on its Airline's Leased Premises, any portion of the Airport or within the Airport System without having first obtained the prior approval of the Division of Aviation. Such wireless applications shall only be for Airline's operational use. At the request of the Division of Aviation, Airline will cease operation of a particular device due to interference with another transmitting device of City, Division of Aviation, emergency services, and/or other already approved wireless device. City reserves the right to impose a fee for the use of such wireless equipment and/or to charge for any space required for the installation of such equipment, as additional rentals payable under this Agreement, for the use of such area. Airline shall not have any right to install any type of wireless device, application and/or technology at the Airport for commercial and/or revenue generating purposes.
16. Airline Equipment. Install such personal property, including instant ticketing machines, furniture, furnishings, supplies, machinery, and

equipment, in Airline's Leased Premises as Airline may deem necessary, useful or prudent for the operation of its Air Transportation Business, subject to City's prior approval. Title to such personal property shall remain with Airline, subject to the provisions of this Agreement, or as may be otherwise provided by law. Airline will not install, deploy or otherwise engage in the use of any self-service check-in kiosks and/or device, applications and/or technologies on its Airline's Leased Premises or any portion of the Airport without having first obtained the prior approval of the Division of Aviation. Airline shall also have the right, subject to a Tenant Surcharge for Proprietary Equipment as set forth in a separate written agreement to use City owned fixtures, furniture and equipment at the Airport.

17. Airline Improvements. Construct such modifications, finishes and improvements in its Airline's Leased Premises as Airline may deem necessary or prudent for the operation of its Air Transportation Business, subject to City's prior approval.
18. Telephone and ATM. Airline shall not provide nor enter into any agreements providing for pay telephones or wireless cell phone connectivity for the public anywhere at the Airport. Airline may not install cash machines (ATMs), sell merchandise or operate any other sort of retail business at the Airport without the prior approval of City.
19. Airline Club. Airline shall have the right, subject to the prior approval of City, to construct and maintain an airline club to be located in Airline's Exclusive Use Premises. Upon entering into a separate agreement with City, Airline may engage in the sale of food and/or beverages to passengers and guests in such airline club. Such agreement shall include a fee to be paid to City which shall not be less than the current concession fee paid by the food and/or beverage concessionaire(s), and shall be paid in addition to the Rent for the Terminal Area space occupied by such airline club. No fee to City will be applicable to the free distribution of beverages and/or food consumed within the Airline Club. Notwithstanding the foregoing, Airline shall not be required to pay a concession fee to City on account of food or beverages, including alcoholic beverages, purchased directly from any of the food and/or beverage concessionaires at the Airport who are already paying a concession fee on such products.
20. Public Facilities. Airline shall have the right to use public Airport facilities in common with others authorized to do so, accordance with the laws of the United States of America, the Commonwealth of Pennsylvania, City and Airport, and the Rules and Regulations.

21. Concessionaire Fees. Nothing in this Agreement shall prohibit City from charging Airline the standard rates charged to concessionaires in connection with the sale by Airline to others of food, beverages or other items normally sold by concessionaires or the rendering by Airline for compensation of services normally rendered by concessionaires. To the extent that Airline competes with the concessionaire of City, City shall not be deprived of concession revenue by such competition.

B. Airline to Service Others

The rights and privileges granted to Airline pursuant to this Article may be exercised on behalf of Airline by other Signatory Airlines or contractors authorized by City to provide such services at the Airport, subject to the prior approval of City and further subject to all laws, Rules and Regulations, and other fees and charges as may be applicable to the activities undertaken.

C. Rights Extended to Others

Airline may exercise on behalf of any other Air Transportation Company any of the rights granted Airline herein, so long as Airline is currently exercising those same rights in the operation of Airline's own Air Transportation Business at the Airport, subject to all laws, ground handling agreements, Rules and Regulations, and other fees and charges as may be applicable to the activities undertaken.

D. Limitation to Air Transportation Business

Nothing in this Agreement shall be construed as authorizing Airline to conduct any business separate and apart from the conduct of its Air Transportation Business.

E. Rights Reserved for City

Any and all rights and privileges not specifically granted to Airline for its use of and operations at the Airport pursuant to this Agreement are hereby reserved for and to City.

Article 5 GROUND HANDLING SERVICES

A. Notice

In the event Airline agrees to provide Ground Handling Services to any portion of the on-Airport operations of another Air Transportation Company, except any Affiliate(s) or City-approved sublessee of Airline, Airline shall provide City

thirty (30) days advance notice of such proposed activities, including, but not limited to, the following:

1. A description of the type and extent of services to be provided;
2. The Air Transportation Company to whom the services are to be provided; and
3. The aircraft gates, holdrooms and other facilities that will be involved in the Ground Handling Services and the charges therefor. All such services shall occur within the Airline's Leased Premises, the Leased Premises of the Air Transportation Company to be ground handled, or at such other locations as may be designated by City.

Such Ground Handling Services arrangement shall be reduced to writing and is subject to the prior approval of City. City approval shall be dependent upon Airline charging reasonable fees for ground handling services.

B. Ground Handling Fee

Airline shall pay City a nondiscriminatory Ground Handling Fee of ten percent (10%) of Ground Handling Gross Receipts, based on the Gross Receipts derived by Airline for providing such services to Air Transportation Companies, other than for services provided to any Signatory Airline, Affiliate or City-approved sublessee of Airline, whether collected or uncollected.

C. Third Party Airline Service Providers

City reserves the right to establish the total number of third party airline service companies operating at the Airport. Nothing herein shall restrict City to any specific limitation whatsoever based on either a total number of providers or based on a specific type of service. In addition, nothing in this Article 5(C) shall limit or restrict the right of Airline to provide Ground Handling Services to any Affiliate of Airline or Air Transportation Company under a City-approved sublease or ground-handling agreement with Airline.

**Article 6
OBLIGATIONS OF AIRLINE**

In addition to the obligations as set forth elsewhere in this Agreement, the following obligations shall apply to Airline at the Airport.

A. Compliance with Insurance

Airline shall comply with the requirements of all insurance companies having policies of public liability, fire and other insurance in force covering the Total Airline's Leased Premises and any other areas and facilities used by Airline of which Airline has received notice.

B. ALP Compliance

Airline will comply with any City limitations or restricted uses of the Airfield Area by any aircraft operated and controlled by Airline which exceeds the design strength or capability of the Airfield Area as described in the current FAA approved ALP, as amended, or other engineering evaluations performed subsequent to the approval of the current ALP, including the current airport certification manual as required by the FAA.

C. Mechanics' Liens

Although prohibited by law, if any mechanics' liens or other liens or orders for the payment of money shall be filed in a court of competent jurisdiction against the Airport property or any improvements thereon or against Airline by reason of, or arising out of, any labor or materials furnished or alleged to have been furnished or to be furnished to Airline in connection with any work of construction, alteration, repair or demolition to all or any part of the Airport property by Airline, Airline shall cause the same to be canceled and discharged of record by bond approved by the court or as otherwise permitted by such court in which the claim is filed, at the expense of Airline.

D. Utilities

Airline shall not knowingly interfere or permit interference with the use, operation or maintenance of the Airport, including but not limited to, the effectiveness or accessibility of the drainage, sewage, water, communications and fire protection, utility, electrical, security or other systems installed or located from time to time at the Airport.

E. Leased Premises Condition

Airline shall have the responsibility for maintenance, cleaning and operations established pursuant to Exhibit F, as may be amended, supplemented or modified from time to time by the parties. In addition, Airline shall preserve, maintain and keep its Total Airline Leased Premises in an orderly, clean, neat, and sanitary condition free from fuel, oil, trash, debris and other foreign objects in each case resulting from Airline's operations.

F. Operation of Equipment

In addition to its other responsibilities for maintenance, cleaning and operation pursuant to Exhibit F, as may be amended, supplemented or modified from time to time by the parties, Airline shall safely operate equipment, including Proprietary Equipment and specifically including City or Airline-owned loading/boarding bridges, if any, located on the Airline's Ramp Premises.

G. Professional Operations

Airline shall conduct its Air Transportation Business using best management practices consistent with industry standards, including (i) manage passenger check-in lines in compliance with applicable fire codes and regulations, (ii) accurately and timely input flight information into multi-use flight information display (MUFIDS) and baggage information display (BIDS), (iii) notify City at least thirty (30) days in advance of planned schedule changes, including but not limited to equipment changes, flight times, and number of flights and (iv) notify City of disruptions and operational or equipment changes that will impact City.

H. Non-Disturbance and Conduct of Employees

Airline shall require all of its agents, employees, contractors, subcontractors, suppliers, service providers, vendors or officers hired by Airline working in view of the public and about the Terminal Area to wear clean and neat attire and to display appropriate identification. Airline will, in and about the Airport and its Airline's Leased Premises, exercise reasonable control over the conduct, demeanor and appearance of its employees, agents and representatives, contractors, suppliers, vendors, service providers and officers in an orderly and proper manner so as not to harass, irritate, disturb or be offensive to the public and at all times act in accordance with the Rules and Regulations and Airport Security Program. Upon objection from City to Airline concerning the conduct, demeanor or appearance of such persons, Airline will, within a reasonable time, remedy the cause of the objection.

I. Obstructions

Airline shall not construct anything unless authorized by City. No Improvement that has been authorized by City shall be deemed an obstruction. Any obstructions erected by Airline shall be removed by Airline at its expense, if requested by City or required by the FAA. Airline agrees not to increase the height of any structure or objects or to permit the growth of plantings of any kind or nature whatsoever that would interfere with the line of sight between the Airport's control tower and the ramp towers and the operations controlled therefrom. Airline further agrees not to install any structures, objects, machinery

or equipment that would interfere with operation of navigation aids or would interfere with the safe and efficient operation of the Airport.

J. Antennae

Airline shall not install antennae at the Airport without City's prior approval. Airline shall comply with the regulations, directives and requirements of City as to the placement, erection, repair and maintenance of each outside antenna that Airline erects at the Airport and shall pay all fees and privilege charges associated therewith.

K. Subsidiary Airline Obligations

Any and all of the obligations of Airline set forth in this Agreement shall apply to any Subsidiary Airline conducting operations at the Airline's Leased Premises and Airline shall ensure compliance by any such Subsidiary Airline.

L. Airport Terminal Equipment

It is understood and agreed that, during the term of this Agreement, City and Airline will consult on various technological changes that may be implemented by City to alter the handling of passengers, baggage, and cargo in and about the Airport and the Signatory Airlines' use of and operations at the Airport. In such event, City and Airline agree to consult as to the applicability and implementation of such technological changes to the Airport and the Signatory Airlines, subject to the provisions outlined in Article 30 of this Agreement.

Article 7 AIRPORT SECURITY PROGRAM

A. TSA Program

In accordance with regulations issued by the FAA, the U.S. Department of Transportation and the U.S. Department of Homeland Security, Transportation Security Administration ("TSA") and found at 49 Code of Federal Regulations ("CFR") Part 1542, airports are required to have TSA-approved security programs. These programs are designed to control access to certain areas of airports and to control the movement of people and vehicles within those areas.

B. Airline Compliance

City has a TSA-approved security program for the Airport. Airline must have a security program for the operation of its Air Transportation Business at the Airport at all times during the term of this Agreement. At all times during the term of this Agreement, Airline's security program must be in compliance with

49 CFR Part 1542, 1544 and 1546 and all other applicable laws and regulations from time to time enacted or promulgated, must be consistent and compatible in all respect with City's overall security program for the Airport, and must be acceptable to City and the TSA.

C. Indemnification

Airline shall be responsible for any breach of security on the Airline's Leased Premises which occurs as a result of the negligence and/or willful misconduct of Airline, its agents, employees, contractors, subtenants, Affiliates, or invitees, not including passengers, and Airline further agrees to indemnify and hold harmless City from and against any and all damages, penalties, fines, claims and costs resulting directly or indirectly from the breach of Airline's responsibilities, covenants and agreements as set forth in this Article 7(C). City shall provide Airline notice of and consult with Airline regarding any claims that City has knowledge are related to Airline. City shall defend all alleged security violations. The indemnification contained in this Article 7(C) applies to this Article 7(C) only.

D. Confidentiality and Indemnity

In connection with its operations, Airline may receive, gain access to or otherwise obtain certain knowledge and information related to City's overall Airport security program. Airline acknowledges that all such knowledge and information is of a highly confidential nature. Airline covenants and agrees that no person, whether an employee of Airline or a third party, shall be permitted or gain access to such knowledge and information, unless such person has been approved by City in advance in writing, which approval may be granted or withheld by City in its sole discretion. Notwithstanding the foregoing, Airline is permitted to direct such security knowledge and information to its employees who require same to conduct Airline's Air Transportation Business or to comply with any law or regulation. Airline further agrees to indemnify and hold harmless City and other users of the Airport from and against any and all fines, claims, costs, expenses, damages and liabilities, including but not limited to all attorneys' fees and costs, resulting directly or indirectly from the breach of Airline's covenants and agreements as set forth in this Article 7(D). City shall provide Airline notice of any claims that City has knowledge are related to Airline. The indemnification contained in this Article 7(D) applies to this Article 7(D) only.

E. Material Breach

Violation of any of the provisions of this Article shall be a material breach. In order to cure a breach under this Article, Airline shall cooperate with City in all

respects reasonably necessary to assist in its defense related thereto in City's sole discretion.

Article 8 REMOVAL OF AIRCRAFT

A. Airline Removal

As soon as allowed by the appropriate authorities, Airline shall remove any of its disabled aircraft from any parts of the Airport, including, without limitation, runways, taxiways, aprons and Aircraft Parking and Storage Area and shall place any such disabled aircraft only in such storage areas as may be designated by City. Airline shall store such disabled aircraft only upon such terms and conditions as may be established by City.

B. City Removal

In the event Airline fails, is unable (due to bankruptcy, strike or any other reason) or elects not to move any aircraft as required, City, to the extent not prohibited by law, may, but shall not be obligated to, cause the removal of such aircraft (after first informing Airline of City's intent to remove such aircraft). Airline agrees to reimburse City for all of City's actual costs of such removal, plus a fifteen (15%) administrative fee.

Article 9 ELECTRIC CART USAGE

Anything contained in this Agreement to the contrary notwithstanding, City reserves the right to preclude Airline from operating or contracting to operate on its own behalf or in conjunction with other Air Transportation Companies, an electric cart or other motorized vehicle passenger transportation service within the Terminal Area. City's decision to preclude such operations shall be at the sole discretion of City and City shall have no liability to Airline in conjunction therewith.

Article 10 TREATMENT OF AFFILIATE AIRLINES

A. Landing Fee Rate

For purposes of this Agreement, any Airline Affiliate that has executed an Operating License will pay the Landing Fee Rate assessed to Airline. Any Airline Affiliate that has not executed an Operating License or similar agreement

with City governing their operations at the Airport will pay the Non-Signatory Landing Fee Rate.

B. Activity Reports and Payments

Each Affiliate shall be responsible for the reporting of its own operations in a monthly Activity Report, and shall be responsible for the payment of all Landing Fees and Other Fees for such operations. However, during the term of the approved affiliation with Airline, Airline shall be liable as a guarantor for all unpaid Terminal Rentals, Ramp Area Rentals, Other Fees and Additional Rents expressly contemplated herein, incurred by its Affiliate(s) while Affiliate is operating as Airline's Affiliate. The guarantee contained in this Article 10(B) applies to this Article 10(B) only. Airline shall ensure compliance with the filing of monthly Activity Reports by its Affiliates, as outlined in Article 24(H).

C. Ground Handling Fees

Airline is exempt from any Ground Handling Fees related to Ground Handling Services provided to its Affiliate(s). Airline shall pay Ground Handling Fees for services rendered to a former Affiliate subsequent to termination of Affiliate status.

D. Joint Use Area Formula

City shall not include Affiliates in the calculation of the twenty percent (20%) portion of the Joint Use Area Formula applied to the allocation of the square footage related to Joint Use Areas. The Enplaned Passengers of an Airline's Affiliate(s) will be included in the calculation of the eighty percent (80%) portion of the Joint Use Area Formula applied to the allocation of the square footage related to Joint Use Areas.

E. Fuel Flowage Fees

Any Airline Affiliate that has executed an Operating License shall be exempted from any Fuel Flowage Fees established in the Rules and Regulations. However, any Airline Affiliates that have not executed an Operating License or similar agreement with City governing their operations at the Airport will pay any Fuel Flowage Fees established in the Rules and Regulations.

Article 11
OBLIGATIONS OF CITY

In addition to the obligations as set forth elsewhere in this Agreement, including Exhibit F, as may be amended, supplemented or modified from time to time by the parties, City shall have the obligations set forth below.

A. Airport Operation

City shall use reasonable efforts to, except as otherwise provided in this Agreement, efficiently maintain and operate the Airport in an orderly, clean, neat, safe and sanitary condition and in a state of reasonably good repair consistent with airports of similar size. In addition, City will maintain and operate the Airport facilities to conform to the requirements of the FAA, TSA, and other governmental agencies and regulatory authorities having jurisdiction over the Airport.

B. Non-Airline Revenues

City shall use reasonable efforts to optimize concession and other Non-Airline Revenues at the Airport consistent with its obligations as a City-owned airport operator.

C. Airport Approaches

City shall use reasonable efforts, to the extent it is legally able so to do, to keep the Airport and its approaches free from obstruction, congestion and interference for the safe, convenient and proper use thereof by Airline.

D. Ice and Snow Removal

City shall use reasonable efforts to keep the Airport free from ice, snow and other foreign matter which could adversely affect operations in accordance with Exhibit F, City's Snow and Ice Plan and other applicable operational plans, as may be amended from time to time.

E. Maintenance of Common Area of Airport and Terminal Area

City shall use reasonable efforts to appropriately furnish and maintain in safe condition and good repair all common areas in and about the Airport, which are used by, or made accessible to the public or any Air Transportation Company. In addition, City shall use reasonable efforts to appropriately furnish and maintain in safe condition and good repair all City owned loading bridges, furniture, carpeting and other equipment or belongings owned by City in the Airline's Leased Premises, and to fulfill its other responsibilities for

maintenance and cleaning of the Terminal Area including the Ramp Area, as set forth in Exhibit F, as may be amended, supplemented or modified from time to time by the parties.

Article 12 TERMINAL AREA USE PROVISIONS

A. Terminal Areas Designations

All Terminal Areas will be designated as General Terminal Areas until such premises are included in Airline Space.

B. Policy of Open Access

City has a policy of providing open access to the Airport and achieving a balanced utilization of the facilities of the Airport. To achieve that goal, City, as may be modified from time to time and consistent with the provisions of this Agreement: (i) has established Domestic Common Use Terminal Areas; (ii) has established procedures for the consensual reallocation of space and accommodations among Passenger Air Transportation Companies, including Airline; (iii) has reserved to City the right to require temporary use of Airline's Preferential Use Premises; (iv) has established procedures to accommodate requests for facilities by Passenger Air Transportation Companies seeking to expand their present service at the Airport or Passenger Air Transportation Companies seeking entry into the Airport and (v) has established Minimum Use Requirements.

C. Utilization of Facilities

During periods of operational inconvenience, including but not limited to, weather delays, the temporary non-availability of facilities for maintenance purposes, or aircraft mechanical delays, and when accommodation at Domestic Common Use Gates is not readily available, Airline shall make all reasonable efforts to accommodate other Air Transportation Company's operations on Airline's Preferential Use Premises in such instances.

D. Exclusive Use Premises

Airline will have Exclusive Use of that portion of Airline's Leased Premises designated as Airline's Exclusive Use Premises as described in Exhibit B. Airline's Exclusive Use Premises, excluding Airline VIP rooms, are subject to the change of facility status, relocation and other provisions of this Agreement.

E. Airline's Preferential Use Premises

Airline will have Preferential Use of that portion of Airline's Leased Premises designated as Airline's Preferential Use Premises and Airline's Ramp Premises as described in Exhibit B. Airline's Preferential Use Premises and Airline's Ramp Premises are subject to the change of facility status, relocation, Active Loading and Active Unloading period requirements and other provisions of this Agreement. In addition, in the event all or some of the Gate Positions of Airline's Preferential Lease Premises are now or in the future located in that portion of Terminal A East having access to the existing sterile corridor as of the Effective Date, such Gate Positions within Airline's Preferential Lease Premises are subject to the Gate Position reservation to City, as follows:

1. City hereby reserves and Airline hereby releases from its use and lease the eight (8) hour time frame of 1400 Hours to 2200 Hours on a daily basis on Airline's Gate Positions now located in that portion of Terminal A East having access to the existing sterile corridor as such sterile corridor exists as of the Effective Date and as shown on Exhibit B, hereinafter referred to as a "Gate Reservation". City shall provide notice to Airline no less than ninety (90) days before any of Airline's Preferential Lease Premises are to be used in connection with the Gate Reservation.
2. For the duration of the Gate Reservation, the subject Gate Positions will be designated as International Common Use Areas, and available for use by Air Transportation Companies designated by City consistent with the established international gate use provisions in its operating plan. Such use of the subject Gate Position shall include rights of ingress and egress and use of appurtenant aircraft support equipment which are reasonably necessary for the effective use of such Gate Position. Unless otherwise agreed to by Airline, the foregoing shall exclude use of any Airline Equipment, Airline-owned proprietary computers and peripherals and ground support equipment. City acknowledges and agrees that Airline shall have no liability, including but not limited to custodial responsibilities, related to or arising out of the use by another Air Transportation Company during the Gate Reservation of any Gate Position of Airline subject to the Gate Reservation. City may require Airline to tow aircraft from the Gate Position during the Gate Reservation time frame. City shall designate a location at either (i) the Aircraft Parking and Storage Area to which the aircraft is to be towed or (ii) such other area at the Airport to which the aircraft is to be towed and shall not impose a parking or storage fee in connection with such towed aircraft. City shall also require any Air Transportation Company using the Gate Position during the Gate

Reservation time frame to expeditiously remove any aircraft at the end of the Gate Reservation time frame.

3. In consideration for the Gate Reservation, City hereby agrees to provide Airline a credit of Rents equal to one twenty-fourth (1/24th) of the Rents attributable to the Gate Positions in Airline's Leased Premises that are subject to the Gate Reservation for each hour included in the Gate Reservation time frame. Such credit of Rents shall be credited to Airline's Rents each month at or before the date such Rents are due by Airline to City as provided for in this Agreement, so that Airline shall be required to pay only the net amount due each month. If Airline or its Affiliate(s) use a Gate Position subject to the Gate Reservation for an off-schedule operation during the Gate Reservation, no additional Terminal Rentals shall be incurred by Airline or its Affiliate(s) for such operations.
4. City hereby reserves the right in City's sole discretion, to enter into a separate written agreement with Airline waiving the Gate Reservation or modifying the hours included in the Gate Reservation on all or some of the Gate Positions in Airline's Leased Premises that are subject to the Gate Reservation. In the event the Gate Reservation is so waived or modified, the credit of Rents provided for herein will be likewise modified to reflect the actual hours included in the Gate Reservation.
5. City hereby reserves the right in City's sole discretion to make modifications to any Gate Position subject to a Gate Reservation suitable for the volume and character of air traffic, flight activity, and passenger traffic and that the City deems is necessary or proper to facilitate the use of such Gate Position as an International Common Use Area. Such modifications may include, but are not necessarily limited to modifications of Gate Position ticket lift counters and equipment, jetbridge adjustments or enhancements, ramp markings and holdroom seating reconfigurations/additions and all cost and expense of such modification shall be borne by City. City will make a reasonable effort to provide alternative accommodations or mitigate any adverse effects of such Gate Position modification. Except, in each case, where caused by the gross negligence or willful misconduct of City and their officers, employees and contractors, the Airline agrees that no liability shall attach to such parties by reason of such inconvenience and, for and in further consideration of the use of the Airline's Leased Premises, Airline waives any right to claim damages or other consideration therefore except as set forth in Article 26(A) herein.

F. Joint Use Terminal Area

1. Domestic Baggage Claim Individual Area. Airline has the right to use Domestic Baggage Claim Individual Area(s) in conjunction with other Signatory Airlines and Air Transportation Companies as designated by City.
2. Domestic Baggage Make-up Individual Area. Airline has the right to use Domestic Baggage Make-up Individual Area(s) in conjunction with other Signatory Airlines and Air Transportation Companies as designated by City.
3. Cart Tunnel/Baggage Recheck Area. Airline has the right to use the Cart Tunnel/Baggage Recheck Area in conjunction with other Signatory Airlines and Air Transportation Companies as designated by City.

G. International Common Use Areas

Airline may request and City may grant to Airline the right to use International Common Use Areas in conjunction with other Signatory Airlines and Air Transportation Companies designated by City. International Common Use Areas are to be assigned at the discretion of City, consistent with the established international gate use provisions in its operating plan, in its prudent operation of the Airport. Use of the International Common Use Areas must be scheduled with City on a biannual basis or as periodically established. Signatory Airlines shall have priority use of the International Common Use Areas over Non-Signatory Airlines for the operation of international flights.

H. General Terminal Areas

1. Domestic Common Use Terminal Areas. Airline may request and City may grant to Airline the right to use Domestic Common Use Terminal Areas in conjunction with other Signatory Airlines and Air Transportation Companies designated by City. Domestic Common Use Terminal Areas are to be assigned at the sole discretion of City in its prudent operation of the Airport as necessary to achieve a balanced utilization of the Terminal Area.
 - (a) Domestic Common Use Gates may be utilized by an Air Transportation Company on a Turnaround Use basis and must be scheduled with City during the month prior to the month that such Air Transportation Company desires to use the Domestic Common Use Gates.
 - (b) Domestic Common Use Ticket Counters may be utilized by an Air Transportation Company on a Turnaround Use basis and must be scheduled with City during the month prior to the month that such Air

Transportation Company desires to use the Domestic Common Use Ticket Counters.

2. Public Areas. Airline has the right of ingress and egress to the Public Areas and the right to its use in conjunction with its Air Transportation Business at the Airport.
3. Other General Terminal Areas. City shall at all times manage, direct, control, and where appropriate, enter into contracts and leases in and for the General Terminal Areas. Airline's rights with respect to the General Terminal Areas are at all times subject to the terms of this Agreement, the Rules and Regulations and the rights and privileges afforded to other Terminal Area tenants under separate leases and contracts. City shall have the right to restrict Airline's ingress, egress or use of the General Terminal Areas as provided for in this Agreement, subject to Airline's right to use the Public Areas and the Domestic Common Use Terminal Areas as provided for herein and otherwise in the prudent operation of the Airport and sole discretion of City.

I. Airport Modifications

Airport modifications may take place during the Term of this Agreement and City, in its sole discretion, may determine that it is necessary or proper in order to facilitate the planning, design or construction of any such modifications to direct Airline, upon a minimum of one hundred twenty (120) days advance written notice, to vacate all or a portion of the Total Airline Leased Premises and to remove and/or relocate any and all improvements authorized hereunder. City shall use reasonable efforts to provide suitable alternate facilities, if available, for Airline for a period that would complete Airline's then current term under this Agreement. In the event that City directs Airline to vacate all or a portion of the Total Airline Leased Premises, Airline shall proceed to perform such work as is necessary. In the event of relocation, City shall reimburse Airline for reasonable moving expenses.

In the event that suitable alternate facilities are not available, City shall reimburse Airline for the undepreciated or unamortized (calculated on a straight-line basis) capital cost of any improvements made by Airline in such vacated space (i) for improvements made by Airline during the Term of this Agreement only as documented in City permitting processes or (ii) for improvements made by Airline prior to the Term of this Agreement, only as approved during a Signatory Airline consultation process, as outlined in Article 30 of this Agreement.

Article 13
TERMINAL AREA RAMP

A. Use of Airline's Ramp Premises

Airline shall have Preferential Use of the Airline's Ramp Premises included in Airline's Leased Premises for the loading and unloading of Airline's passenger aircraft, or the passenger aircraft of Airline's Affiliates and Air Transportation Company subtenant(s), and City-approved Air Transportation Company users under an existing ground handling agreement. Airline's use of said Airline's Ramp Premises shall be limited to (i) the loading and unloading of persons, property, cargo, parcels, mail and in-flight food and related supplies on passenger aircraft, as well as (ii) subject to the provisions of this Agreement the parking, refueling, interior cleaning, and minor mechanical maintenance of Airline's passenger aircraft, and the aircraft of Airline's Affiliate(s), City-approved Air Transportation Company subtenant(s), and City-approved Air Transportation Company users under an existing ground handling agreement. Unless otherwise approved by City, Airline's right of Preferential Use of the Airline's Ramp Premises shall not include the parking of any aircraft beyond the published size of aircraft approved by City for such area, which aircraft size limitations are subject to change from time to time.

B. Ground Support Equipment Storage

Airline shall have the right to stage/store its ground support equipment on the Airline's Ramp Premises in areas designated for such staging/storage by City, subject to the requirement that Airline's ground support equipment may need to be removed from such staging/storage areas at City's request if necessary to accommodate use of such Airline's Preferential Use Premises for another Air Transportation Company's flights pursuant to Article 14.

C. Alternate Ramp Premises

City may from time to time, following consultation with Airline's local management personnel and taking into consideration Airline's operational needs, temporarily designate suitable alternate areas outside the Airline's Ramp Premises for the loading and unloading of Airline's passenger aircraft and/or the staging/storage of ground support equipment, consistent with City's obligations under Article 12(l) and Article 26.

D. Disabled Equipment

Airline shall not store on the Airline's Ramp Premises any damaged equipment, disabled equipment or mechanically non-operable motorized equipment.

E. Maintenance of Airline's Ramp Premises

In addition to the other obligations of Airline set forth in this Agreement, with respect to the Airline's Ramp Premises, Airline agrees to the extent reasonably practicable, to abide by Article 36(C) and Article 36(E) and to promptly remove any spilled or deposited petroleum products and the accumulation of oil and grease caused by the aircraft and ground support equipment of Airline, Affiliate(s) and Air Transportation Companies operating from Airline's Leased Premises under City-approved subleases or ground handling agreements, except those Air Transportation Companies operating on the Airline's Ramp Premises under a City Designated Accommodation per Article 14(D), while operating on the Airline's Ramp Premises or elsewhere at the Airport. Airline shall also maintain the Airline's Ramp Premises of the Airport in a safe, neat, clean and orderly manner and place all trash and debris in proper containers approved by City, until properly disposed of in a manner acceptable to City.

Article 14

ACCOMMODATION OF REQUESTING AIR TRANSPORTATION COMPANIES

A. Accommodation Obligation of Airline

City is obligated under federal law to provide Airport access to all qualified Air Transportation Companies on reasonable terms and without unjust discrimination. Airline's Preferential Use Premises may be subject to City's right to accommodate the air services of other Air Transportation Companies at the Airport, including but not limited to air services that enhance competition on routes served by Airline and/or other Air Transportation Companies already operating at the Airport.

B. City's Scheduling Rights

In the event that City is unable to reasonably, efficiently, and adequately accommodate the existing or proposed operations of an Air Transportation Company at the Domestic Common Use Terminal Areas and provided that the use by another Air Transportation Company of Airline's Preferential Use Premises will not interfere with the Active Loading and Active Unloading operations by Airline, Affiliate(s), and Air Transportation Companies operating from Airline's Leased Premises under City-approved subleases or ground handling agreements, City has the right to schedule aircraft operations of such other Air Transportation Company at Airline's Preferential Use Premises subject to the provisions of this Article. The overnight parking of Airline's aircraft at its

Airline's Ramp Premises shall not be deemed Active Loading and Active Unloading or occupation of the Gate Position by Airline.

C. Voluntary Accommodation by Signatory Passenger Airline

City will notify the Signatory Passenger Airlines of any Requesting Air Transportation Company. The Signatory Passenger Airlines shall make every reasonable effort to accommodate such Requesting Air Transportation Company at times when the use of such Preferential Use facilities shall not interfere with the Active Loading and Active Unloading of Airline, its Affiliate(s), and Air Transportation Companies operating from Airline's Leased Premises under City-approved subleases or ground handling agreements. City will notify the Signatory Passenger Airlines in writing regarding the request for accommodation, including the specific schedule to be accommodated. If no Signatory Passenger Airline has responded in writing to City and the Requesting Air Transportation Company within fifteen (15) days of such notification, City and Requesting Air Transportation Company shall proceed to the provisions of Article 14(D).

1. Voluntary Accommodation Agreement. If Airline is able and willing to accommodate the schedule of a Requesting Air Transportation Company on all or a portion of Airline's Preferential Use Premises, a written agreement shall be entered into between Airline and the Requesting Air Transportation Company, prior to the effective date of Requesting Air Transportation Company's operations, subject to the prior review and approval by City. Such agreement shall be subject to the provisions of Article 29. Rentals, fees and charges established in the agreement and charged by Airline to the Requesting Air Transportation Company shall not exceed one hundred and fifteen percent (115%) of Airline's pro rata total costs of accommodating Requesting Air Transportation Company.

D. City Designated Accommodation

If the Requesting Air Transportation Company's attempt to obtain voluntary Signatory Passenger Airline accommodation proves unsuccessful as determined by City, City shall serve notice to all Signatory Passenger Airlines of City's intention to make a determination within fifteen (15) days, as to how the Requesting Air Transportation Company can be accommodated on one or more of the Signatory Passenger Airlines' Preferential Leased Premises, either individually or in combination. At the end of such fifteen (15) day period, City may, subject to Airline's right to Preferential Use thereof, designate all or a specific portion of Airline's Preferential Use Premises as may be required to accommodate or partially accommodate the proposed operations of the Requesting Air Transportation Company, including rights of ingress and egress,

the right to use the Airline's Ramp Premises, the loading bridges and other appurtenant aircraft support equipment, which are reasonably necessary for the effective use of such Airline's Preferential Use Premises. Unless otherwise agreed to by Airline, the foregoing shall exclude any Airline-owned proprietary computers and peripherals and ground support equipment. Airline shall accommodate such Requesting Air Transportation Company on all or such portion of the Airline's Preferential Use Premises in a commercially reasonable manner taking into account the nature of both Airline and Requesting Air Transportation Company's respective operations, which manner of accommodation shall be subject to the review and approval of City. City's designation shall set forth the time and date of any aircraft towing requirements of Airline, subject to the provisions of Article 14(E).

1. City Designated Accommodation Rights and Provisions. If the right to use of all or a designated portion of Airline's Preferential Use Premises is granted to a Requesting Air Transportation Company by City, such Requesting Air Transportation Company shall:
 - (a) Operating License. Execute an Operating License or other agreement required by City and agree in writing to indemnify City and Airline, to the extent required of Airline pursuant to the provisions of this Agreement.
 - (b) Insurance. Furnish a certificate of insurance evidencing types of insurance and with the limits and deductibles required to be carried by Airline hereunder and endorsed to include Airline and City as additional insureds.
 - (c) Agreement with and Indemnification of Airline and City. During the period of time that such Requesting Air Transportation Company is using Airline's Preferential Use Premises as required by City, Airline's indemnification of City as required herein shall not extend to the use, occupancy and operations of Requesting Air Transportation Company at Airline's Preferential Use Premises pursuant to this Article, unless damage or injury is caused by Airline, its officers, directors, employees, or agents who have come upon Airline's Preferential Use Premises in connection with Airline's use and occupancy thereof.
2. City Designated Accommodation Rentals and Fees
 - (a) In the event that City designates all or a portion of Airline's Preferential Use Premises for the accommodation of a Requesting Air Transportation Company, Airline and the Requesting Air Transportation Company shall have a period of fifteen (15) days to

enter into an agreement-in-principle of substantial business terms, including, but not limited to, the effective date of Requesting Air Transportation Company's operations, subject to the prior review and approval by City. Such agreement shall be subject to the provisions of Article 29. Rentals, fees and charges established in the agreement and charged by Airline to the Requesting Air Transportation Company shall not exceed one hundred and fifteen percent (115%) of Airline's pro rata total costs of accommodating Requesting Air Transportation Company.

- (b) If Airline's and the Requesting Air Transportation Company's attempt to reach agreement pursuant to Article 15(D)(2)(a) proves unsuccessful as a consequence of Airline's failure to make a reasonable offer of accommodation, as determined by City, City shall invoice the Requesting Air Transportation Company as if such premises were included in the Domestic Common Use Terminal Areas, subject to the Signatory or Non-Signatory Domestic Common Use Gate Fee, the Domestic Common Use Ticket Counter Fee and/or Other Fees as appropriate. All rates, fees and charges received by City from such Requesting Air Transportation Company shall be considered and applied as Non-Airline Revenues.

E. Aircraft Towing Requirements of Airline

City may require Airline to tow aircraft from the Ramp Area Premises, if City requires Airline's Preferential Use Gate Positions or Airline's Ramp Premises in order to accommodate operations by a Requesting Air Transportation Company. City shall designate a location at either (i) the Aircraft Parking and Storage Area to which the aircraft is to be towed or (ii) such other area at the Airport to which the aircraft is to be towed and shall not impose a parking or storage fee in connection with such towed aircraft. This obligation of Airline to tow any parked aircraft not engaged in an Active Loading or Active Unloading operation shall include, but is not limited to, any parked aircraft remaining over-night. This towing requirement shall not be invoked by City if the period of time between the completion of the Active Unloading and the commencement of the Active Loading periods is equal to less than ninety (90) minutes.

F. Failure to Tow Aircraft

In the event Airline fails to expeditiously remove any aircraft which City has notified Airline to tow under the previous paragraph, as determined by City, then such failure will be an Event of Default hereunder, which shall be curable by Airline towing such said aircraft and thereafter paying the City one thousand (\$1,000) dollars for each thirty (30) minute period or portion thereof that Airline fails to tow. The parties hereby agree that this amount is liquidated damages

and not a penalty, is payable within ten (10) business days following receipt of an invoice hereunder and shall be included as a Non-Airline Revenue in the Airfield Area Cost Center.

G. Priority under Accommodation

Subject to the provisions of Article 12 (E) of this Agreement, in the event City designates the accommodation of a Requesting Air Transportation Company on Airline's Preferential Use Premises, Airline, its Affiliate(s) and Air Transportation Companies operating from Airline's Leased Premises under City-approved subleases or ground handling agreements shall have priority in all aspects of usage of such Airline's Preferential Use Premises over all Requesting Air Transportation Companies scheduled by City to use such Airline's Preferential Use Premises. Requesting Air Transportation Company will be entitled to maintain its schedule on Airline's Preferential Use Premises until such time as Airline provides Requesting Air Transportation Company and City at least ninety (90) days advance notice of such changes to its schedule, as subsequently verified in the Official Airline Guide, as will require Requesting Air Transportation Company to either (i) adjust its schedule or (ii) to initiate the accommodation process under Article 14(C).

Article 15 CHANGE OF FACILITY STATUS

A. Change of Facility Status Rights

In the event that City, in exercising prudent management of the Airport facilities, determines there is a need for additional facilities to lease to a Requesting Air Transportation Company or additional facilities are needed for Domestic Common Use Terminal Areas, a portion of any individual Signatory Airline's Leased Premises may be subject to a change of facility status pursuant to the provisions of this Article.

B. Airline's Leased Premises Subject to Change of Facility Status

Airline's Leased Premises may, from time to time, be subject to a change of facility status if City determines that Airline combined with its Affiliate(s) and Air Transportation Companies operating from Airline's Leased Premises under City-approved subleases or ground handling agreements, after the applicable cure period, do not meet the Minimum Use Requirement. City, in addition to all other rights and remedies provided for in this Agreement, may remove from Airline's Leased Premises such portions of Airline's Leased Premises such that

Airline will meet the Minimum Use Requirements, subject to the provisions of this Article.

C. Change of Facility Status Qualifying Process

1. Notification to Signatory Passenger Airlines. In the event that City determines that additional facilities are needed for lease to a Requesting Air Transportation Company or additional facilities are needed for Domestic Common Use Terminal Areas, City shall provide all Signatory Passenger Airlines with a fifteen (15) day notice that City will undertake a change of facility status review.
2. Facilities Utilization Ranking. Using the actual daily activity for the three full calendar months immediately prior to notice, or, in the alternative, the scheduled activity for the three full calendar months subsequent to the notice, City shall calculate the average airline aircraft departures per Gate Position per day utilizing the weighted formula set forth herein (Departures/Gate Position) for each Signatory Passenger Airline. Departures credited to the Signatory Airline shall include departures from its Gate Positions reported by the Signatory Passenger Airline and shall include use by its Affiliate(s) and Air Transportation Companies operating from Airline's Leased Premises under City-approved subleases or ground handling agreements.
3. Weighted Formula. Notwithstanding the foregoing, in the event that more than fifty percent (50%) of the departures from the Airline's Gate Positions, whether by Airline, Affiliate(s) and Air Transportation Companies operating from Airline's Leased Premises under City-approved subleases or ground handling agreements, are represented by Regional Aircraft, then departures by all Regional Aircraft from Airline's gates at Terminals A, B, C, D and E shall be discounted by fifty percent (50%). Departures from Terminal F shall not be discounted under any circumstances.
4. Minimum Use Requirements. The calculation of minimum average departure requirements will vary based on the number of gates occupied by a Signatory Passenger Airline as set forth in the following chart:

First Gate	4.25 Departures
Second Gate	4.75 Departures
Third Gate	5.25 Departures
Gates In Excess Three Gates	5.75 Departures

Based on the foregoing, for the immediately preceding three (3) month period, an Airline with one gate must maintain a Minimum Use Requirement of an average of 4.25 departures per day; an Airline with two gates must maintain a Minimum Use Requirement of an average of 4.5 departures per day; an Airline with three gates must maintain a Minimum Use Requirement of an average of 4.75 departures per day and an Airline with 4 or more gates must maintain a Minimum Use Requirement of an average of 5 departures per day. In no event will the Minimum Use Requirement exceed an average of 5 Departures/Gate Position per day for the aggregate number of Airline's Gate Positions.

5. **Qualifying Signatory Passenger Airlines.** As a result of the facilities utilization ranking, Signatory Passenger Airlines that have not met the Minimum Use Requirement will be subject to the change of facility status process to the extent of the number of Gate Positions in such Airline's Leased Premises that do not meet the Minimum Use Requirement. City will notify in writing each Signatory Passenger Airline that qualifies for the change of facility status as to the number of Gate Positions in such Airline's Leased Premises that do not meet the Minimum Use Requirement.
 6. **Signatory Airline Response Process.** In the event that Airline does not meet the Minimum Use Requirement, Airline shall have the opportunity, within thirty (30) days after the notification from City pursuant to Article 15(C)(5) that Airline qualifies for the change of facility status, to demonstrate to City's satisfaction that Airline intends to add sufficient scheduled flights (whether by Airline, its Affiliate(s) and Air Transportation Companies operating from Airline's Leased Premises under City-approved subleases or ground handling agreements) to raise its scheduled activity to meet its Minimum Use Requirement. If Airline does not respond within thirty (30) days or if the response is deemed unsatisfactory by City, in its sole discretion, City may initiate the Change of Facility Status Implementation Process outlined in Article 15(D). In the event Airline fails to raise its scheduled activity to meet the Minimum Use Requirement within ninety (90) days, City may initiate the Change of Facility Status Implementation Process outlined in Article 15(E).
- D. **Change of Facility Status Implementation Process – No Cure Offered**
1. **City Notification of Needed Space.** In the event Airline is subject to the change of facility status process, City will notify Airline with respect to the type and amount of premises that City may remove from Airline's Leased Premises.

2. **Airline Premises Proposal.** Within thirty (30) days of receiving the notice from City regarding the type and amount of premises that may be removed from Airline's Leased Premises, each Signatory Airline qualifying for the change of facility status process will be required to prepare and submit to City a proposal, which shall identify in detail, the specific candidate premises within its Airline's Leased Premises (including Ticket Counter Positions, Gate Positions and supporting premises) it proposes for reversion to City based on the type and amount of premises needed as indicated by City in the notification. To the extent practicable, Airline's proposal shall identify balanced shares of Ticket Counter Positions, Gate Positions and supporting premises for reversion to City to allow for operations by multiple airlines. Airline will not be required to include more Gate Positions in Airline's proposal than are minimally required to allow Airline to meet the Minimum Use Requirement.
 3. **City's Review of Premises Proposal.** City will review all of the proposals submitted by Signatory Airlines subject to the change of facility status process and determine if the proposals are operationally practical. If Airline fails to submit the required proposal to City within the thirty (30) day notice period or if Airline submits a proposal that City determines does not meet this criteria, City shall prepare an alternative plan for such Signatory Airline and that plan will be final.
 4. **City's Selection of Premises Packages.** After accepting the proposals from each Signatory Airline subject to the change of facility status process (or substituting a proposal for those from non-responsive Signatory Airlines), City will notify each Signatory Airline subject to this process as to which proposal was selected by City, and on what date such premises will be deleted from the subject Signatory Airline's Leased Premises, said transfer date to be no earlier than sixty (60) days following the date of the premises packages selection notification. In determining which of the proposals will be selected, City will employ its best judgment as to the current and future operational needs of the Airport. City's determination as to which Signatory Airline's premises shall be subject to change of facility status shall be at the sole discretion of City, and such decision will be final.
- E. **Change of Facility Status Implementation Process – Failure to Cure**
1. **City Notification of Needed Space.** In the event of a failure to cure pursuant to Article 15(C)(6), City will notify Airline, if subject to the change of facility status process, with respect to the type and amount of premises that City may remove from Airline's Leased Premises.

2. **Airline Premises Proposal.** Within fifteen (15) days of receiving the notice from City regarding the type and amount of premises that may be removed from Airline's Leased Premises, each Signatory Airline qualifying for the change of facility status process will be required to prepare and submit to City a proposal, which shall identify in detail, the specific premises within its Airline's Leased Premises (including Ticket Counter Positions, Gate Positions and supporting premises) which it proposes for reversion to City based on the type and amount of premises identified by City in the notification. To the extent practicable, Airline's proposal shall identify balanced shares of Ticket Counter Positions, Gate Positions and supporting premises for reversion to City to allow for operations by multiple airlines. Airline will not be required to include more Gate Positions in Airline's proposal than are minimally required to allow Airline to meet the Minimum Use Requirement.
3. **City's Review of Premises Proposal.** City will review all of the proposals submitted by Signatory Airlines subject to the change of facility status process and determine if the proposals are operationally practical. If Airline fails to submit the required proposal to City within the fifteen (15) day notice period or if Airline submits a proposal that City determines does not meet this criteria, City shall prepare an alternative plan for such Signatory Airline and that plan will be final.
4. **City's Selection of Premises Packages.** After accepting the proposals from each Signatory Airline subject to the change of facility status process (or substituting a proposal for those from non-responsive Signatory Airlines), City will notify each Signatory Airline subject to this process as to which proposal was selected by City, and on what date such premises will be deleted from the subject Signatory Airline's Leased Premises, said transfer date to be no earlier than fifteen (15) days following the date of the premises packages selection notification. In determining which of the proposals will be selected, City will employ its best judgment as to the current and future operational needs of the Airport. City's determination as to which Signatory Airline's premises shall be subject to change of facility status shall be at the sole discretion of City, and such decision will be final.

F. **Airline Obligations Regarding Change of Facility Status**

1. **Removal of Airline Equipment and Vacating Leased Premises.** In the event that any portion of Airline's Leased Premises are to be removed from Airline's Leased Premises as a result of a change of facility status process, Airline will vacate such portion of Airline's Leased Premises and remove its Airline Equipment on or before the transfer date set forth in the premises proposal notification.

2. Amendment to Leased Premises. In the event that any portion of Airline's Leased Premises are to be removed from Airline's Leased Premises included in this Agreement as a result of a change of facility status process, City shall prepare and provide to Airline a revised Exhibit B which will set forth Airline's Leased Premises subsequent to such removal, and all Rents and Other Fees associated with such Leased Premises, as amended, shall be effective on the transfer date set forth in the premises proposal notification.

3. Consolidation of Airline Operations. In the event that any portion of Airline's Leased Premises are to be removed from Airline's Leased Premises included in this Agreement as a result of a change of facility status process, Airline shall use its best efforts to consolidate its aircraft arrivals and departures on its remaining Airline's Leased Premises. In the event Airline cannot reasonably consolidate all of its aircraft arrivals and departures and the arrivals and departures of its Affiliate(s) and Air Transportation Companies operating from Airline's Leased Premises under City-approved subleases or ground handling agreements on its remaining Airline's Leased Premises, City shall make all reasonable efforts to accommodate Airline's and its Affiliate(s) and Air Transportation Companies operating from Airline's Leased Premises under City-approved subleases or ground handling agreements then-current scheduled aircraft arrivals and departures for a period of twelve (12) months from the transfer date set forth in the change of facility status, with a minimum of location or operational inconvenience. Airline shall be responsible to pay the Rents associated with its use of City's Domestic Common Use Terminal Areas.

Article 16

BOND DOCUMENTS AND FLOW OF FUNDS

A. Subordination to Bond Ordinances

This Agreement and all rights granted to Airline hereunder are expressly subordinated and subject to the lien and provisions of the pledges, transfer, hypothecation or assignment made by City in the Bond Ordinance adopted by City to issue Bonds. City expressly reserves the right to make such pledges and grant such liens and enter into covenants as it may deem necessary or desirable to secure and provide for the payment of Bonds, including the creation of reserves therefore, provided that City shall not take any actions that would be inconsistent with the terms and conditions of this Agreement. Notwithstanding the foregoing, nothing contained in this Article shall be deemed a pre-approval by Airline of a future Bond Ordinance that changes the terms and conditions of this Agreement.

B. Internal Revenue Code of 1986

Airline understands that City is and will be the issuer of bonds and Bonds. With respect to bonds or Bonds that may be issued, the interest on which is intended to be excludable from gross income of the holders for Federal income tax purposes under the Code, Airline agrees that it will not act, or fail to act (and will immediately cease and desist from any action, or failure to act) with respect to the use of the Airline Leased Premise, if the act or failure to act may cause City to be in noncompliance with the provisions of the Code, and Airline will not take or persist in any action or omission which may cause the interest on such bonds or Bonds to be includable in the gross income of the holders thereof for Federal income tax purposes.

C. SEC Rule 15c2-12

Upon request of City, Airline shall provide City with such information with respect to Airline as City may request in writing in order for City to comply with its continuing disclosure obligations under Securities and Exchange Commission ("SEC") Rule 15c2-12 (the "Rule"), as it may be amended from time to time. To the extent that Airline is an "Obligated Party" with respect to the bonds or Bonds as per the Rule, Airline agrees to execute the Continuing Disclosure Agreement incident to such financing.

D. Bond Documents Flow of Funds

All Project Revenues shall be deposited, maintained and paid as set forth in the Bond Documents.

E. Establishment of Bond Redemption and Improvement Account, O&M Account and Discretionary Account

The Signatory Airlines and City agree under this Agreement to establish the Bond Redemption and Improvement Account, O&M Account and Discretionary Account pursuant to Section 4.06 of the Bond Ordinance and herein, which accounts shall have the following uses:

1. Bond Redemption and Improvement Account. Any balance in the Bond Redemption and Improvement Account is available for use by City for the payment of deficiencies with respect to the Debt Service Requirements or deficiencies with respect to the Sinking Fund Reserve Requirement as provided under the Bond Ordinance. If no such deficiencies exist, City is not in default under the Bond Ordinance and a Majority-in Interest of the Eligible Signatory Airlines, determined pursuant to the Airfield Area MII Formula, mutually agree (whose agreement will not be unreasonably withheld), the Division of Aviation can use such amounts for repair,

renewals, replacements or alterations to the Airport System; redemption of Bonds; costs of Capital Projects or equipment; purchase of Bonds; arbitrage rebate pursuant to Section 148(f) of the Code or for any lawful Airport System purposes. At the termination of this Agreement, it is City's intention to retain the balance in the Bond Redemption and Improvement Account in an Airport related account with substantially the same purpose.

2. O&M Account. Any balance in the O&M Account is available for use by City for the payment of Operating Expenses in City's sole discretion in the event the then current Airport Revenues allocated to Operating Expenses in the Annual Budget are deemed to be insufficient. If a Majority-in Interest of the Eligible Signatory Airlines, determined pursuant to the Airfield Area MII Formula, and City mutually agree (whose agreement will not be unreasonably withheld), any balance then can be used for repairs, renewals, replacements, alterations, the redemption of Bonds or bonds or for any Airport System purposes. Notwithstanding the foregoing, City has no reasonable expectation that funds in the O&M Account will be used to pay Debt Service since the account is being created to pay Operating Expenses. At the termination of this Agreement, it is City's intention to retain the balance in the O&M Account in an account with substantially the same purpose.
3. Discretionary Account. Any balance in the Discretionary Account may be used by City for any Airport System purpose.

F. Deposit and Application of Airport Revenues

It is understood and agreed that so long as any Bonds or bonds are outstanding, the deposit and application of Project Revenues for each Fiscal Year during the term of this Agreement shall be governed by the Bond Documents.

Notwithstanding anything to the contrary in this Article, City is expressly permitted in the Bond Ordinance to use amounts remaining in the Aviation Operating Fund following any transfers pursuant to 4.06 (a) - (i) of the Bond Ordinance for the Bond Redemption and Improvement Requirement, the O&M Requirement, the Airline Revenue Allocation, and City Revenue Allocation. Pursuant to Section 4.06 of the Bond Ordinance, any amounts remaining in the Aviation Operating Fund following any transfer then required to be made pursuant to Section 4.06 of the Bond Ordinance, will be applied or credited in the following manner:

1. Bond Redemption and Improvement Requirement. City will make an initial deposit in the Bond Redemption and Improvement Account from the Discretionary Account of sixteen million eight hundred thousand dollars (\$16,800,000). For the sole purpose of establishing a dollar amount for the

Bond Redemption and Improvement Requirement, and expressly not for the purpose to establish a debt service reserve fund as set forth in the Bond Ordinance, the Bond Redemption and Improvement Requirement shall mean an amount not to exceed the lesser of (i) the amount of Debt Service Reserve Surety Bonds fulfilling City's Sinking Fund Reserve Requirements or (ii) such dollar amount required to maintain a dollar balance in the Bond Redemption and Improvement Account equal to fifteen percent (15%) of the Debt Service Requirement in Fiscal Year 2009, twenty percent (20%) of the Debt Service Requirement in Fiscal Year 2010, and twenty five percent (25%) of the Debt Service Requirement thereafter. City hereby provides its written direction pursuant to Section 4.06 of the Bond Ordinance that the Bond Redemption and Improvement Account may be funded with amounts remaining, if any, following any and all transfers required by Section 4.06 of the Bond Ordinance.

- (a) Notwithstanding the foregoing, for each and every Fiscal Year during the term of this Agreement, the interest earned on the balance of the Bond Redemption and Improvement Account shall first be used to reduce the Bond Redemption and Improvement Requirement for the following Fiscal Year and the remaining interest and any excess balance in the Bond Redemption and Improvement Account due to a reduction in the Debt Service Requirement, if any, shall be transferred to the Aviation Operating Fund and then allocated to the Airport Cost Centers in proportion to the Debt Service Requirement for each such Airport Cost Center as a Non-Airline Revenue.
- (b) The net Bond Redemption and Improvement Requirement shall be allocated on the basis of Debt Service Requirements to the Airport Cost Centers.

2. O&M Requirement. City will make an initial deposit in the O&M Account from the Fiscal Year 2006 credit for excess payment/carry forward in the amount of ten million dollars (\$10,000,000) and from the Discretionary Account of five million dollars (\$5,000,000). City hereby provides its written direction pursuant to Section 4.06 of the Bond Ordinance that the O&M Account may be funded with amounts remaining, if any, following any and all transfers required by Section 4.06 of the Bond Ordinance and by Article 16(F)(1) above. Thereafter, the O&M Requirement shall mean an amount not to exceed one million dollars (\$1,000,000) per Fiscal Year to be deposited in the O&M Account to maintain a balance equal to ten percent (10%) of Operating Expenses.

- (a) Notwithstanding the foregoing, for each and every Fiscal Year during the term of this Agreement, the interest earned on the balance of the O&M Account shall first be used to reduce the O&M Requirement for the following Fiscal Year and the remaining interest and any excess balance in the O&M Account due to a reduction in Operating Expenses, if any, shall be transferred to the Aviation Operating Fund, then allocated to the Airport Cost Centers in proportion to the Operating Expenses for each such Airport Cost Center as a Non-Airline Revenue.
 - (b) The net O&M Requirement shall be allocated on the basis of Operating Expenses to the Airport Cost Centers.
3. Airline Revenue Allocation. The Airline Revenue Allocation shall be calculated from any amounts remaining in the Aviation Operating Fund if any, following any and all transfers required by Section 4.06 of the Bond Ordinance and by Articles 16(F)(1) and 16(F)(2) above. Commencing in Fiscal Year 2008 and for each Fiscal Year thereafter during the term of this Agreement, the Airline Revenue Allocation shall be equal to fifty percent (50%) of the prior Fiscal Year's total net revenue from the Outside Terminal Areas Cost Center reduced by an amount of up to seven million dollars (\$7,000,000), to the extent net revenue from the Outside Terminal Areas Cost Center equals or exceeds seven million dollars (\$7,000,000). If Project Revenues of the Outside Terminal Area Cost Center have been pledged pursuant to a Supplemental Ordinance in accordance with the Bond Ordinance, the Airline Revenue Allocation for Fiscal Year 2008 and each Fiscal Year thereafter, if any, shall first be credited to the Other Buildings and Areas Cost Center to determine the Airfield Area Requirement for such Fiscal Year and then, if the Airline Revenue Allocation exceeds the deficit of the Other Buildings and Areas Cost Center, the excess shall be allocated pro rata to the Airfield Area Cost Center and Terminal Area Cost Center based on airline revenue allocable to such cost center. If Project Revenues of the Outside Terminal Area Cost Center have not been pledged pursuant to a Supplemental Ordinance in accordance with the Bond Ordinance, then the Airline Revenue Allocation shall be allocated on a pro rata basis to the Signatory Airlines in proportion to each individual Signatory Airline's payment of Rents and Additional Rents for the most recent complete Fiscal Year for which data are available. Such pro rata portion of the Airline Revenue Allocation shall be credited against Rents for each Signatory Airline in the subsequent Fiscal Year during the term of this Agreement.
4. Discretionary Account. Following any and all transfers required by Section 4.06 of the Bond Ordinance and by Articles 16(F)(1) and 16(F)(2), any amounts remaining in the Aviation Operating Fund, less the Airline

Revenue Allocation, shall be deposited in the Discretionary Account to be used by City for any Airport System purpose.

Article 17
ALLOCATION OF RENTAL CAR CONCESSION FEES

City and Airline agree to the following allocation of Rental Car Concession Fees generated by the car rental companies, which is consistent with the current practice of the parties: (i) the Rental Car Concession Fees generated by the Alamo and Enterprise car rental brands and any new entrant car rental companies entering the Airport subsequent to the Effective Date, their respective successors and assigns, will be allocated to the Outside Terminal Area Cost Center; (ii) the Rental Car Concession Fees generated by all of the other currently existing rental car company brands, their successors and assigns, except those concession fees originating from the Alamo/Enterprise car rental company brands will be allocated to the Terminal Area Cost Center; and (iii) in the event that an existing car rental company brand, the Rental Car Concession Fees of which are currently allocated to one cost center merges with, or is acquired by, a car rental company the Rental Car Concession Fees of which are allocated to a different cost center, the Rental Car Concession Fees generated by the individual car rental brands making up the resulting merged entity will be segregated by pre-merger/acquisition brand and allocated on a pre-merger/acquisition basis by brand to the Terminal Area or Outside Terminal Area Cost Center according to (i) and (ii) above.

Article 18
TERMINAL AREA REQUIREMENT

A. Terminal Area - Residual Cost Center

City shall employ a cost center residual methodology for charging Terminal Area rentals and fees, using Airline Space in calculating the Category Terminal Rental Rates according to Types of Space for the Terminal Area Cost Center. The rates and charges schedule attached hereto as Exhibit G is provided for illustrative purposes only and reflects the Terminal Rentals calculation methodologies. Terminal Rentals will be recalculated annually for each Fiscal Year for the term hereof, unless otherwise adjusted, as outlined below.

B. Terminal Area Requirement

The Terminal Area Requirement for each Fiscal Year shall be the amount in the Annual Budget equal to:

1. The sum of Operating Expenses, Debt Service and Fund Requirements allocated to the Terminal Area Cost Center;
2. Less all Non-Airline Revenues allocated to the Terminal Area Cost Center;
3. Together with any deficit or credit estimated in the Annual Budget for operation of the Terminal Area during the then-current Fiscal Year or any adjustment carried over from the preceding Fiscal Year to reflect any difference between the actual versus estimated surplus or deficit; and
4. Less the Airline Revenue Allocation allocated to the Terminal Area Cost Center, if any.

C. Category Terminal Rental Rates

1. Types of Space. For any given Fiscal Year, Airline Space shall be classified by Type of Space as set forth in the table below as reflected and defined in Exhibit B:

Types of Space	Location/Function	Weighted Value
1	Ticket counter and ticket counter offices	100%
2	Holdrooms, baggage claim area, baggage claim offices, airline lounge, upper level Airline Space	75%
3	Airline Operations Space, baggage makeup, inbound baggage	50%
4	FIS Area, Cart Tunnel/Baggage Recheck	25%

2. Category Terminal Rental Rates. For any given Fiscal Year, the Category Terminal Rental Rates for the Airline Space square footage shall be calculated as follows:
 - (a) Classify all Airline Space by Types of Space described above;

- (b) Multiply the total square footage of each Type of Space by the weighted value of each Type of Space identified in Article 18(C)(1) to determine the weighted equivalent square footage;
- (c) Sum the weighted equivalent square footage for all of the Types of Space to determine total weighted equivalent square footage;
- (d) Divide the Terminal Revenue Requirement by the total weighted equivalent square footage to establish the Type 1 Rental Rate;
- (e) Multiply the Type 1 Rental Rate by the weighted value of each Type of Space identified in Article 18(C)(1) for Types 2, 3 and 4 to determine the Category Terminal Rental Rate for each of the remaining Types of Space.

Article 19 TERMINAL RENTALS

A. Leased Premises Terminal Area

1. Leased Premises Terminal Area Rentals. The Category Terminal Rental Rates for the Types of Space contained in the Leased Premises Terminal Area (except the Ramp Area) for any given Fiscal Year shall be established as set forth in Article 18(C) hereof.
2. Airline's Terminal Rentals for Airline's Leased Premises. The Rents associated with Airline's Leased Premises for any given Fiscal Year, shall be calculated by multiplying the Category Terminal Rental Rates for each Type of Space by the corresponding square footage of each Type of Space included in Airline's Leased Premises.

B. Joint Use Terminal Area

The Joint Use Terminal Area includes the Domestic Baggage Claim Individual Areas, Domestic Baggage Make-up Individual Areas and Cart Tunnel/Baggage Re-check Areas.

1. Domestic Baggage Claim Individual Areas. The square footage associated with each Domestic Baggage Claim Individual Area shall be allocated among Signatory Passenger Airlines on the basis of the Joint Use Area Formula.
2. Airline's Terminal Rentals for Domestic Baggage Claim Individual Area(s). Airline's Terminal Rentals for Domestic Baggage Claim Individual Area(s) shall be equal to the Category Terminal Rental Rates for the Types of Space

contained in the Domestic Baggage Claim Individual Area(s) multiplied by the corresponding square footage of the Domestic Baggage Claim Individual Area(s) allocated to Airline for any given Fiscal Year.

3. Domestic Baggage Make-up Individual Areas. The square footage associated with each Domestic Baggage Make-up Individual Area shall be allocated among Signatory Passenger Airlines on the basis of the Joint Use Area Formula.
4. Airline's Terminal Rentals for Domestic Baggage Make-up Individual Area(s). Airline's Terminal Rentals for Domestic Baggage Make-up Individual Area(s) shall be equal to the Category Terminal Rental Rates for the Types of Space contained in the Domestic Baggage Make-up Individual Area(s) multiplied by the corresponding square footage of the Domestic Baggage Make-up Individual Area(s) allocated to Airline for any given Fiscal Year.
5. Cart Tunnel/Baggage Recheck Areas. The square footage associated with each Cart Tunnel/Baggage Recheck Area shall be allocated among domestic Signatory Passenger Airlines on the basis of the Joint Use Area Formula.
6. Airline's Terminal Rentals for Cart Tunnel/Baggage Recheck Areas. Airline's Terminal Rentals for Cart Tunnel/Baggage Recheck Area(s) shall be equal to the Category Terminal Rental Rates for the Types of Space contained in the Cart Tunnel/Baggage Recheck Area(s) multiplied by the corresponding square footage of the Cart Tunnel/Baggage Recheck Area(s) allocated to Airline for any given Fiscal Year.

C. International Common Use Areas

The International Common Use Areas shall include the International Common Use Ticket Counter Areas, the International Common Use Enplaning Areas, the International Common Use Deplaning Areas and the FIS Areas.

1. International Common Use Ticket Counter Areas. The International Common Use Ticket Counter Area Cost shall be equal to the Category Terminal Rental Rates for the Types of Space contained in the International Common Use Ticket Counter Area multiplied by the corresponding square footage of the International Common Use Ticket Counter Area for any given Fiscal Year. The International Common Use Ticket Counter Area Fee for any given Fiscal Year shall be determined by dividing the International Common Use Ticket Counter Area Costs by the sum of (i) the estimated number of Signatory Airline Enplaned Passengers utilizing the International Common Use Ticket Counter Area for any given Fiscal Year

and (ii) 1.15 multiplied by the estimated number of Non-Signatory Airline Enplaned Passengers utilizing the International Common Use Ticket Counter Area for any given Fiscal Year as established in the Annual Budget.

2. Airline's International Common Use Ticket Counter Area Fees. The Rents associated with Airline's use of the International Common Use Ticket Counter Areas for any given Fiscal Year include the International Common Use Ticket Counter Area Fees, attributable to Airline determined as the product of the International Common Use Ticket Counter Area Fee multiplied by the number of Airline's Enplaning Passengers using such International Common Use Ticket Counter Area.
3. International Common Use Enplaning Areas. The International Common Use Enplaning Area Cost shall be equal to the Category Terminal Rental Rates for the Types of Space contained in the International Common Use Enplaning Area multiplied by the corresponding square footage of the International Common Use Enplaning Area for any given Fiscal Year. The International Common Use Enplaning Area Fee for any given Fiscal Year shall be determined by dividing the International Common Use Enplaning Area Costs by the sum of (i) the estimated number of Signatory Airline Enplaned Passengers utilizing the International Common Use Enplaning Area for any given Fiscal Year and (ii) 1.15 multiplied by the estimated number of Non-Signatory Airline Enplaned Passengers utilizing the International Common Use Enplaning Areas for any given Fiscal Year as established in the Annual Budget.
4. Airline's International Common Use Enplaning Area Fees. The Rents associated with Airline's use of the International Common Use Enplaning Areas for any given Fiscal Year include the International Common Use Enplaning Area Fees, attributable to Airline determined as the product of the International Common Use Enplaning Area Fee multiplied by the number of Airline's Enplaning Passengers using such International Common Use Enplaning Area.
5. International Common Use Deplaning Areas. The International Common Use Deplaning Area Cost shall be equal to the Category Terminal Rental Rates for the Types of Space contained in the International Common Use Deplaning Area multiplied by the corresponding square footage of the International Common Use Deplaning Area for any given Fiscal Year. The International Common Use Deplaning Area Fee for any given Fiscal Year shall be determined by dividing the International Common Use Deplaning Area Costs by the sum of (i) the estimated number of Signatory Airline Deplaning Passengers utilizing the International Common Use Deplaning

Area for any given Fiscal Year and (ii) 1.15 multiplied by the estimated number of Non-Signatory Airline Deplaning Passengers utilizing the International Common Use Deplaning Areas for any given Fiscal Year as established in the Annual Budget.

6. Airline's International Common Use Deplaning Area Fees. The Rents associated with Airline's use of the International Common Use Deplaning Areas for any given Fiscal Year include the International Common Use Deplaning Area Fees, attributable to Airline determined as the product of the International Common Use Deplaning Area Fee multiplied by the number of Airline's Deplaning Passengers using such International Common Use Deplaning Area.
7. FIS Areas. The FIS Area Cost shall be equal to the Category Terminal Rental Rates for the Types of Space contained in the FIS Area multiplied by the corresponding square footage of the FIS Area for any given Fiscal Year. The FIS Area Fee for any given Fiscal Year shall be determined by dividing the FIS Area Costs by the sum of (i) the estimated number of Signatory Airline Deplaning Passengers utilizing the FIS Area for any given Fiscal Year and (ii) 1.15 multiplied by the estimated number of Non-Signatory Airline Deplaning Passengers utilizing the FIS Areas for any given Fiscal Year as established in the Annual Budget.
8. Airline's FIS Area Fees. The Rents associated with Airline's use of the FIS Area for any given Fiscal Year include the FIS Area Fee attributable to Airline determined as the product of the FIS Area, multiplied by the number of Airline's Deplaned Passengers utilizing the FIS Area.

Article 20 RAMP AREA RENTALS

A. Ramp Area – Modified Residual Cost Center

City shall employ a Cost Center modified residual methodology for charging Ramp Area rentals and fees, using Ramp Area Premises in calculating the Ramp Area Premises Rate. Ramp Area Rentals will be recalculated annually for each Fiscal Year for the term hereof, unless otherwise adjusted, as outlined below. The Rates and Charges Schedule attached hereto as Exhibit G is provided for illustrative purposes only and reflects the Ramp Area Rentals calculation methodologies.

B. Ramp Area Requirement

The Ramp Area Requirement for each Fiscal Year shall be the amount in the Annual Budget equal to:

1. The sum of Debt Service and Fund Requirements allocated to the Ramp Area Cost Center;
2. Plus two percent (2%) of the Operating Expenses allocable to the Airfield Area Cost Center;
3. Less all Non-Airline Revenues, allocated to the Ramp Area Cost Center; and
4. Together with any deficit or credit estimated in the Annual Budget for operation of the Ramp Area during the then-current Fiscal Year or any adjustment carried over from the preceding Fiscal Year to reflect any difference between the actual versus estimated surplus or deficit.

C. Ramp Area Premises Rate

The Ramp Area Premises Rate for any given Fiscal Year shall be determined as that rate per linear foot of the Aircraft Parking Restriction Line calculated as the result of the Ramp Area Requirement divided by the linear footage of the Aircraft Parking Restriction Line attributable to the Ramp Area Premises.

D. Airline's Rents for Ramp Area Premises

The Rents associated with Airline's Ramp Premises shall be equal to the Ramp Area Premises Rate multiplied by the corresponding linear footage of the Aircraft Parking Restriction Line in Airline's Ramp Premises for any given Fiscal Year.

E. Other Fees

Other Fees pertaining to the Ramp Area for any given Fiscal Year shall be determined as set forth in the Rules and Regulations consistent with this Article.

**Article 21
OTHER TERMINAL AREA RATES AND FEES**

A. Domestic Common Use Terminal Area

The Domestic Common Use Gate Fee and Domestic Common Use Ticket Counter Fee per Turnaround Use for any given Fiscal Year shall be established

in the Rules and Regulations and determined assuming four (4) Turnaround Uses per day.

B. Other Fees

Other Fees pertaining to the Terminal Area for any given Fiscal Year shall be determined as set forth in the Rules and Regulations consistent with Articles 18, 19, 20 and 21 of this Agreement.

Article 22 AIRFIELD AREA REQUIREMENT

A. Airfield Area - Residual Cost Center

City shall employ an Airport Cost Center modified residual methodology, including the Airfield, Other Buildings and Areas, and Northeast Philadelphia Airport Cost Centers in calculating Airfield Area rentals and fees, employing the aggregate of (i) Signatory Airlines' and (ii) Signatory Airline Affiliates' aggregate Maximum Landed Weight in calculating the Landing Fee Rate for any given Fiscal Year. The Rates and Charges Schedule attached hereto as Exhibit G is provided for illustrative purposes only and reflects the Landing Fee Rate calculation methodology. The Landing Fee Rate will be recalculated annually for each Fiscal Year for the term hereof, unless otherwise adjusted, as outlined below.

B. Airfield Area Requirement Calculation

The Airfield Area Requirement for each Fiscal Year shall be the amount in the Annual Budget equal to:

1. The sum of Operating Expenses, Debt Service and Fund Requirements for the Fiscal Year allocable to the Airfield Area, Other Buildings and Areas, and Northeast Philadelphia Airport;
2. Less two percent (2%) of Operating Expenses allocable to the Airfield Area that are recovered through Ramp Area Rentals; and
3. Less all Non-Airline Revenues allocated to the Airfield Area, Other Buildings and Areas and Northeast Philadelphia Airport Cost Centers, as contained in the Annual Budget; and
4. Less all Non-Signatory Landing Fees, assumed in the Annual Budget to be equal to the Non-Signatory Landing Fee Rate multiplied by the aggregate Maximum Landed Weight of Non-Signatory Airlines; and

5. Together with any deficit or credit estimated in the Annual Budget for operation of the Airfield Area during the then-current Fiscal Year or any adjustment carried over from the preceding Fiscal Year to reflect any difference between the actual versus estimated surplus or deficit; and
 6. Together with any deficit or credit estimated in the Annual Budget for operation of the Other Buildings and Areas during the then-current Fiscal Year or any adjustment carried over from the preceding Fiscal Year to reflect any difference between the actual versus estimated surplus or deficit; and
 7. Less the Airline Revenue Allocation allocable to the Airfield Area, if any; and
 8. Together with any deficit or credit estimated in the Annual Budget for operation of the Northeast Philadelphia Airport during the then-current Fiscal Year or any adjustment carried over from the preceding Fiscal Year to reflect any difference between the actual versus estimated surplus or deficit.
- C. Landing Fee Rate

The Landing Fee Rate shall be calculated by dividing the Airfield Area Requirement by the sum of (i) the aggregate Maximum Landed Weight of the Signatory Airlines and (ii) the aggregate Maximum Landed Weight of the Signatory Airline Affiliates that have executed an Operating License for any given Fiscal Year.

D. Other Fees

Other Fees pertaining to the Airfield Area for any given Fiscal Year shall be determined as set forth in the Rules and Regulations consistent with Article 22 of this Agreement.

Article 23

TERMINAL RENTALS, RAMP PREMISES RATE, LANDING FEE RATE AND FEE ADJUSTMENTS

- A. Annual Adjustment to Terminal Rentals, Ramp Premises Rate and Landing Fee Rate
1. Adjustment Rights. Subject to Article 23 (B) herein, the Terminal Rentals, Ramp Premises Rate and Landing Fee Rate are subject to adjustment as of July 1, 2007, and each July 1 thereafter during the term of this Agreement. If the calculation of the Terminal Rentals, Ramp Premises Rate or Landing Fee

Rate is not completed by July 1 for any reason in any given Fiscal Year, the Terminal Rentals, Ramp Premises Rate or Landing Fee Rate then in effect shall continue to be paid by Airline until such calculation of the adjusted rate is completed. The adjusted rate will be retroactive to the first day of the Fiscal Year and any payments by Airline to City shall be adjusted accordingly.

2. Airline Consultation. City will consult with the Signatory Airlines prior to adjusting the Terminal Rentals, Ramp Premises Rate and Landing Fee Rate by providing preliminary budget information, including the Terminal Rentals, Ramp Premises Rate and Landing Fee Rate calculation for the ensuing Fiscal Year in writing to the Signatory Airlines no less than forty five (45) days prior to implementation of the adjustment. A consultation meeting will be held at least thirty (30) days prior to the implementation date of any Terminal Rentals, Ramp Premises Rate or Landing Fee Rate increase.

B. Mid Year Adjustment to Terminal Rentals, Ramp Premises Rate or Landing Fee Rate

City may implement a midyear adjustment of the Terminal Rentals, Ramp Premises Rate or Landing Fee Rate in any given Fiscal Year when City determines that the current estimate of Terminal Area, Ramp Area or Airfield Area Requirements (based on year-to-date actual information) is estimated to be ten percent (10%) or higher than the then Annual Budget. City will notify and hold a consultation meeting with the Signatory Airlines at least thirty (30) days prior to the implementation of a mid year adjustment of the Terminal Rentals, Ramp Premises Rate or Landing Fee Rate.

C. End of Year Reconciliation

Within ninety (90) days after the completion of City's annual audited financial statements, City shall calculate any deficit or credit in Terminal Rentals, Ramp Area Rentals and Landing Fees using actual Operating Expenses, Debt Service, Non-Airline Revenues, Fund Requirements and Airline Revenue Allocation from the preceding Fiscal Year to determine any surplus or deficit in the amount of Airline Revenue. Any such surplus or deficit shall be included in the determination of the Airfield Area Requirement, Terminal Area Requirement, and Ramp Area Requirement for the succeeding Fiscal Year, as described in Articles 18(B)(3), 20(B)(4), 22(B)(6), 22(B)(7), and 22(B)(8).

D. No Formal Amendment

Adjustments to Terminal Rentals, Ramp Premises Rate, and Landing Fee Rates shall apply without the necessity of formal amendment of this Agreement.

**Article 24
PAYMENTS**

A. Payment of Rents

Unless and until City notifies Airline in writing designating an alternative payment method, all Rents (save and except PFC) due hereunder shall be made by separate wire or automated clearing house (ACH) transfer as follows:

Wachovia National Bank, N.A.
Phone: 1-800-WACHOVIA
City of Philadelphia Aviation Division
Aviation Operating Account
Account #200-003-388-8734
ABA #031201467 (Routing Number)

Unless and until City notifies Airline in writing designating an alternative payment method, all PFC due hereunder shall be made by separate wire or automated clearing house (ACH) transfer as follows:

Wachovia National Bank, N.A.
Phone: 1-800-WACHOVIA
City of Philadelphia Aviation Division
Aviation Capital Account
Account #200-003-388-8653
ABA #031201467 (Routing Number)

Payments should include identifying information, including but not limited to the invoice number. Payments made by Airline shall be received by City subject to collection. Airline agrees to pay on demand by City any costs, including attorney fees and costs incurred by City for collection. If Airline fails to timely remit to City all or any part of the payments which it is obligated to make to City hereunder, which failure remains uncured for a period of ten (10) days after the date of delivery of City's notice to Airline of such failure, then City shall be entitled to pursue all of City's remedies available under this Agreement, at law or in equity, plus applicable interest or other costs and expenses.

B. Default Rate

If City shall, at any time or times, accept any payments of Rents after they shall become due and payable, such acceptance shall not excuse subsequent delays, or constitute, or be construed to be a waiver of any or all of City's rights hereunder.

Airline shall pay interest at the Default Rate on all payments which are unpaid as of the first day after the day on which such payment is due to City, or such other maximum allowable interest rate should the Default Rate violate any applicable laws or regulations. City's failure to impose such an interest charge in any particular case shall not be deemed a waiver of City's right to do so in any future case.

C. Proration of Rent

Any Rents due for periods of less than one (1) month shall be prorated on a daily basis based on a Calendar Year of three hundred and sixty five (365) days. The foregoing shall not apply to Additional Rents or Other Fees that are not subject to proration.

D. Monthly Rents

All Monthly Rents with respect to fixed rental amounts shall be due to City, in advance, on the first day of each calendar month, without notice, demand, set-off or counterclaim.

E. Additional Rents

All Additional Rents required under the Monthly Activity Reports for each calendar month shall be due to City without invoice on or before the tenth (10th) day of each subsequent calendar month during the term of the Agreement.

F. Other Fees

Payments for Other Fees shall be made by Airline when due and payable, as imposed pursuant to the Airport's Rules and Regulations, any federal, state or local law, regulation, ordinance, statute or directive, or this Agreement.

If such amounts or charges are not paid when due, they shall nevertheless, be collectible as Other Fees with any of the Monthly Rents or Additional Rents thereafter falling due.

G. Passenger Facility Charges

Airline acknowledges that City has the right to assess Airline passengers a PFC for the use of the Airport in accordance with 49 U.S.C. Section 40117 and the rules and regulations provided thereunder (14 C.F.R. Part 158, herein the PFC Regulations) and as otherwise hereinafter authorized or permitted. Airline shall collect on behalf of and remit to City on a timely basis any such charges in accordance with the requirements of the PFC Regulations, including but not limited to holding any charges collected by Airline, pending remittance to City, in trust for the benefit of City. Airline shall remit PFC to City, and must include

an itemized statement with its payment supporting the calculation of the PFC remittance. City shall have the right to use all such PFC collected in any lawful manner. Airline and City shall comply with and shall observe all of the provisions of the PFC Regulations as they apply to each party.

H. Monthly Activity Reports

1. Airline shall prepare and file with City, an "Aircraft Used in Philadelphia Service" form (Form 72-109) attached hereto as Exhibit H, as Exhibit H may be modified by City from time to time, showing the certified maximum gross landing weight of each aircraft. Such completed form shall be submitted prior to commencement of service and annually thereafter and whenever changes in the aircraft serving the Airport occur;
2. As provided for in Article 24(E), not later than ten (10) days after the end of each calendar month, Airline shall pay the Additional Rents (including landing fees, other use charges and ground handling fees) due for the previous month. By the tenth (10th) day of the month, Airline shall remit an itemized calculation of amounts of Additional Rents on individual self-invoicing reports, the formats for which will be provided and revised from time to time by City.
3. Airline shall remit the following monthly Activity Reports by the tenth day of the month for the previous month's activity:
 - (a) A "Monthly Schedule Data Report" form (Form 72-35) attached hereto as Exhibit H, as Exhibit H may be modified by City from time to time, including the number of flight arrivals operated by Airline during the previous month including the type, model and make of aircraft.
 - (b) A "Traffic Activity Summary" form (Form 72-36) attached hereto as Exhibit H, as Exhibit H may be modified by City from time to time, including all passenger, mail and cargo activity for the previous month. Said Activity Summary shall include the number of Deplaned and Enplaned passengers by terminal.
4. As provided for in Article 24(F), payments for Other Fees shall be made by Airline when due and payable, as imposed pursuant to the Airport's Rules and Regulations, any federal, state or local law, regulation, ordinance, statute or directive, or this Agreement.
5. With respect to each and every filing required herein:
 - (a) The acceptance by City of any such payment shall not preclude City from questioning the accuracy of Airline's reports upon which the

Additional Rents and/or Other Fees are based. City, as provided for in this Agreement shall have the right, upon reasonable notice, to examine that portion of the books and records of Airline relevant for the purpose of ascertaining that the amounts paid or to be paid to City are correct.

- (b) In the event that Airline fails to remit to City the payments and the supporting data for Additional Rents as described above, City may compute such Additional Rents as though the activity statistics upon which said Additional Rents are based were the same as during the highest month in City's immediately preceding Fiscal Year or in the current Fiscal Year, whichever is higher, or upon the basis of such other estimate thereof as City, in its discretion, deems reasonable. City will issue an invoice to Airline for such estimated Additional Rents. After Airline remits the required, but delinquent payment and report to City, City shall recalculate the Additional Rents for the month in question based upon the report. If the actual Additional Rents are higher than those invoiced by City, Airline shall be liable for any deficiencies in payments; payments for said deficiencies shall be deemed due as of the date such rental, fee or charge was due and payable.
- (c) If the actual Additional Rents are less than those Additional Rents invoiced by City to Airline, City shall either apply such overpayment as a credit against a subsequent amount due for such rentals, fees, and charges from Airline or at the election of City, issue a refund, provided, however, Airline shall not be entitled to any credit for late fees on payments of such estimated amounts.

I. Alternate Payee

All or any portion of the payments due from Airline under this Agreement shall be paid by Airline to any party designated by City in writing with reasonable notice and instructions as to payment.

J. No Other Charges

No rents, fees or charges other than those herein referred to or provided for in this Agreement, shall be imposed by the Division of Aviation upon any of the Signatory Airlines, that alters the fair and equitable balance of Airport rates and charges as set forth herein as of the date of this Agreement.

Article 25
RECORDS AND AUDIT OF RECORDS

A. Airline Books and Records

Airline shall keep books of account and other records relating to the provision and requirements of this Agreement (including the records supporting the basis for Monthly Rents, Additional Rents and Other Fees described in Article 24 of this Agreement) consistent with its reporting obligations herein.

City, through its duly authorized representative, and the City Controller, shall have the right, at any time during the term of this Agreement and for three (3) years after the termination of this Agreement, and upon advance notice to Airline and during reasonable business hours, to make an audit or cause an audit, examination or inspection of Airline's original books and records relating to Airline's operations. Airline shall, if requested, provide assistance to such auditors in making such inspection, and, if such records are maintained in electronic or other machine-readable format, shall provide the Airport and/or its representative such assistance as may be required to allow complete access to such records including providing such records in electronic read-only format compatible with computers utilized by City.

Airline shall make such books and records available to City for audit at the Airport or some other mutually agreed upon location. Should adequate records not be made available at the Airport at the appointed location, then the additional cost of said audit, including all actual travel, food and lodging expenses incurred by City shall, at City's direction, be borne by Airline.

The cost of such audit shall be borne by City; provided however, the actual cost of such audit shall be borne by Airline if the audit reveals an underpayment of five percent (5%) or more of the specific Monthly Rents, Additional Rents or Other Fees being audited and payable under this Agreement for any Fiscal Year, as determined by such audit, or Airline has failed to maintain accurate and complete records required herein.

B. City Books and Records

City shall follow such procedures and keep and maintain such books, records and accounts as may be necessary or appropriate under the provisions of this Agreement consistent with City practices. Airline shall be entitled to access such Division of Aviation books, records and accounts that contain any information affecting the computation of Rents and Additional Rents. Airline shall have right at any reasonable time, subject to prior written notice to City, to examine, make copies and take extracts from such books, records and accounts. In

addition, in accordance with applicable FAA regulations, all records concerning the Airport are subject to inspection by any duly authorized agent of the United States Secretary of Transportation upon reasonable request.

Article 26 ALTERATIONS, IMPROVEMENTS AND EQUIPMENT

A. City's Construction Rights

In order that City and its facilities may be suitable for the volume and character of air traffic, flight activity, and passenger traffic, which will require accommodation, and for purposes of maintaining or constructing improvements, modifications, or expansions to the Airport System, including construction of Capital Improvement Projects, City shall have the right to close, temporarily relocate, reconstruct, change, alter, or modify the General Terminal Areas, either temporarily or permanently, and/or the means of access to Airline's Leased Premises, the Joint Use Premises, or elsewhere in the Terminal Area pursuant to this Agreement or otherwise provided that to the extent reasonably possible, any City-sponsored Capital Improvement Project that is undertaken shall not adversely interfere with Airline's operation of its Air Transportation Business.

B. Notification

Unless such action is necessitated by circumstances, which, in the opinion of City, pose an immediate threat to the health and safety of persons using the Airport, City shall provide Airline reasonable notice of the construction activities; the timing of such notice shall be at the discretion of City taking into consideration the nature, the scope, and the anticipated disruption as a result of the construction activities.

C. Ingress and Egress

City shall provide reasonably adequate means of ingress and egress for Airline's Leased Premises or for alternate premises in the event Airline is relocated to alternate premises.

D. Inconveniences during Construction

Programs of construction, reconstruction, expansion, temporary relocation, maintenance and repair may inconvenience Airline in its operations at Airport. City will make a reasonable effort to provide alternative accommodations to mitigate any adverse effects of such programs and Airline agrees that no liability shall attach to the Commonwealth of Pennsylvania, City, and their officers, employees, and contractors by reason of such inconvenience and, for and in

further consideration of the use of the Airline's Leased Premises, Airline waives any right to claim damages or other consideration therefore except as set forth in Article 26(A) above.

E. Airline Improvements

1. **City Consent.** Airline shall not construct, install, or make any structural or non-structural alterations, additions or improvements to the Airline's Leased Premises, including without limitation, the installation of trade fixtures, without prior approval of City, which will not be unreasonably withheld or delayed; provided, however, that, if City approvals are required for any such alterations, additions or improvements, the plans and specifications, location and construction schedule for such alternations, additions or improvements shall be (i) approved by City in writing prior to the commencement of any and all such construction or installation, (ii) in compliance with the tenant alterations procedures of City and (iii) in compliance with all applicable laws and regulations, including, without limitation, the requirements of the Americans with Disabilities Act.
2. **Airport Operation.** Any work associated with construction and installation by Airline shall not unreasonably interfere with the operation of the Airport, or otherwise unreasonably interfere with the permitted activities of other tenants in or users of the Terminal Area. Upon completion of the approved construction and within sixty (60) days of the receipt by Airline of a certificate of occupancy, a complete set of as-built drawings shall be delivered to City in a media type and format acceptable for the permanent record of City.
3. **Property of Airline.** All alterations, additions and improvements made by Airline, except for those financed by City, shall be and remain the property of Airline until the termination of this Agreement and thereafter will be subject to the provisions of Article 28.

F. Airline Improvements Compliance

Airline Improvements and all alterations thereof and additions thereto, shall in all respects be constructed in accordance with applicable codes and Rules and Regulations of the Airport and pursuant to any required building or installation permit to be obtained from City, Tincum Township and/or Delaware County, as applicable, according to the customary terms and conditions thereof.

G. Airline Equipment and Furnishings

Airline agrees that it will, at its own expense, furnish, decorate, insure and provide necessary specialized furnishings and Airline Equipment for its own

Airline operations at all areas of the Total Airline Leased Premises, to the extent that such furnishings and equipment are not otherwise provided by City for use by Airline as Proprietary Equipment, as set forth in this Agreement. Such furnishings and equipment provided by Airline shall be (i) kept neat, clean and in presentable appearance, (ii) maintained in good working condition and (iii) subject to the prior approval of City, such approval not to be unreasonably withheld.

Article 27
CITY'S RIGHT TO ENTER AND MAKE REPAIRS

A. City's Right to Enter

City and its authorized officers, employees, agents, contractors, subcontractors, and other representatives (including but not limited to the Airport's City Fire Marshall's Office) shall have the right and with as little interruption to Airline's operations as is reasonably practicable, to enter upon Airline's Leased Premises for the following purposes:

1. **Inspection.** To inspect such Airline's Leased Premises at reasonable intervals during regular business hours (or at any time in an emergency) to determine whether Airline has complied or is complying, with the terms and conditions of this Agreement.
2. **Maintenance.** To perform maintenance and make repairs and replacements where Airline is obligated to do so and has failed after sixty (60) days prior notice to do so (or less in the case of an emergency which Airline fails to immediately address), in which event Airline shall reimburse City for its actual costs, plus a fifteen percent (15%) administrative fee, promptly upon demand.
3. **Structural Safety.** To perform maintenance and make repairs and replacements where City is obligated to do so; and in any other case where City, in its reasonable judgment, determines that it is necessary or desirable so to do in order to preserve the structural safety of such Airline's Leased Premises or of the Terminal Area or to correct any condition likely to cause injuries or damages to persons or property.
4. **Police Power.** To take necessary action in the exercise of City's police power with respect to Airline's Leased Premises or of the Terminal Area.

5. Fire/Life Safety. To perform fire/life safety inspections with respect to Airline's Leased Premises or of the Terminal Area where City is obligated to do so.
6. Security. To take necessary action for security related purposes.

B. Non-Interference

No such entry by or on behalf of City upon the Airline's Leased Premises of Airline shall cause or constitute a termination of the letting thereof or be deemed to constitute an interference with the possession thereof by Airline. During any inspection and repairs, City may close doors, entrances, corridors and other facilities, all without any liability to City for inconvenience, interference or annoyance. Such repairs and replacements shall be made in coordination with Airline to the best extent possible.

Article 28
SURRENDER OF THE AIRLINE'S LEASED PREMISES

At the expiration of the Term of this Agreement, or at the earlier termination of the letting thereof, Airline will quit and surrender its Airline's Leased Premises in good state and condition, reasonable wear and tear excepted, and Airline shall remove therefrom all Airline Equipment, trade fixtures and personal property belonging to Airline. Such Airline's Leased Premises and all structures, foundations, and improvements placed thereon by Airline, and which, by and under the terms of this Agreement are to remain on such Airline's Leased Premises as the property of City, shall be in good usable order and condition, with allowance for reasonable wear and tear and damage by the elements, and City shall have the right on such termination, to enter upon and take possession of such Airline's Leased Premises. All other Airline Equipment, trade fixtures and personal property belonging to Airline shall be removed from said Airline's Leased Premises on or before the time of the expiration or earlier termination of the letting and the Airline's Leased Premises restored to the condition existing at the time of the letting, reasonable wear and tear excepted, unless City and Airline agree in writing at the time of such installation or not less than thirty (30) days in advance of such expiration or such earlier termination, with respect to City's acceptance of title to such other Airline Equipment, trade fixtures and personal property of Airline in lieu of restoration of the Airline's Leased Premises. All Airline Equipment shall be removed within forty-five (45) days of the time of the expiration or earlier termination of the letting and the Airline's Leased Premises or other such time as shall be mutually agreed to by City and Airline.

Article 29
ASSIGNMENT, SUBLEASE AND TRANSFER OF SPACE

A. Prohibited Transactions

Airline shall not assign, mortgage, pledge or otherwise transfer this Agreement without obtaining the prior written consent of City; provided, however, the foregoing shall not be deemed or construed to require the consent of City in connection with an assignment of this Agreement or any of the rights or privileges granted to Airline herein pursuant to a merger, consolidation, or sale of all or substantially all of the assets of Airline. Nothing contained herein shall be construed to prohibit City from exercising any of its legal rights existing independently from this Agreement with respect to such merger, consolidation, or asset sale.

B. Sublease

Airline shall not sublet any of the space leased to Airline under this Agreement, by operation of law or otherwise, without obtaining the prior written consent of City.

C. Approved Transactions

In the event an assignment, subletting, pledge or transfer is approved by City, such approval shall in no way relieve Airline of any contractual obligations assumed under this Agreement unless City specifically consents thereto in its discretion, and such approval shall not constitute a waiver of strict future compliance by Airline with the provisions of this Article. Further, Airline shall not enter into any agreement to handle other aircraft at the Airport (other than aircraft of Affiliates) without obtaining the prior written consent of City.

D. Merger, Consolidation or Asset Sale

If within one (1) year following and as a result of a merger, consolidation, or asset sale as described in Article 29 (A) herein, Airline intends to thereafter substantially decrease or discontinue service between the Airport and a particular destination that is not serviced by an Air Transportation Company (other than Airline or its Affiliates) at the Airport, then Airline shall give City advance written notice of the same. Airline agrees to continue service to such destination for a period of six (6) months after giving said notice; provided, however, Airline shall be relieved of this obligation to the extent that Airline's Leased Premises is inadequate to accommodate the scope of service contemplated in connection with said merger, consolidation or asset sale.

In the event that Airline delivers notice pursuant to the preceding paragraph, City may request a consultation with Airline. Airline agrees to meet with City within fifteen (15) business days after receipt of such request in an effort to minimize the impact of Airline's merger, consolidation, or asset sale to local passengers and to afford City a reasonable opportunity to find an Air Transportation company that will begin service between the Airport and the applicable destination. Nothing contained herein shall prohibit Airline from substantially reducing or ceasing services in the event that same is required by any governmental agency in order to complete the merger, consolidation, or asset sale.

E. Future Compliance

Regardless of City's consent, no subletting or assignment shall release Airline of Airline's obligations or alter the primary liability of Airline to pay Rents and to perform all other obligations to be performed by Airline hereunder, and in the case of an assignment, unless otherwise agreed in writing by City, Airline and such assignee shall be jointly and severally liable for the obligations of Airline under this Agreement. Consent to one assignment or subletting shall not be deemed consent to any other or subsequent assignment or subletting. In the event of default by any assignee of Airline or any successor of Airline in the performance of any of the terms hereof, City may proceed directly against Airline without the necessity of exhausting remedies against such assignee or successor unless released of its obligation as described in Article 29(C). City may consent to subsequent assignment or subletting or may execute amendments or modifications to this Agreement with assignees of Airline without notifying Airline or any successor of Airline, and without obtaining its or their consent thereto and such action shall not relieve Airline of liability under this Agreement, except as set forth above.

F. Right of First Refusal

For the term of this Agreement, Airline hereby grants to City a right of first refusal as to any offer that Airline desires to accept from a bona fide third party (whether airline or non-airline entity) to acquire by any transfer mechanism, all or a portion of the Airline's Leased Premises. This right of first refusal requires City to match the offer, to be presented as set forth in Article 29(C), made by such bona fide third party in all material respects within thirty (30) days of the receipt by City of notice of said offer and the desire of Airline to accept it. To the extent permitted by applicable law, this right of first refusal shall extend to offers made in the context of bankruptcy proceedings. This right of first refusal shall not apply to (i) any Ground Handling Services; (ii) any agreement with on-airport providers of aviation-related services that includes the use of portions of the Airline's Leased Premises by the service provider in connection with the

provision of services to Airline or its Affiliates; (iii) any sublease or assignment to an Affiliate; (iv) any sublease on a month to month term or for a term of one year or less; or (v) any transfer related to a merger, consolidation or asset sale as described in Article 29(A) herein.

G. Leasehold Mortgage

Airline may not grant a leasehold mortgage without the prior approval of City, which approval may be withheld in the sole discretion of City.

H. Bankruptcy

Notwithstanding any provision contained in this Agreement and to the extent consistent with Federal bankruptcy law, any party to this Agreement which seeks protection under the Federal bankruptcy code, or is currently operating under the protection of the Federal bankruptcy code, herein called "Debtor", shall be prohibited from conveying its interest under this Agreement to any other entity without prior approval of City. In the event that such a Debtor intends to assume the Agreement, or assume and assign the Agreement pursuant to 11 U.S.C. Section 365, Bankruptcy-Executory Contracts and Unexpired Leases, the Debtor shall be required to immediately cure any and all defaults and provide adequate assurance of future performance under this Agreement which shall include, but not be limited to (i) adequate assurance of the reliability of the proposed source for the rentals, fees and charges due under this Agreement upon the assumption of the Agreement, and (ii) adequate assurance that all other consideration due under this Agreement shall be forthcoming upon the assumption of this Agreement.

Article 30 CAPITAL EXPENDITURES

Capital Expenditures to preserve, rehabilitate protect, enhance, expand, or otherwise improve the Airport System, or any part thereof, will be required during the term of this Agreement.

A. Pre-Approved Capital Improvement Program

City has identified on Exhibit E of this Agreement the Capital Expenditures in the Pre-Approved Capital Improvement Program planned for inclusion in Airline Cost Centers. Airline agrees to the inclusion of Airport Expenses associated with the Capital Improvement Projects set forth on Exhibit E, in the identified Airline Cost Centers and in the determination of Airline's rentals, charges and fees upon the Substantial Completion Date of each Capital Improvement Project. Modification or amendment of Exhibit E shall not require

a formal amendment to this Agreement, but shall be subject to the provisions contained in this Article pertaining to Signatory Airline Consultation Process, as applicable.

B. Rights regarding Proposed Capital Improvement Projects

1. City's Right to Capital Program. Airline acknowledges that nothing contained in this Agreement, including but not limited to the withholding of Capital Expenditure approval by the Signatory Airlines pursuant to this Agreement, in any way limits or restricts the rights of City to implement Capital Improvement Projects within the Airport System at any time.
2. Withholding Approval. Airline acknowledges that the rights granted in this Article are expressly limited to preventing the inclusion of Airport Expenses of Capital Improvement Project(s) except those exempted in Article 30(C)(2) below in the applicable rate base for the Airline Cost Centers during this Agreement's term.

C. Capital Expenditures Requiring Signatory Airline Consultation

1. Qualifying Projects. Capital Expenditures for Capital Improvement Projects require Signatory Airline Consultation, except as exempted in Article 30(C)(2) below.
2. Exempted Projects. Notwithstanding the foregoing, certain Capital Expenditures will not require a Signatory Airline Consultation Process and will be excluded from inclusion in a MII vote as follows:
 - (a) The Pre-Approved Capital Improvement Program, so long as the aggregate Capital Expenditure for the Pre-Approved Capital Improvement Program does not increase more than ten percent (10%) over the estimated aggregate Capital Expenditure as shown on Exhibit E.
 - (b) Any reallocation of all or a portion of the funding approved for one or more projects in the Pre-Approved Capital Improvement Program for a another Capital Improvement Project(s), or a portion thereof, included in the Pre-Approved Capital Improvement Program, so long as City provides the Signatory Airlines with a written notification of the reallocation, an opportunity for a consultation discussion if requested by any of the Signatory Airlines and a revised Exhibit E;
 - (c) Any Capital Improvement Project and associated Capital Expenditure required by any agency of the United States government or the

Commonwealth of Pennsylvania having jurisdiction over activities within the Airport System or by federal law or executive order;

- (d) Any Capital Improvement Project and associated Capital Expenditure to repair casualty damage at the Airport System or to Airport System property which must be repaired in order for City to meet its obligations under this Agreement or under any Bond Documents related to the Airport System, the cost of which exceeds the proceeds of insurance;
- (e) Any Capital Improvement Project and associated Capital Expenditure required to settle claims, satisfy judgments or comply with judicial orders against the State or City by reason of ownership, operation, or maintenance of the Airport System. To the extent City is able to recoup all or some of its expenditures from insurance proceeds, such amounts shall be refunded to the Airline Cost Center, prorated as applicable; or
- (f) Any Capital Improvement Project and associated Capital Expenditure that is of an emergency nature, as determined by City.

D. Signatory Airline Consultation Process – New Capital Improvement Projects

1. Notification. City shall provide a notification to the Signatory Airlines identifying any new Capital Improvement Projects and whether those Capital Improvement Projects require a Signatory Airline Consultation Process in accordance with this Article. The notification shall include (i) the date, time and location for the consultation meeting which shall occur no sooner than fifteen (15) days after delivery of the notification and (ii) the basis upon which City established that a Capital Improvement Project is exempt from the Signatory Airline Consultation Process, if applicable.
2. Project Description. The notification shall also include the following for each Capital Improvement Project requiring a Signatory Airline Consultation Process outlined on City notification:
 - (a) A description of the proposed Capital Improvement Project, together with a cost estimate, schedule, estimated Substantial Completion Date, and preliminary drawings, if any;
 - (b) The proposed allocation of Capital Expenditure among Airline Cost Center(s);
 - (c) An explanation of the need for and/or benefit to be derived from the Capital Improvement Project;

- (d) The proposed funding for the Capital Improvement Project;
 - (e) The impact of the Capital Improvement Project on rates to be paid by the Signatory Airlines in each of the Airline Cost Centers due to the new Airport Expenses upon the Substantial Completion Date of the Capital Improvement Project; and
 - (f) A description of any required vacating or relocation of Signatory Airlines from the Total Airline Leased Premises and the proposed cost of such relocation.
- E. Signatory Airline Consultation Process – Capital Improvement Project Funding Variances
1. Notification. City shall provide a notification to the Signatory Airlines in the event:
 - (a) The aggregate Capital Expenditure for the Pre-Approved Capital Improvement Program set forth on Exhibit E exceeds the aggregate amount of the previously approved Capital Expenditure for the Pre-Approved Capital Improvement Program by more than ten percent (10%) or
 - (b) The amount of any Capital Expenditure for a new Capital Improvement project exceeds the amount of the approved Capital Expenditure by more than ten percent (10%) and such excess will increase Airline Revenues to be paid by the Signatory Airlines.
 2. In the notification to the Eligible Signatory Airlines, City shall provide:
 - (a) The reason the approved Capital Expenditure has increased by more than ten percent (10%) over the original estimate or the reason that City now plans to fund the Capital Improvement Project in a manner which will increase Airline Revenues to be paid by the Signatory Airlines;
 - (b) The particular Airline Cost Center(s) rate base in which the additional Capital Expenditure is to be included upon the Substantial Completion Date of the Capital Improvement Project;
 - (c) The estimated change in rates to be paid by the Signatory Airlines in each of the Airline Cost Centers due to the revised Airport Expenses upon the Substantial Completion Date of the Capital Improvement Project; and

- (d) The date, time and location for the consultation meeting which shall occur no sooner than fifteen (15) days after delivery of the notification.

F. Signatory Airline Disapproval Process

1. Vote. Within thirty (30) days following City-Signatory Airlines consultation meeting, City shall provide all Eligible Signatory Airlines with a ballot and conduct an Eligible Signatory Airline vote as follows:
 - (a) For those Capital Expenditures or Capital Improvement Project funding variances that will only impact the rates, fees and charges of the Terminal Area Cost Center, the MII will be based on the Terminal Area Cost Center MII Formula.
 - (b) For those Capital Expenditures or Capital Improvement Project funding variances that will impact the rates, fees and charges of the Airfield, the Other Buildings and Areas, or the Philadelphia Northeast Airport Cost Centers, the MII will be based on the Airfield Area Cost Center MII Formula.
2. Voting. Each Eligible Signatory Airline which is entitled to vote pursuant to the above-described procedures shall submit its ballot to City and the Chairman of the Philadelphia Airlines Airport Committee signifying its approval or disapproval of the proposed Capital Expenditure or Capital Improvement Project funding variance within thirty (30) days of the delivery of the ballots to the Eligible Signatory Airlines.
3. Approval of Capital Expenditures or Capital Improvement Project funding variances. Capital Expenditures or Capital Improvement Project funding variances on the ballot distributed to the Eligible Signatory Airlines shall be deemed approved unless disapproval is specifically provided by Eligible Signatory Airlines pursuant to the applicable MII formula, within thirty (30) days of the issuance of the ballot.

G. Application of Airport Expenses

1. Approved Projects. The Airport Expenses for Capital Improvement Projects that are exempt from a Signatory Airline Consultation Process or deemed approved by the Eligible Signatory Airlines shall be included in the applicable Airline Cost Center rate base upon the Substantial Completion Date of such Capital Improvement Project.
2. Disapproved Projects. The Airport Expenses for Capital Expenditures or Capital Improvement Project funding variances that are disapproved by the Eligible Signatory Airlines may not be included in an Airline Cost Center

rate base unless and until a subsequent Signatory Airline Consultation Process approves the Capital Expenditure or funding variance, as applicable.

H. Disapproved Capital Improvement Project Status

From time to time, City may call for another Signatory Airline vote to establish Eligible Signatory Airline approval or disapproval on a Capital Expenditure or Capital Improvement Project funding variance that has previously been disapproved.

Article 31 RELINQUISHMENT OF ABANDONED SPACE

In the event that Airline has abandoned or constructively abandoned a portion of its Airline's Leased Premises, same shall be an Event of Default hereunder. City may, in addition to the other remedies provided for in this Agreement and after appropriate notice and cure periods provided for in this Agreement, partially terminate this Agreement with respect to, and delete from Airline's Leased Premises hereunder, such abandoned space. Whether or not all or a portion of the Airline's Leased Premises is abandoned or constructively abandoned shall be determined by City in its discretion but after taking into account planned use by the Airline for such premises and provided that reduced use of the Airline Lease Premises by Airline, Affiliate(s), and Air Transportation Companies operating from Airline's Leased Premises under City-approved subleases or ground handling agreements shall not be considered an abandonment or constructive abandonment.

Article 32 DEFAULT AND RIGHTS AND REMEDIES UPON DEFAULT

A. Events of Default

The occurrence of any of the following shall constitute a material breach of the Agreement by Airline and an Event of Default:

1. Airline's abandoning or constructive abandoning of the Leased Premises Terminal Area as determined pursuant to Article 31, if such abandonment or constructive abandonment continues for fifteen (15) days after receipt of notice of default by Airline.
2. Airline's failure to pay any Monthly Rents, Passenger Facility Charge payments or any other payment due hereunder, if such failure continues for ten (10) days after receipt of notice to Airline.

3. Airline's failure to pay, when due, any installment of Additional Rents or other sum required to be paid by Airline hereunder where such failure continues for ten (10) days after notice thereof to Airline.
4. Airline's failure to observe and comply with the requirements of Article 7(E), Article 36(L), Article 39(A), Article 40, Article 41(A) and (B) and Article 43(A) and (B) where such failure continues for thirty (30) days, after notice thereof to Airline provided, however, that if the nature of the default is such that the same cannot reasonably be cured within such thirty (30) day period, Airline shall not be deemed to be in default if Airline shall within such period commence such cure and thereafter diligently prosecutes the same to completion, and advises City of same, but in no event for longer than sixty (60) days after notice to Airline without the consent of City, or for such shorter cure period as may be specifically prescribed in the applicable article of this Agreement.
5. Airline's failure to observe and perform any other provision or covenant of this Agreement to be observed or performed by Airline, where such failure continues for thirty (30) days after notice thereof to Airline provided, however, that if the nature of the default is such that the same cannot reasonably be cured within such thirty (30) day period, Airline shall not be deemed to be in default if Airline shall within such period commence such cure and thereafter diligently prosecute the same to completion, and advise City of same, but in no event for longer than sixty (60) days after notice to Airline without the consent of City.
6. The filing of a petition by or against Airline for relief in bankruptcy or insolvency or for its reorganization or for the appointment pursuant to any local, state or federal bankruptcy or insolvency law of a receiver or trustee of any part of Airline's property; or, an assignment by Airline for the benefit of creditors; or the taking possession of the property of Airline by any local, state or federal governmental officer or agency or court-appointed official for the dissolution or liquidation of Airline or for the operating, either temporarily or permanently, of Airline's business, provided, however, that if any such action is commenced against Airline the same shall not constitute a default if Airline files a motion to dismiss such action within thirty (30) days after its filing and such action is dismissed or discharged within ninety (90) days after the action against Airline was commenced.
7. Notwithstanding anything set forth in Article 32(A)(1), (2), (3) and (4) above to the contrary, in no event shall City be obligated to send more than two (2) notices under any single article of this Agreement in any twelve (12) month period for any of the failures described in those subsections. Any

failure occurring after City has sent two (2) notices within a twelve (12) month period shall be an automatic Event of Default hereunder and City shall be entitled to exercise its rights and remedies hereunder. In any event, more than six (6) Events of Default in any twelve (12) month period will render the next default an automatic Event of Default hereunder and City shall be entitled to exercise its rights and remedies hereunder.

8. A default by Airline which is not cured within the applicable cure period in any other agreement entered into with City relating to the Philadelphia Airport System.

B. Remedies of City

Upon the occurrence of any Event of Default set forth in Article 32(A), City, at its option, may take all or any of the following actions:

1. In addition to any other rights and remedies provided to City herein including the respective indemnification provisions set forth herein, City may, without any further liability of City to Airline except in the case of City's gross negligence, perform any obligations of Airline set forth herein which Airline has failed to perform in a timely manner, after reasonable notice, in which case Airline shall pay to City, upon receipt of invoice, City's costs incurred therefor, plus a fifteen percent (15%) administrative fee, unless a different payment requirement is stated in this Agreement. This provision shall not apply to Airline's responsibility to tow or move aircraft or the like except as otherwise established in Article 8.
2. City shall be entitled to terminate this Agreement and, until such time as City has relet the space leased to Airline hereunder, recover (i) all unpaid Rents which have accrued prior to the date of said Event of Default and which are then due and payable, (ii) damages for the period following the termination of the Term, based upon any and all amounts which Airline would have been obligated to pay for the balance of the Term, and City may declare such sums to be immediately due and payable, and (iii) any and all sums due under Article 32(C). It is agreed that in determining the amount of such damage for the period after termination of any future payments which would have been due City, City may make such determination based upon the sum thereof for the full year immediately prior to the Event of Default. Airline's liability for the payment of the foregoing sum shall survive the termination of the Agreement; and/or
3. City, at any time after the occurrence of any Event of Default whether or not the Agreement has been terminated as aforesaid, may reenter and repossess, the Leased Premises Terminal Area and any part thereof with or

without process of law, provided no undue force shall be used, and shall have the option, but not the obligation either in its own name, as agent for Airline if this Agreement has not been terminated or for its own behalf if this Agreement has been terminated, to give rights and privileges to or lease to other airlines or users, all or any part of the Leased Premises Terminal Area; provided that City shall not be required to grant rights or lease to any entity proposed by Airline or observe any instruction given by Airline about the granting of such rights. The failure of City to grant preferential use rights or lease the Leased Premises Terminal Area or any part or parts thereof shall not relieve or affect Airline's liability hereunder, nor shall City be liable for failure to grant such preferential rights or lease; or in the event such preferential rights are granted or the space or equipment is leased, for failure to collect the fees or rent thereof, and in no event shall Airline be entitled to receive any excess of net fees collected over sums payable by Airline to City hereunder. Nor shall such reentry or taking possession of the Leased Premises Terminal Area be construed as an election on City's part to terminate this Agreement unless a notice of such election by City is given to Airline. Notwithstanding any such leasing or granting of preferential rights without termination, City may at any time thereafter elect to terminate this Agreement for any previous breach and uncured default. For the purpose of such leasing or granting of preferential rights, City may, in its reasonable discretion, decorate or make repairs, changes, alterations or additions in or to the Leased Premises Terminal Area to the extent deemed by City desirable or convenient, and the cost of such decoration, repairs, changes, alterations or additions shall be charged to and payable by Airline as Rents hereunder, as well as any reasonable brokerage and legal fees expended by City; and any sums collected by City from any new airline shall be credited against the balance of the Rents due hereunder as aforesaid. Airline shall pay to City monthly, on the days when Rents would have been payable under this Agreement, the amount due hereunder less the amount obtained by City from such new airline, if any; and/or

4. In the event that City elects to terminate this Agreement, City at its option, may serve notice upon Airline that this Agreement and the then unexpired Term hereof shall cease and expire and become absolutely void on the date specified in such notice, to be no less than ten (10) days after the date of such notice, without any right on the part of Airline thereafter to save the forfeiture by payment of any sum due or by the performance of any term, provision, covenant, agreement or condition broken; and, thereupon and at the expiration of the time limit in such notice, this Agreement and the Term hereof granted, as well as the rights and privileges of Airline hereunder, shall wholly cease and expire and become void in the same manner and with the same force and effect (except as to Airline's liability) as if the date

fixed in such notice were the date herein stated for expiration of the Term. Thereupon, Airline shall immediately quit and surrender to City the Leased Premises Terminal Area by summary proceedings, detainer, ejectment or otherwise and remove itself and all other occupants thereof and, at City's option, any Airline property thereon without City being liable for any damages therefore. No such expiration or termination of this Agreement shall relieve Airline of the liability and obligations under this Agreement accruing prior to the termination thereof, whether or not City leases or grants preferential rights to the Leased Premises Terminal Area to another entity, or leases the Exclusive Use Space, all of which shall survive such expiration or termination; or

5. Airline further hereby expressly authorizes and empowers (which power is coupled with an interest) City, upon the occurrence of an Event of Default, to exercise the remedy of self-help with respect to the Preferential Use Equipment and to enter upon the Leased Premises Terminal Area, distrain upon and remove therefrom all inventory, equipment, machinery, trade fixtures and personal property of whatsoever kind or nature, whether owned by Airline or by others and to proceed without judicial decree, writ of execution or assistance or involvement of constables or City and Airline officers, to conduct a private sale, by auction or sealed bid without restriction. Airline hereby waives the benefit of all laws, whether now in force or hereafter enacted, exempting any personal property on the Leased Premises Terminal Area from sale or levy, whether execution thereon is had by order of any court or assistance or involvement of constables or City and Airline officer, or through self-help, private sale hereinabove authorized.
6. City shall have the right of injunction, in the event of a breach or default or threat thereof by Airline of any of the agreements, conditions, covenants or terms hereof, to restrain the same and the right to invoke any remedy allowed by law or in equity, whether or not other remedies, indemnity or reimbursements are herein provided. The rights and remedies given to City in this Agreement are distinct, separate and cumulative remedies; and no one of them, whether or not exercised by City, shall be deemed to be in exclusion of any other.
7. Airline expressly waives the benefits of all laws, now or hereafter in force, exempting any of Airline's property on the Leased Premises Terminal Area or elsewhere from distraint, levy or sale in any legal proceedings taken by City to enforce any rights under this Agreement. If proceedings shall be commenced by City to recover possession under the Acts of Assembly, either at the end of the Term of any extension thereof or on sooner termination thereof, or for nonpayment of Rents or any other reason,

Airline specifically waives pursuant to 68 P.S. § 250.501(e) the right to the fifteen (15) or thirty (30) day notice and agrees that five (5) days notice shall be sufficient in either or any such case. The right to enter judgment against Airline and to enforce all of the other provisions of this Agreement hereinabove provided may be exercised by any assignee of City's right, title and interest in this Agreement, in such assignee's own name, notwithstanding the fact that any or all assignments of said right, title and interest may not be executed and/or witnessed in accordance with the Act of Assembly and any and all laws regulating the manner and/or form in which such assignments shall be executed and witnessed.

8. Neither this Agreement nor any rights or privileges hereunder shall be an asset of Airline in any bankruptcy, insolvency or reorganization proceeding. If City shall not be permitted to terminate this Agreement because of the provisions of the United States Bankruptcy Code, Airline or any trustee for it shall, within fifteen (15) days upon request by City to the Bankruptcy Court, assume or reject this Agreement, provided however, that Airline may not assume this Agreement unless all defaults hereunder shall have been cured, City shall have been compensated for any monetary loss resulting from such default and City shall be provided with adequate assurance of full and timely performance of all provisions, terms and conditions of this Agreement on the part of Airline to be performed.
9. The failure or delay on the part of either party to enforce or exercise at any time any of the provisions, rights or remedies in the Agreement shall in no way be construed to be a waiver thereof, nor in any way to affect the validity of this Agreement or any act hereof, or the right of the party to thereafter enforce each and every such provision, right or remedy. No waiver of any breach or default of this Agreement shall be held to be a waiver of any other or subsequent breach or default. The receipt by City of Rents from and after the time when the non-payment of Rents becomes an Event of Default hereunder shall not be construed as a waiver of such default. The receipt by City of a lesser amount than the Rents due shall not be construed to be other than a payment on account of the Rents then due, nor shall any statement on Airline's check or any letter accompanying Airline's check be deemed an accord and satisfaction, and City may accept such payment without prejudice to City's right to recover the balance of the Rents due or to pursue any other remedies provided in this Agreement. No act or thing done by City or City's agents or employees during the Term and any extension thereof shall be deemed an acceptance of a surrender of the Leased Premises Terminal Area, and no agreement to accept such a surrender shall be valid unless in writing and signed by City, unless such surrender is rejected by City.

10. City shall have the right, upon any uncured Event of Default hereunder, to cancel the security badge access to the Airport of all employees of Airline.

C. City's Right to Cure

City may perform, in whole or in part, any obligation of which Airline is in default, either prior to (provided Airline is not in the process of curing its default) or following the maturation of such default into an Event of Default, and Airline shall pay on demand as Rents any expenditures made pursuant hereto and the amount of any obligations incurred in connection herewith, plus per annum interest at the Default Rate from the date of any such expenditure, and City's performance shall not constitute a cure of such default by Airline.

D. City's Expenses

Airline shall be responsible for all of City's costs and expenses, including attorneys' fees, in enforcing any and all provisions of this Agreement. All such costs and expenses shall constitute Rents, shall accrue interest at the Prime Rate from the date of such expenditure, and shall be payable by Airline to City immediately upon demand.

E. Disputed Obligations

Notwithstanding anything to the contrary in this Agreement, if a dispute arises between City and Airline with respect to any obligation or alleged obligation of Airline to pay money, the payment under protest by Airline of the amount claimed by City to be due shall not waive any of Airline's rights, and if any court or other body having jurisdiction determines that all or any part of the protested payment was not due, then City shall as promptly as reasonably practicable reimburse Airline any amount determined as not due.

**Article 33
DAMAGE OR DESTRUCTION**

A. Partial Damage

If all or any portion of the Airline's Leased Premises, (but specifically excluding any Airline Improvements, Airline Equipment, or personal property, fixtures, equipment or other installations provided by Airline in and to the Airline's Leased Premises,) is partially damaged by fire, explosion, the elements, act(s) of war or terrorism, or other casualty, but not rendered untenable, the same will be repaired with due diligence by City at its own cost and expense, to the extent and only to the extent of insurance proceeds received by City, and there shall be no abatement of Airline payments, provided, however, that if any damage is

caused by the act or omission of Airline, its Affiliates, sublessees, agents, or employees, Airline shall be responsible at its expense for making the necessary repairs for which it is responsible as approved by City. If Airline fails to make the necessary repairs in a timely manner as determined by City, then Airline shall reimburse City for the costs and expenses incurred in such repair, plus a fifteen percent (15%) administrative fee.

B. Damage Suitable for Repair

If damages referred to in Article 33(A) herein shall be so extensive as to render part or all of the Airline's Leased Premises untenable, but capable of being repaired in one hundred and twenty (120) days, the same shall be repaired with due diligence by City at its own cost and expense, to the extent and only to the extent of insurance proceeds received by City, and Airline payments payable herein shall abate, in proportion to the portion of the Airline's Leased Premises rendered untenable, from the time of such damage until such time as the Airline's Leased Premises are fully restored and certified by City's engineers as ready for occupancy provided, however, that if any damage is caused by the act or omission of Airline, its Affiliates, sublessees, agents, or employees, Airline shall be responsible, at its expense, for making the necessary repairs as approved by City. If Airline fails to make the necessary repairs for which it is responsible in a timely manner as determined by City, then Airline shall reimburse City for the costs and expenses incurred in such repair, plus a fifteen percent (15%) administrative fee.

C. Complete Damage

In the event the Airline's Leased Premises are completely destroyed by fire, explosion, the elements, act(s) of war or terrorism, or other casualty or so damaged that they are untenable and cannot be replaced except after more than one hundred and twenty (120) days, City shall be under no obligation to repair, replace, and reconstruct said Airline's Leased Premises and Airline payments shall abate as of the time of such damage or destruction and shall cease until such time as said Airline's Leased Premises are fully restored, or until City provides substitute facilities, acceptable to Airline, for use by Airline. If within twelve (12) months or such other time as may be mutually agreed to by City and Airline after the time of such damage or destruction said Airline's Leased Premises shall not have been repaired or reconstructed, and City has not supplied substitute facilities, acceptable to Airline, Airline may give City notice of its intention to cancel this Agreement in its entirety as of the date of such damage or destruction.

D. Airline Acts or Omissions

Notwithstanding the foregoing, if said Airline's Leased Premises are completely destroyed as a result of the negligence of Airline or its Affiliates, sublessees, agents, or employees, applicable fees and charges shall not abate and City may, in its discretion, require Airline to repair and reconstruct said Airline's Leased Premises within twelve (12) months or such other time as may be mutually agreed to by City and Airline of such destruction and pay the costs therefor; or City may repair and reconstruct said Airline's Leased Premises within twelve (12) months of such destruction and Airline shall be responsible for reimbursing City for the costs and expenses incurred in such repair, plus a fifteen percent (15%) administrative fee.

**Article 34
TAXES AND ASSESSMENTS**

A. Payment of Taxes

Airline agrees to pay all applicable sales, use, intangible and ad valorem taxes or excises of any kind which may accrue as to the operations of Airline, the leasehold estate of Airline, or the personal property of Airline situated at the Airport, whether levied against Airline or City. Airline shall be entitled to seek whatever tax exemptions may be available, but City makes no representations whatsoever concerning the current or future tax-exempt status of the leasehold estate or any other taxable property, taxable sales, or taxable income. Airline may, at its expense, contest the amount or validity of any tax or assessment, or the inclusion of the Airline's Leased Premises as taxable or assessable property, directly against the taxing or assessing authority, so long as any non-payment of such taxes by Airline does not result in a lien against the real property or any improvement thereon or a direct liability on the part of City. Airline shall indemnify and hold City harmless from all liability and expense arising from such contest, including all taxes, penalties, costs, expenses and attorney fees incurred by City resulting directly or indirectly from all such tax contests, and provide an escrow or bond in the amount of City tax claim or security satisfactory to such other taxing authority with respect to the performance by Airline of such indemnification obligation. The indemnification contained in this Article 34(A) applies to this Article 34(A) only.

B. No Liens

Airline shall not permit a lien or encumbrance to attach to the Airline's Leased Premises by reason of any failure of tax payment.

C. Tax Payment Verification

Airline shall provide to City, upon ten (10) days prior notice and at no cost, any information deemed necessary by them to verify taxes paid on the Airline's Leased Premises with respect to City or to the municipality or authority with taxing jurisdiction of the Airline's Leased Premises.

D. Tax Proration

Upon any termination of this Agreement, all lawful taxes then levied as a lien upon any of such property or taxable interest therein, as appropriately prorated if applicable, shall be paid in full by Airline immediately, or as soon as a statement of taxation has been issued by the appropriate taxing authority if termination occurs during the interval between the attachment of the lien and the issuance of a statement.

Article 35

CONDEMNATION; EMINENT DOMAIN

A. Total Taking

During the term of this Agreement, if the whole, or, if such a portion of the Airline's Leased Premises as will materially interfere with Airline's conduct of its business be taken or acquired or be sold to a government in lieu thereof under threat of such a taking (each event hereinafter called a "taking") for any public or quasi-public use or purpose under any power of eminent domain or condemnation, then, and in any of such events, the term of the Agreement shall cease and terminate on the date that title vests in the condemning authority pursuant to such proceedings or under such sale in lieu thereof. Airline shall pay all required payments apportioned to the date of such termination and shall promptly vacate the Airline's Leased Premises. All sums representing prepaid rents, fees or charges, if any, shall be promptly repaid to Airline.

B. Partial Taking

If the taking of the Airline's Leased Premises is not the whole and not such a portion as will materially interfere with Airline's conduct of its business, then the Agreement shall expire as to that portion of the Airline's Leased Premises taken but shall continue in full force and effect as to that portion of the Airline's Leased Premises not taken.

Article 36
ENVIRONMENTAL MATTERS

A. Environmental Definitions

1. "Hazardous Substance" shall mean (i) asbestos, flammables, volatile hydrocarbons, industrial solvents, explosives, hazardous chemicals, radioactive material, oil, petroleum, petroleum products or by products, crude oil, natural gas, natural gas liquids, hazardous chemical gases and liquids, volatile or highly volatile liquids, and/or synthetic gas, and shall include, without limitation, substances defined as "hazardous substances", "hazardous materials", "hazardous waste", "toxic substances", "pollutants", or "contaminants", as those terms are used in any Environmental Law or at Common Law, and (ii) any and all other materials or substances that any governmental agency or unit having appropriate jurisdiction shall determine in generally applicable regulations from time to time are hazardous, harmful, toxic, dangerous or otherwise required to be regulated, removed, cleaned-up, or remediated.

2. "Environmental Law" as used in this Agreement shall mean all current and future federal, state, and local environmental safety or health laws, statutes, rules, regulations, ordinances, orders, or common law including, but not limited to, reported decisions of any state or federal court and shall include, but not be limited to, the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. § 651 *et seq.*), the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601 *et seq.*); the Resource Conservation and Recovery Act, as amended (42 U.S.C. § 6901 *et seq.*); the Toxic Substances Control Act, as amended, (15 U.S.C. § 2601 *et seq.*); the Hazardous Materials Transportation Act, as amended (49 U.S.C. § 5101 *et seq.*); the Clean Air Act, as amended, (42 U.S.C. § 7401 *et seq.*); the Clean Water Act, as amended (33 U.S.C. § 1251 *et seq.*); the Oil Pollution Act of 1990, as amended (33 U.S.C. § 2701 *et seq.*); the Safe Drinking Water Act, as amended (42 U.S.C. § 201 *et seq.*); the Federal Insecticide and Environmental Pesticide Control Act, (7 U.S.C. § 136 *et seq.*); the Oil and Hazardous Substance Spill Control and Contingency Plan (32 C.F.R. §650 *et seq.*); the Pennsylvania Solid Waste Management Act, as amended (35 P.S. § 6018.101 *et seq.*); the Pennsylvania Hazardous Sites Cleanup Act, as amended (35 P.S. § 6020.101 *et seq.*); the Pennsylvania Clean Streams Law, as amended (35 P.S. § 691.1 *et seq.*); the Pennsylvania Underground Storage Tank and Spill Prevention Act (35 P.S. §6021.10, *et seq.*); and the Pennsylvania Hazardous Material Emergency Planning and Response Act, as amended (35 P.S. § 6022.101 *et seq.*), as any of the foregoing may hereinafter be amended; any rule or regulation promulgated pursuant

thereto, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order, directive or guideline addressing environmental, health, or safety issues of or by the federal government or the Commonwealth of Pennsylvania or other political subdivision thereof, or any agency, court or body of the federal government, or the Commonwealth of Pennsylvania or any political subdivision thereof, exercising executive, legislative, judicial, regulatory or administrative functions. In the event of a conflict, the most stringent law shall apply.

3. "Environmental Claim" means any investigative, enforcement, cleanup, removal, containment, remedial, or other private, governmental or regulatory action at any time threatened, instituted or completed pursuant to any applicable Environmental Laws, against Airline or against or with respect to the Leased Premises or any condition, use or activity on the Leased Premises (including any such action against City), relating to damage, contribution, cost recovery, compensation, loss or injury resulting from or in any way arising in connection with any Hazardous Substance or any Environmental Requirement.
4. "Release" means any spill, leak, emission, pumping, pouring, discharging, leaching, dumping, pulverizing, causing to become airborne, percolation or disposing into or on any property or the environment.
5. For the purposes of this Article, the "Leased Premises" shall include the real estate covered by this Agreement, including soil and groundwater; all Improvements thereon; and all fixtures or personal property used in connection with this Agreement or located on the Leased Premises, including, common areas, ramp areas at and about the concourse and loading bridges at which Airline's aircraft operate, any underground storage tanks, or other storage tanks, pumps, waste oil apparatus, pipes, or related lines.
 - (a) "On" or "in" when used with respect to the Leased Premises, means on, in, under, above or about.
6. "Contamination" shall mean the uncontained presence of Hazardous Substances or regulated substances resulting from Airline's activities at the Leased Premises or arising from the Leased Premises.

B. Environmental Compliance

1. Airline's conduct and operations as related to any operations involving or arising from the Leased Premises shall at all times be in compliance with all statutes, ordinances, regulations, and orders now existing or hereafter

enacted by any applicable authority or requirements of common law, including, but not limited to Environmental Laws. Airline shall obtain all permits, licenses, or approvals and shall make all notifications and equipment modifications as required to conduct its operations at the Leased Premises or comply with its obligations under this Agreement. Airline shall at all times comply with the terms and conditions of any such permits, licenses, approvals, or notifications.

2. Airline shall within thirty (30) days, for ongoing matters, and within seventy-two (72) hours, for all matters occurring after the execution of this Agreement, provide to City copies of:
 - (a) Applications or other documentation submitted to any governmental agency pursuant to any Environmental Laws as related to any operations involving or arising from the Leased Premises;
 - (b) Any notification submitted to a government agency pursuant to the Environmental Laws with respect to the existence of an adverse environmental impact at the Leased Premises or related proceedings;
 - (c) Any permit, license, approval, or amendment or modification thereto as related to any operations involving or arising from the Leased Premises granted pursuant to the Environmental Laws;
 - (d) Upon City's request, at reasonable times any record or manifest as related to any operations involving or arising from the Leased Premises required to be maintained pursuant to the Environmental Laws;
 - (e) All plans and specifications relating to any storage tanks, including underground storage tanks, pumps, waste oil apparatus or related lines as related to any operations involving or arising from the Leased Premises; and
 - (f) Any notice of violation, summons, order, complaint, or any correspondence, but excluding communication protected by attorney-client privilege, threatening or relating to any of the foregoing received by Airline pertaining to compliance with the Environmental Laws as related to any operations involving or arising from the Leased Premises.

The contact for submitting such copies, unless otherwise informed, is the Airport's Planning and Environmental Services Manager.

C. Site Contamination

1. Airline shall not allow or cause contamination arising from Restricted Activities or by Hazardous Substances as defined herein. Airline shall at all times handle Hazardous Substances and regulated substances, in a manner consistent with best management practices and applicable Environmental Laws.
2. In the event of a Release or threatened Release of Hazardous Substances into the environment relating to or arising out of Airline's use or occupancy of the Leased Premises and/or common use areas during the term of this Agreement, Airline shall immediately notify City on the Airport's emergency number 215-937-3111, which shall be confirmed by Airline in writing within forty-eight (48) hours, unless such Release or threatened Release is less than a reportable quantity, and the total volume of the Release can be immediately and completely remediated and poses no risk of harm to health, the environment or of permanent damage to City property. Releases of jet fuel, aviation gasoline or other petroleum products must be immediately reported to City. In addition, such spills of fuel or other petroleum products shall be reported by City or Airline in accordance with the reportable quantity requirements defined in the Division of Aviation's Spill Notification Procedure for the Airport and Northeast Philadelphia Airport.
 - (a) Any correction of a violation or condition which requires a cleanup, proper disposal, removal, repair or other remedial action by Airline as noted herein, shall be completed as soon as practicably possible consistent with best management practices. Any such action lasting longer than forty-five (45) days shall require the approval of City. Such approval will not be unreasonably withheld.
 - (b) Upon stabilization of the Release site, Airline shall develop, within a reasonable time frame, a remediation action plan, prepared by a licensed environmental firm, to be submitted to City for approval. Such a plan, at a minimum, must comply with all Environmental Laws.
 - (c) Once approved, Airline shall proceed with execution of the plan as soon as reasonably possible and shall work expeditiously to fully remediate the Release consistent with an appropriate schedule for the work as approved by City. Upon completion, Airline shall return the site to a condition equivalent to that which existed prior to the Release and shall submit to City all test results, close out reports and related items for its record. If disagreement exists as to the pre-Release condition of the site, Airline bears the burden of proving any pre-

existing conditions present at time Airline took control of Leased Premises.

3. Any uncorrected violation by Airline of an Environmental Law or any condition which requires, or may require, a cleanup, proper disposal, removal, repair or other remedial action by Airline under any Environmental Laws or pursuant to the terms of this Agreement that is not completed pursuant to this Article, or as otherwise required by any Environmental Laws, shall constitute an event of default under this Agreement.
4. If Airline fails to cleanup, properly dispose, remove, repair, complete other remedial actions or take any other corrective actions as required under any Environmental Laws or pursuant to this Agreement, City, after providing Airline a reasonable opportunity to cure such alleged failure, may (but shall not be required to) take all steps it deems necessary to properly cleanup, dispose, remove, repair or otherwise correct the conditions resulting from the spill, leak discharge, Release or contamination consistent with the terms of this Article. Any such cleanup, proper disposal, removal, repair, remedial or corrective actions shall be at Airline's sole cost and expense and Airline shall indemnify and pay for and/or reimburse City for any and all costs (including administrative or attorney costs) City incurs as a result of any such cleanup, disposal, removal, repair, remedial, corrective, and/or other action it takes.
 - (a) If remedial action equipment needs to be stored in connection with City's actions as described above, Airline will provide to City: storage (at no charge) and provide water and electrical service in connection with the remediation, and all other technical and administrative support deemed necessary by City.

D. Storage Tanks

1. In accordance with the approvals and notifications required under this Article, Airline shall not install any storage tanks, including aboveground or underground storage tanks, pumps, waste oil apparatus, pipes, or related lines without City's consent.
 - (a) If Airline obtains City's consent to install Storage Tanks, or if Airline is currently using Storage Tanks, including aboveground or underground storage tanks, pumps, waste oil apparatus, pipes, or related lines as prescribed in Environmental Laws (collectively referred to as "Storage Tanks"), Storage Tanks shall be maintained in a safe, efficient and

orderly manner and shall conform to all applicable Environmental Laws, and Airport requirements.

- (b) All Storage Tanks shall be equipped with spill detection instruments and alarms as well as spill containment and overflow devices as required by Environmental Laws or pursuant to this Agreement, which Airline shall maintain in proper working condition in accordance with law and industry standards. Nothing contained herein shall diminish the obligation of Airline to remove the Storage Tanks during the Term pursuant to a mandate from an appropriate governmental entity, or City, nor any of the obligations of Airline under Environmental Laws or pursuant to this Agreement to remove Storage Tanks, and to remediate the presence of any Hazardous Substances Released from Storage Tanks at the expiration or termination of this Agreement.
- (c) Unless otherwise requested, Airline shall be responsible for the complete removal and disposal of said Storage Tanks, including underground Storage Tanks, contaminated soil, pumps, waste oil apparatus, anti-buoyancy pads or related lines. Airline shall commence the removal of said Storage Tank(s) within thirty (30) days of notice to terminate this Agreement. Removal shall be performed in accordance with all Environmental Laws and pursuant to this Agreement.
- (d) If Airline fails to remove the Storage Tanks upon request of City or other appropriate governmental entity as required by this Agreement, City may remove the same, at Airline's expense, and take such other measure as it deems necessary for the protection of people, property and the environment. Airline shall reimburse City for its actual costs, plus a fifteen percent (15%) administrative fee, promptly upon demand. Airline agrees to cooperate with City or any other governmental entity in furnishing such information related to the Storage Tanks as is required by City or by any other governmental entity.

E. Stormwater

1. Airline acknowledges that the Airport is subject to the National Pollution Discharge Elimination System ("NPDES") Program and its regulations relating to stormwater discharges, 40 CFR Part 122, for operations that occur at the Airport. Airline further acknowledges that it is familiar with these NPDES stormwater regulations, and that it will conduct operations at the Airport in compliance with 40 CFR Part 122 or any applicable NPDES permits. City will provide the NPDES permits and the Pollution Prevention Contingency Plan (PPC).

2. City and Airline both acknowledge that close cooperation is necessary to ensure compliance with these stormwater discharge requirements. Airline acknowledges that it may be necessary to undertake to minimize the exposure of stormwater to materials generated, stored, handled or otherwise used by Airline as defined in the federal stormwater regulations, by implementing and maintaining "Best Management Practices" as defined in 40 CFR Part 122.2 and as implemented in any applicable NPDES permit, as either may be amended from time to time.
3. Airline acknowledges the applicability of the City's NPDES stormwater discharge permit and any subsequent amendments, extensions or renewals thereto, to the extent such permits affect Airline's operations at the Airport. Airline agrees to be bound by all applicable portions of said permit. City shall promptly notify Airline of any changes to any portions of said permit applicable to, or that affect, Airline's operations.
4. Airline agrees to participate in any reasonable manner requested by City in any City organized task force or other work group established to coordinate stormwater activities at the Airport.
5. To ensure compliance with City's NPDES permit, Airline shall perform the following activities so as to not contaminate City's stormwater system:
 - (a) Airline must report to City, all reportable quantity spills of Hazardous Substances; and any other spills, including but not limited to lavatory spills that enter into any storm drain, waterway, or soil, regardless of quantity. In addition, spills of fuel or other petroleum products shall be reported by City or Airline, as applicable in accordance with the Division of Aviation's Spill Notification Procedure for the Airport and Northeast Philadelphia Airport. Airline is responsible for the cleanup and disposal of all spills caused by Airline, any subleasees, agents, employees, contractors or invitees.
 - (b) Airline shall maintain its vehicles to prevent discharges to stormwater.
 - (c) City may require Airline to remove vehicles that leak from service until repaired to reasonable satisfaction of City. As a temporary measure, Airline shall place drip pans under leaking vehicles, promptly clean up all leaks and spills, and properly dispose of all material used to cleanup spills.
 - (d) Airline shall allow City's designated representative access to its vehicle maintenance facilities, with reasonable prior notice and during regular business hours, and at any time in cases of emergency.

F. Record of Hazardous Materials

Within thirty (30) days of execution of this Agreement and annually, and when amended by Airline, thereafter, Airline will provide City a copy of any completed SARA forms (EPA Form 8700-30 etc.) required for its operation, on an annual basis, listing Hazardous Substances which were present on the Leased Premises or the common use areas; and documentation of all reportable quantity spills of Hazardous Substances that occurred or were discovered on the Leased Premises or the common use areas during the term of this agreement. Airline shall also fill out, and provide copies to City, annually, and when amended by Airline, thereafter, a hazardous substance survey form created by the Pennsylvania Department of Labor and Industry under the Pennsylvania Worker and Community Right-to-Know Act (35 P.S. §7301 *et seq.*). Airline must maintain such records of Hazardous Substances for not less than three (3) years.

G. Indemnification

In addition to all other remedies available to City under this Agreement, at law or in equity, Airline shall indemnify, defend and save harmless City, its officials, officers, agents, boards, commissions, employees, successors and assigns from and against any and all environmental claims, causes of action, liabilities, payment of liens, damages, impairments, penalties, fines or losses, whatever kind or nature, whether known or unknown, foreseeable or unforeseeable, regardless of the source, whether civil or criminal (collectively, "Indemnified Environmental Claims"), including, but not limited to, any and all expenses City may incur in complying with any Environmental Laws (including the costs of inspection, testing, or audit) penalties or fines imposed by any governmental agency, (including fines against City for Airline's failure to comply), the expense of remediating, cleaning up or disposing of any Hazardous Substance or regulated materials at the Leased Premises, any personal injury, death, natural resources or property damage (real or personal) arising out of or related to Hazardous Substances used (including storage or disposal) by Airline, all legal expenses and fees incidental to the investigation and defense of any Indemnified Environmental Claims, including but not limited to legal fees, court costs, expert witness and/or consultant fees, (and any costs related thereto), all consequential damages, diminution in value of the Leased Premises, damages for loss or restriction of use on the Leased Premises, and any costs relating to or arising from aggravation of or contribution to any pre-existing condition that arises from or is caused by the acts or omissions of Airline, its agents, employees, licensees, invitees, or any other persons or entities acting by, through, under or on behalf of Airline at the Leased Premises, except to the extent arising out of the gross negligence or willful misconduct of City. The foregoing indemnity shall survive the expiration or earlier termination of this Agreement. City will use its best efforts to notify Airline upon its discovery and verification of such a claim.

All environmental claims and related remediation and/or cleanup shall be conducted in accordance with Environmental Laws and pursuant to this Article.

H. Environmental Removal and Disposal by Airline

1. Airline shall be responsible for all remedial actions and the proper removal and disposal of all Hazardous Substances generated by Airline, or resulting or arising from Airline's activities or operations at the Leased Premises during the term of this Agreement, as well as on adjacent waterways (including groundwater). Such removal and disposal shall include, but not be limited to, Airline manifesting such Hazardous Substances under Airline's assigned Environmental Protection Agency Identification Number and ensuring that removal of such Hazardous Substances from the Leased Premises and the Airport is accomplished in accordance with the Environmental Laws. Additionally, Airline shall be solely responsible for Contamination that impacts the Leased Premises as a result of the storage, handling or leakage of any substances stored at or transported to the Leased Premises by Airline, its agents, employees, licensees, invitees, or any other persons or entities acting by, through, under or on behalf of Airline. Upon termination of this Agreement for any reason, Airline shall also be responsible for the safe and proper removal of all regulated substances possessed, used and/or generated by Airline, its agents, employees, licensees, invitees, or any other persons or entities acting by, through, under, or on behalf of Airline at the Leased Premises.
2. Upon termination of this Agreement for any reason, ownership of any storage tanks, including underground storage tanks, pumps, waste oil apparatus or related lines used, installed on or under the Leased Premises during the term of this Agreement, shall remain with Airline and shall not pass to City. Storage Tanks shall be removed in accordance with Section D. of this Article.

I. Lead-Based Paint

Airline agrees that in any improvements on the Leased Premises Airline will be solely responsible for the abatement of lead-based paint hazards to the extent required by Environmental Laws, and best management practices. Airline will comply with all applicable laws. City assumes no liability for damages for personal injury, illness, disability, or death, to Airline or any other person including members of the general public arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with lead-based paint on the Leased Premises in connection with Airline's completion of any such

improvements, whether Airline and/or City has properly warned or failed to properly warn the individual(s) injured.

J. Environmental Audit

1. City shall have the right, but not the obligation, to conduct or cause to be conducted an audit to assess all Air Transportation Companies' compliance with Environmental Laws (collectively, "Compliance Audit"). City shall provide Airline reasonable opportunity to consult with and provide comments to City as to the design of the Compliance Audit. City shall conduct such Compliance Audit not more than once every two (2) years. Airline and all other Air Transportation Companies shall be responsible for the expense of such Compliance Audit through normal City rates and charges.
 - (a) If the resulting Compliance Audit report reveals non-compliance by Airline with any Environmental Laws at or affecting the Airport, or indicates that a release of Hazardous Substances has occurred on the Airport that was caused by Airline, its agents, employees, licensees, invitees (not including passengers), or any other persons or entities acting by, through, under or on behalf of Airline, or elsewhere if such non-compliance or release appears to have been attributable to Airline's use or operation at the Airport, then Airline shall be responsible for such non-compliance and shall deliver to City a remediation report ("Compliance Report") within forty-five (45) days of the submission of the Compliance Audit, containing an explanation of the non-compliance and a remediation plan that is consistent with this Article.
 - (b) Within forty-five (45) days after completion of the Compliance Audit, Airline shall commence and expeditiously proceed to complete at its sole cost and expense, subject to City's review and approval, the remediation plan.
 - (c) Notwithstanding the foregoing, if any local, state or federal agency with jurisdiction over the Airport establishes a remediation plan or schedule to address any confirmed Release of Hazardous Substances at the Airport, such agency's plan or schedule shall control, except to the extent it fails to return the Leased Property or other property of City to a condition equivalent to that which existed prior to the Release. If disagreement exists as to the pre-Release condition of the site, Airline bears the burden of proving pre-existing conditions present at time Airline took control of Leased Premises.

- (d) If Airline does not complete the required remedial actions as required by applicable Environmental Laws or pursuant to the terms of this Agreement, in the time periods set forth in the remediation plan or schedule, City shall have the right, but not the obligation, to implement any remediation actions which it deems necessary or prudent to address such non-compliance. If City implements any remediation action pursuant to this Agreement or pursuant to any Environmental Laws, Airline shall reimburse City for its actual costs, plus a fifteen percent (15%) administrative fee, promptly upon demand, without limitation of other claims or damages that City may have against Airline arising out of the terms of this Agreement or otherwise.
- (e) In the event the Compliance Audit reveals non-compliance with any Environmental Laws at the Airport or indicated that a Release of Hazardous Substances has occurred on the Airport, and it is not clear which Air Transportation Company is responsible for such non-compliance or Release, City shall prepare a compliance and remediation plan consistent with this Article. City shall provide Airline reasonable opportunity to consult with and provide comments to City as to the design of the compliance and remediation plan. Airline and all other Air Transportation Companies shall be responsible for the expense of such plan and resulting remediation through normal City rates and charges.

K. Inspection

City may, at reasonable times after reasonable advance notice and in the presence of an employee or agent of Airline, except in the event of an emergency, enter the Leased Premises to conduct reasonable inspections, tests, samplings, split samples or other investigations in connection with Airline's obligations under the provisions of this Article. City will not unreasonably interfere with Airline operations.

L. Remedies

Airline's breach of any provision of this Section shall be an Event of Default under this Agreement and City shall be entitled to exercise any and all remedies as set forth in this Agreement, at law or equity. Nothing in this Section shall be construed or deemed to limit any remedies which City may have against Airline hereunder, at law or equity.

M. No Third Party Rights

This Section shall create no third party interests or causes of action and City expressly reserves the right to compel any party responsible for preexisting environmental conditions to remediate at its own cost and expense.

N. Survival

The provisions of this Article shall survive the termination of Airline's tenancy or of this Agreement. No subsequent modification or termination of this Agreement by agreement of the parties or otherwise shall be construed to waive or to modify any provision of this Section unless the termination or modification agreement or other document so states in writing.

O. End of Occupancy

At least thirty (30) days prior to the final vacating of Leased Premises in connection with the termination or expiration of this Agreement, City shall obtain an environmental assessment sufficient to assess site impacts associated with Airline's occupancy, operations or activities on Leased Premises. The cost of the end of occupancy audit shall be paid through normal City rates and charges. Any environmental contamination on Leased Premises that is caused by Airline's occupancy, operations, or activities at the Airport disclosed in the environmental assessment prepared at the termination of this Agreement shall be the responsibility of Airline, and Airline shall be obligated promptly to effect the remediation of such environmental contamination in accordance with this Article.

Article 37 ENERGY CONSERVATION AND RECYCLING

City and Airline shall comply with all Airport Rules and Regulations and City Regulations and Ordinances pertaining to recycling and energy conservation and management.

For the purposes of establishing environmental regulatory compliance and measures for natural resource conservation, City has or will establish and implement from time to time environmental policy and principles that reflect the priorities of City. Said environmental policy and principals are to be reflected in the daily operations of all aspects of the Airport. Environmental sustainability and avoiding the occurrence of negative environmental incidents at the Airport are primary goals. City's ability to control environmental policies will at least be partially enforced through its implementation of an Environmental Management System (EMS). Such measures will be guiding criteria to efficiently manage environmental issues,

establish a commitment to pollution prevention and regulatory compliance, and increase environmental awareness and stewardship from City and all Airport tenants. City further reserves the right to implement an alternative fuel vehicle program. Airline agrees to fully cooperate with City in all aspects of such policies and programs.

Article 38

AGREEMENT TO ADDRESS ALTERNATIVE MINIMUM TAX ISSUES

A. Agreement Integrity

It is the intention of the Signatory Airlines and City that the terms and conditions of this Agreement shall not serve as an impediment to addressing any alternative minimum tax issues as currently in the Code or as such Code provisions may be amended from time to time. Those modifications of a term or terms of this Agreement as may be necessary to specifically address any alternative minimum tax issue affecting this Agreement may be made during the term of this Agreement and without amendment to this Agreement subject to the provisions contained in Article 38(B) and Article 38(C).

B. Consultation

City is hereby authorized to consult with bond and/or tax counsel from time to time during the term of this Agreement with respect to the classification "specified private activity bonds" and the affects of alternative minimum tax as set forth in the Code on the terms and conditions of this Agreement, and to further determine the necessity of a modification of a term or terms contained herein to satisfy the intention of the Signatory Airlines and City to (1) minimize the risk of future Bonds being classified as "specified private activity bonds" and (2) insure that this Agreement shall not be affected by the alternative minimum tax provisions.

C. Signatory Airline Approval

Signatory Airlines and City agree that City shall provide notification to the Signatory Airlines of any required modification to a term or terms of this Agreement to satisfy the requirements set forth in Article 38(B). The notification shall include the date, time and location of a consultation meeting between the Signatory Airlines and City, which consultation meeting shall occur not sooner than fifteen (15) days after delivery of the notification. Within thirty (30) days following the consultation meeting, each Eligible Signatory Airline shall notify City in writing of its approval or disapproval of the proposed modification of any term or terms of this Agreement to satisfy the requirements as set forth in

Article 38(B). Failure by any Eligible Signatory Airline to notify City of its approval or disapproval on or before the date as provided herein shall be deemed to be an approval of the modification by such Eligible Signatory Airline. The modification to this Agreement shall be effective upon receipt by City of approval notifications or, (30) days following the consultation meeting, deemed approvals from at least fifty percent (50%) plus one (1) of the number of Eligible Signatory Airlines representing at least sixty-five percent (65%) of the Total Maximum Landed Weight, based on the most recent Calendar Year for which such data is available.

D. Limited Rights and Parties Bound

The modifications of any term or terms of this Agreement pursuant to the provisions contained in this Article 38 are specifically limited to any required modification to a term or terms of this Agreement to satisfy the requirements set forth in Article 38(B). City and all Signatory Airlines agree to be bound by any modifications to this Agreement made pursuant to the provisions contained in this Article 38.

Article 39
CERTIFICATION OF NON-INDEBTEDNESS

A. Airline Not Indebted

Airline hereby certifies and represents pursuant to Chapter 17-100 *et seq.* of the City Code that Airline and Airline's parent company(ies) and Subsidiary Airline(s) are not currently indebted to City, excluding Division of Aviation, and will not at any time during the Term of this Agreement (including any extensions or renewals thereof) be indebted to City, excluding Division of Aviation, for or on account of any delinquent taxes (including, but not limited to, taxes collected by City on behalf of the School District of Philadelphia), liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to City has been established. In addition to any other rights or remedies available to City at law or in equity, Airline acknowledges that any breach or failure to conform to this certification may, at the option of City, result in the withholding of payments otherwise due to Airline and, if such breach or failure is not resolved to City's satisfaction within a reasonable time frame specified by City in writing, may result in the offset of any such indebtedness against said payments and/or the termination of this Agreement for default (in which case Airline shall be liable for all excess costs and other damages resulting from the termination).

B. Requirement for Subcontractors

Airline shall require all subcontractors performing work in connection with this Agreement or subleases, with appropriate modifications to the language regarding the parties, to be bound in writing by the following provision and Airline shall cooperate fully with City in exercising the rights and remedies described below or otherwise available at law or in equity:

Subcontractor hereby certifies and represents that Subcontractor and Subcontractor's parent company(ies) and subsidiary(ies) are not currently indebted to City and will not at any time during the term of Airline's Agreement with City, including any extensions or renewals thereof, be indebted to City, for or on account of any delinquent taxes (including, but not limited to, taxes collected by City on behalf of the School District of Philadelphia), liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to City has been established. In addition to any other rights or remedies available to City at law or in equity, Subcontractor acknowledges that any breach or failure to conform to this certification may, at the option and direction of City, result in the withholding of payments otherwise due to Subcontractor for services rendered in connection with the Agreement and, if such breach or failure is not resolved to City's satisfaction within a reasonable time frame specified by City in writing, may result in the offset of any such indebtedness against said payments otherwise due to Subcontractor and/or the termination of Subcontractor for default (in which case Subcontractor will be liable for all excess costs and other damages resulting from the termination).

Article 40

NORTHERN IRELAND PROVISION

City urges companies doing business in Northern Ireland to move towards resolving employment inequities and encourages such companies to abide by the MacBride Principles as expressed in Section 17-104 of the Philadelphia Code. City urges Philadelphia companies to do business with corporations that abide by the MacBride Principles. Airline acknowledges that it has read and understands the above statement of City concerning doing business in Northern Ireland.

Article 41 INSURANCE

A. Insurance Requirements

During the Term and any extension thereof, Airline shall, at its sole cost and expense, obtain and maintain in full force and effect, and promptly pay all premiums, when due, for, the following types of insurance in the amounts specified and in the form heretofore provided for:

1. "Special Risk" Property Insurance. "Special Risk" property insurance covering all improvements, betterments, equipment, trade fixtures, merchandise, business personal property and any other property in Airline's care, custody or control, (other than aircraft hull, spaces, cargo and passenger baggage and personal effects) in an amount equal to the full replacement cost and with no penalty for coinsurance. Said policy may take into consideration any limitations on liability that may exist in favor of Airline for customer goods.
2. Boiler and Machinery. Boiler and machinery insurance against loss or damage from explosion, erupting, collapsing or mechanical breakdown of boilers or pressure vessels and all equipment parts thereof and appurtenances attached thereto to the extent applicable to the space leased to Airline.
3. Automotive Liability. Automotive liability insurance covering liability arising from the maintenance and use of all owned, non-owned, hired, leased and rented trucks, automobiles, with a combined single limit of \$5,000,000 which requirement shall be \$10,000,000 for those vehicles with access to the Airfield Area.
4. Worker's Compensation and Employer's Liability. Worker's compensation and employer's liability insurance affording statutory coverage and containing statutory limits with the employer's liability insurance at limits of \$1,000,000 each accident/\$1,000,000 each employee/\$1,000,000 policy limit.
5. General Liability Insurance/Aviation Liability. General liability insurance/aviation liability insurance in amounts not less than \$100,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability; \$100,000,000 general aggregate. Coverage shall include but not be limited to Premises operations; blanket contractual liability; passenger liability; personal injury and advertising liability (employee exclusion deleted) which coverage shall be \$10,000,000; products

and completed operations; aircraft non-owned liability; liability for vehicles on the restricted access areas of the Airfield Area including baggage tugs, aircraft pushback tugs, provisioning trucks, air stair trucks, belt loaders and ground hangar keeper's liability. Explosion, collapse and underground property damage liability coverages shall not be excluded from such insurance coverage.

6. **Contractors' Insurance.** Any (i) contractor, construction manager or other party engaged by Airline or (ii) subcontractor or other party engaged by a contractor, construction manager or other party that is engaged by Airline, in either case, to perform any construction, renovations or repairs at the Airport shall obtain and maintain in full force and effect during any construction period:
 - (a) A commercial general liability insurance policy in minimum limits, unless otherwise specified, of \$1,000,000 per occurrence for bodily injury and \$1,000,000 per occurrence for property damage.
 - (b) An automobile liability insurance policy covering owned, non-owned and hired vehicles in minimum limits, unless otherwise specified, of \$1,000,000 per person, \$1,000,000 per occurrence for bodily injury and \$1,000,000 per occurrence for property damage liability (\$5,000,000 if in Airfield Area).
 - (c) A worker's compensation policy affording statutory coverage and containing statutory limits and employer's liability insurance at limits of \$100,000 per accident/\$100,000 each employee/\$500,000 policy limit.
 - (d) Professional liability insurance shall be maintained when any architect or engineer performs, directly or indirectly, work for or on behalf of Airline at Airport or involving Airline's operations and/or the Total Airline Leased Premises with a \$1,000,000 policy limit.

7. **Environmental Impairment or Pollution Liability.** Environmental impairment or pollution liability insurance covering a minimum limit of \$5,000,000 per occurrence for bodily injury (including death) and property damage. Coverage shall include sudden, accidental and gradual occurrences, as well as, coverage for receiving, dispensing, transporting, removing, handling or storing aviation fuels or any other pollutants, and may be written on a claims-made basis provided that coverage for occurrences happening during the term of this Agreement shall be maintained in full force and effect under the policy of "tail" coverage for a period of at least two (2) years after expiration or termination of this Agreement. Airline, with the concurrence of City, may self-insure this risk.

8. Liquor Liability Insurance. If alcoholic beverages are served or sold on the Airline's Leased Premises, liquor liability insurance coverage shall be maintained in an amount of \$2,000,000; provided, however, that no alcoholic beverages shall be served or sold unless approved in writing by City.

B. Additional Requirements

All policies of insurance provided for in this Article shall be issued in form reasonably acceptable to City by insurance companies accepted in the United States or International airline industry, and qualified to insure in the Commonwealth of Pennsylvania and otherwise acceptable to City. At no time may Airline cancel any insurance without thirty (30) days (ten [10] days in the case of a cancellation due to non-payment of premium) prior written notice to City. Airline may change insurance carriers as long as the obligations under this Article are met and notice of such change is provided to City within ten (10) days. Each and every such policy:

1. except for worker's compensation, employer's liability, boiler and machinery and property insurance, shall be issued in the name of Airline and shall name City, its respective officers, employees, agents, successors and assigns and any other parties in interest from time to time designated in writing by notice from City to Airline as additional insureds to the extent covered and indemnified herein;
2. with respect to liability insurance, shall be for the mutual and joint benefit and protection of City and Airline and any such other parties in interest;
3. shall (or certificates thereof shall) be delivered to City's Risk Manager (One Parkway, 1515 Arch Street, 14th Floor, Philadelphia, PA 19102) with a copy to the Division of Aviation, and such other parties in interest prior to the commencement of the Term and thereafter as soon as practical prior to the expiration of each such policy, and, as often as any such policy shall expire or terminate. Renewal or additional policies shall be procured and maintained by Airline in like manner and to like extent;
4. shall contain a provision that the insurer or Airline will give to City and such other parties in interest at least thirty (30) days (ten [10] days in the case of a cancellation due to non-payment of premium) notice in writing in advance of any adverse material change, cancellation, termination or lapse;
5. shall be written as a primary policy which does not contribute to and is not in excess of coverage which City may carry; and

6. shall be on an "occurrence" basis and not a "claims made" basis, except for pollution and professional liability which may be on a claims made basis with a tail.

C. Inspection of Policies

Airline agrees to permit City at all reasonable times to inspect policies of insurance certified by Airline to be true and correct copies at Airline's office in Philadelphia that Airline is required to maintain hereunder.

D. Waiver

Airline hereby releases City from any and all liability or responsibility to Airline, except such liability which arises due to the willful misconduct or sole negligence of City, for all claims or anyone claiming by, through or under it or them, by way of subrogation or otherwise, for any loss or damage to property which is coverable by insurance, whether or not such insurance is maintained by Airline.

E. Proof of Payment

At City's request, Airline shall furnish City with proof that the premiums for all insurance required hereunder have been paid on a timely basis. Such proof shall be provided in writing at the time of the delivery of the certificates of insurance.

F. Failure to Maintain

In the event Airline fails to cause such insurance to be maintained, City (i) shall not be limited in the proof of any damages which City may claim against Airline or any other person or entity to the amount of the insurance premium or premiums not paid or incurred and which would have been payable upon such insurance, but City shall also be entitled to recover as damages for such breach the uninsured amount of any loss, and damages, expenses of suit and costs, including without limitation reasonable cancellation fees, suffered or incurred during any period when Airline shall have failed or neglected to provide insurance as required herein and (ii) City may provide such insurance by taking out policies from companies satisfactory to City in amounts which may be lesser than or equal to those specified herein. The amount of the premiums paid for such policies by City shall be payable by Airline on receipt of City's billing therefore with interest at the Default Rate per year, accrued and compounded on a monthly basis, commencing from the date of payment by City and reasonable attorney fees. Further, if Airline fails to comply with the insurance requirements set forth herein, City may terminate this Agreement upon seven (7) days prior notice to Airline.

G. Increases

Airline may not use the Airport or conduct any additional, non-standard airline operations in any manner that will increase City's insurance rates with respect to the Airport. If Airline's additional, non-standard operations activities at the Airport result in increased insurance costs for City at the Airport or in the cancellation of a City insurance policy, then City may charge the increased cost or the cost of obtaining new insurance to Airline as additional rent hereunder.

H. Minimums

The policy dollar amounts stated herein are minimums only; City shall be entitled to the full benefit and protection of any higher dollar amount of coverage stated in an insurance policy actually carried by Airline. The insurance requirements set forth herein shall not be construed as a representation by City that the satisfaction of such requirements will be sufficient to protect Airline.

I. No Limitation

The insurance requirements set forth herein shall in no way be intended to modify, limit or reduce the indemnifications made in this Agreement by Airline to City or to limit Airline's liability under this Agreement to the limits of the policies of insurance required to be maintained by Airline.

J. Sublessees

No subleasing of any interest in any part of this Agreement shall be effective unless and until City in writing acknowledges that it has received satisfactory evidence of a sublessee's insurance policies and/or coverage.

K. Changes to Insurance Requirements

The parties acknowledge and agree that circumstances affecting, among other things, the Airport, City, Airline, the aviation industry and the insurance market may occur during the Term hereof and, as a consequence, City may, upon written notice and after consultation with Signatory Airlines, adjust the insurance requirements set forth in this section at any time during the Term if, in City's judgment, the insurance requirements of this Agreement are deemed inadequate to properly protect City and/or the Airport and Airline shall promptly comply with such adjustment(s). Any changes to insurance requirements will be implemented at the next applicable insurance policy renewal term.

L. Incidents

If any accident or event occurs during the Term which results in or may have resulted in bodily injury, personal injury, property damage, or a loss of any kind or is otherwise covered or should be covered by the insurance coverage provided for herein and such accident or event occurs in or about the Airport, then such accident or event is to be reported promptly to City (in any case no later than twenty-four hours after Airline has knowledge of the occurrence thereof) and a written report thereof shall be submitted to City within three days after the occurrence of the accident or event. Further, any individual claim for damages in excess of twenty-five thousand dollars (\$25,000) filed against or involving Airline and City based upon accidents or events at the Airport or involving Airline's operations in or around the Airport shall be reported to City within ten (10) days following receipt of such claim by Airline. Airline is not required under this Article 41(L) to report worker's compensation claims against Airline.

M. Deductibles

The payment of deductibles under any insurance policy required herein shall be made solely by Airline and City shall not have any liability for payment thereof.

N. Indemnity

Airline shall indemnify, defend and hold harmless City from and against all claims, suits, causes of action, liabilities, losses, costs and expenses (including reasonable attorneys fees), except to the extent caused by City's sole negligence or willful misconduct of every kind relating to or arising in connection with:

1. Any act or negligent omission of Airline, its agents, directors, officers, employees, contractors or sublessees in, on, or about the Total Airline Leased Premises, or in, on or about any street, alley, sidewalk, curb, or passageway, the primary purpose of which is to provide access to, or use of, the Total Airline Leased Premises, but parties using such space at City's request shall not be deemed a "sublessee" hereunder;
2. Any use, nonuse, possession, occupation, condition, operation, maintenance, construction or management of the Total Airline Leased Premises, Proprietary Equipment or Airline Equipment;
3. Any accident, injury, death or damage to any person or property or any other occurrence in or on the Total Airline Leased Premises;
4. Any accident, injury, death or damage to any person or property or any other occurrence in or around the Airport caused, in whole or in part, by

Airline, its agents, directors, officers, employees, contractors, subcontractors, lessees or sublessees;

5. Any breach, violation or nonperformance or any covenant, term or condition of this Agreement to be performed or observed by Airline, or of any agreements or records concerning the Total Airline Leased Space, Proprietary Equipment or Airline Equipment, or of any restrictions of record or of any laws, ordinances, statues, rules, codes or regulations, affecting the Total Airline Leased Space, Proprietary Equipment or Airline Equipment, or any part of the Total Airline Leased Space, Proprietary Equipment or Airline Equipment, or the ownership, occupancy or use thereof;
6. Any encroachment of improvements made by Airline upon property adjoining the Total Airline Leased Premises.

The indemnification contained in this Article 41 applies to this Article 41 only. Said indemnification does not apply to City-maintained equipment or property, unless caused by Airline's negligence. Nothing herein shall prevent the Signatory Airline(s) to which City has tendered a matter covered by any indemnification provision of its/their Use and Lease Agreement from joining as a defendant any Air Transportation Company to the extent permitted by applicable law.

O. Defense of Proceedings

In case any action or proceeding is brought against City by reason of any matter referred to in this Article or any other Article herein to defend City, Airline, upon written notice from City (which shall be promptly given), shall at Airline's sole cost and expense, resist or defend such action or proceeding by counsel approved by City in writing, provided that no approval of counsel shall be required in each instance where the action or proceeding is resisted or defended by counsel of an insurance carrier obligated to resist or defend such action or proceeding, and further provided that City may engage at its own expense its own counsel to participate in the defense of any such action.

1. If Airline determines that the defense of such action is not covered by this Agreement, Airline shall immediately give City notice thereof.
2. If Airline believes that the defense of such action is covered by this Agreement, but chooses not to defend such action, Airline shall tender defense of the action to City, and if City so accepts said defense, Airline shall be responsible for all defense costs and expenses, and the result thereof incurred by City.

3. City shall be notified in advance of any potential settlements of any action defended herein and Airline shall also be notified of any potential settlements in the event of a City defense of said action.
4. The provisions of Article 41 as they apply to occurrences or actual or contingent liabilities arising during the Term of this Agreement shall survive the expiration or any earlier termination of this Agreement.

P. Non-Waiver of Tort Claims Act

Nothing contained in this Agreement shall be construed as a waiver by City of rights under the Political Subdivision Tort Claims Act, 42 Pa. Cons. Stat. Ann. Section 8541 et seq., as may be amended from time to time, nor as a limitation on the rights and defenses available to City under law.

Article 42 AIRCRAFT NOISE OVERFLIGHT AND OPERATIONS

City and Airline recognize that the Airline's Leased Premises are located on an active Airport; and, as such, are subject to aircraft noise, vibration, exhaust, and overflight associated with the operation of the Airport. Airline acknowledges that it has familiarized itself with the overflight, noise, vibration, and exhausts characteristics of the Airline's Leased Premises and acknowledges that such overflight, noise, vibration, and exhaust may change during the term of this Agreement. Airline on behalf of itself, its agents, employees, contractors, subcontractors and their employees hereby waives and releases any cause of action the Commonwealth of Pennsylvania, City, the FAA, the other airlines operating at the Airport and their respective directors, officers, employees, representatives, and agents, from any and all claims, demands, suits or causes of action for damages or injunctive relief arising out of, or in any way associated with aircraft noise, vibration, and exhaust at, or aircraft overflight of the Airline's Leased Premises, it being understood that this release was a material inducement of City through and on behalf of City's decision to enter into this Agreement. The indemnification contained in this Article 42 applies to this Article 42 only.

Article 43 NON-DISCRIMINATION

A. Local Requirements

1. This Agreement is entered into under the terms of the Philadelphia Home Rule Charter and, in the exercise of the privileges herein granted, Airline

shall not discriminate nor permit discrimination against any person because of race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, handicap, or marital status. Without limiting any other provision of this Agreement, Airline agrees to comply with the Fair Practices Ordinance of City of Philadelphia (Chapter 9-1100 of the Philadelphia Code), as amended from time to time.

2. Airline covenants and agrees that in accordance with Chapter 17-400 of the Philadelphia Code, payment or reimbursement by an employer of membership fees or other expenses associated with participation by its employees in an exclusionary private organization, insofar as participation confers an employment advantage or constitutes or results in discrimination with regard to hiring, tenure of employment, promotions, terms, privileges or conditions of employment on the basis of race, color, sex, sexual orientation, religion, national origin or ancestry, constitutes a substantial breach of such City contract entitling City to all rights and remedies provided in City contract or otherwise available in law or equity.
 - (a) Airline agrees to include the immediately preceding paragraph, with appropriate adjustments for the identity of the parties, in all subcontracts which are entered into for work to be performed pursuant to this Agreement.
 - (b) Airline further agrees to cooperate with the Commission on Human Relations of City of Philadelphia in any manner which the Commission deems reasonable and necessary for the Commission to carry out its responsibilities under Chapter 17-400 of the Code and that failure to so cooperate constitutes a substantial breach of City contract entitling City to all rights and remedies provided in City contract or otherwise available in law or equity.

B. Federal Requirements

1. Airline covenants and agrees that in order to confirm the assurance required by City of Philadelphia by Title VI of the Civil Rights Act of 1964 and by 49 C.F.R. Part 21 of the regulations governing the U.S. Department of Transportation ("DOT"), as amended, (a) no person on the grounds of race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, handicap, or marital status shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of any space leased to it hereunder and (b) Airline shall use the premises in compliance with all other requirements imposed by or pursuant to 49 C.F.R. Part 21 and Title VI of the Civil Rights Act of 1964, and as said regulations may be amended. Noncompliance with this clause

will constitute a material breach of this Agreement; therefore, in the event of such noncompliance, Airline hereby authorizes Airport to take such action as the Federal government may direct to enforce this covenant, and Airline also authorizes the Federal government to take appropriate action to enforce compliance, including the right to seek judicial enforcement.

2. Airline will undertake any affirmative action program as required by 14 C.F.R. Part 152, Subpart E, as amended from time to time, to ensure that no person is excluded from participating in any employment, contracting, or leasing activity on the grounds of race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, handicap, or marital status. Airline agrees that no person may be excluded on those grounds from participating in or receiving the services or benefits of any program or activity covered by the regulation. Airline will require its covered sub-organizations to provide assurance that they will also undertake affirmative action programs and require assurances from their sub-organizations, as required by 14 C.F.R. Part 152.

Article 44 NO RECORDATION

This Agreement shall not be recorded in any office of public record, and the recordation hereof by Airline shall be deemed an event of default hereunder.

Article 45 SUPERVENING LAW/AGREEMENT WITH GOVERNMENT

A. No Exclusive Right

Nothing herein contained shall be construed as granting or authorizing the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act or any other statute, ordinance, regulation or policy of any governmental agency having jurisdiction over the Airport and/or the activities that take place at the Airport. Further, nothing contained herein shall be construed as violating PFC Assurance Number 7.

B. Subordination to Agreements with United States

1. This Agreement is subject and subordinate to the provisions of any existing or future agreement made between City and the United States relative to the operation or maintenance of the Airport, the execution of which has been made or may be required by the provisions of the Federal Aviation Act

of 1958, as amended, or any future act affecting the operation or maintenance of the Airport.

2. All provisions of this Agreement shall be subordinate to the rights of the United States to lease, occupy, use, operate or otherwise assume control of the Airport, or any part thereof, during time of war or national emergency, and any provisions inconsistent with the provision of such lease to, or assumption of control by, the United States shall be suspended.

C. Restrictions of Record

This Agreement is subject to all restrictions of record affecting the Airport and the use thereof and all federal statutes and regulations affecting the same, and shall be subject and subordinate to the provisions of any and all existing and future agreements made between City and the Commonwealth of Pennsylvania and/or the United States relative to the operation and management of the Airport, the execution of which has been or will be required as a condition precedent to the transfer of Commonwealth or federal rights or property to City for Airport purposes, or to the granting or expenditure of Commonwealth or federal funds or PFCs for the extension, expansion, or development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Airport and Airway Development Act, as it has been amended from time to time.

D. Assurance Agreements

This Agreement is subject and subordinate to the terms of any "Sponsor's Assurance Agreement" or like agreement that has been or may be furnished to the FAA by City or required by law. In the event that the FAA or its successors require modification or changes in this Agreement as a condition precedent to the granting of its approval or to the obtaining of funds for improvements at the Airport or as a requirement of any prior grants, Airline hereby approves any and all such modifications, amendments, revisions, supplements or deletions of any of the terms, conditions or requirements of this Agreement as may reasonably be required.

Article 46 COMPLIANCE WITH LAW

Airline agrees to observe and comply with all applicable current and future Federal, State and municipal laws, statutes, ordinances and regulations, including such ordinances, resolutions, and rules and regulations as City may from time to time promulgate or adopt relative to the use of any property owned by City, including

the premises that are the subject of this Agreement and the conduct of persons in, on and about such City property in order to preserve such property and to protect the public health, safety and welfare. Airline agrees to cooperate with City in the enforcement of Airport rules, regulations and policies. Nothing in this Agreement shall waive, or be construed to waive, any power or authority of City under all applicable laws, ordinances, statues, rules and regulations.

Article 47
GOVERNING LAW

Unless preempted by federal law, this Agreement is to be read, construed, governed and enforced in accordance with the laws of the Commonwealth of Pennsylvania.

Article 48
WAIVER OF JURY TRIAL

It is mutually agreed that City and Airline hereby waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other as to any matters arising out of or in any way connected with this Agreement.

Article 49
NOTICES

Notices or communications required herein shall be in writing and given by personal delivery or sent by overnight delivery or United States mail, postage prepaid. Unless otherwise provided in this Agreement, any notice shall be effective upon its actual receipt, but, in any event, shall be presumed to have been received by the addressee no later than forty-eight (48) hours after deposit of same in mail, or on the first working day after said forty-eight (48) hour period, whichever occurs later. Either party shall have the right, by giving notice to the other, to change the address at which its notices are to be received. Until any such change is made, notices shall be addressed and delivered as follows:

1. If intended for City:

Department of Commerce
1515 Arch Street, 12th Floor
Philadelphia, PA 19102
Attn: Director of Commerce

Division of Aviation

Terminal E
 Philadelphia International Airport
 Philadelphia, PA 19153
 Attention: Director of Aviation

With a copy to:

City of Philadelphia Law Department
 1515 Arch Street, 16th Floor
 Philadelphia, PA 19102
 Attention: Divisional Deputy City Solicitor, Transportation Division

2. Notices to Airline shall be mailed to _____.

Article 50
ENTIRE AGREEMENT

A. Agreement in Writing

It is understood and agreed that this instrument contains the entire agreement between the parties hereto. It is further understood and agreed by Airline that City and City's agents, and by City, that Airline and Airline's agents have made no representations or promises with respect to this Agreement or the making or entry into this Agreement, except as in this Agreement expressly set forth, and that no claim or liability or cause for termination shall be asserted by Airline against City or by City against Airline for, and City and Airline shall not be liable by reason of, the breach of any representations or promises not expressly stated in this Agreement. It is understood that the Home Rule Charter of City requires all agreements with City to be in writing and approved by ordinance.

B. Parties

City and Airline are the only parties to this Agreement and as such are the only parties to enforce its terms. Nothing in this Agreement gives, or shall be construed to give or provide any benefit, direct or indirect, to third parties unless a third party is expressly described as an intended beneficiary of its terms.

C. Legal Review

The parties hereto acknowledge that they have thoroughly read this Agreement, including any exhibits or attachments hereto, and have sought and received whatever competent advice and counsel was necessary for them to form a full and complete understanding of all rights and obligations herein.

**Article 51
FORCE MAJEURE**

Neither City nor Airline shall be deemed to be in default hereunder if either party is prevented from performing any of the obligations imposed under this Agreement by reason of strikes, boycotts, labor disputes, embargoes, shortage of energy or materials, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is beyond its control. City shall be under no obligation to furnish any service or supply any utility if and to the extent and during any period that the furnishing of any such service or the supplying of any such utility, or the use of any device or component necessary therefore, shall be prohibited or rationed by any federal or state law, rule, regulation, requirement, order or directive. Under no circumstances shall the happening of any event provided for in this section excuse Airline from paying the rentals, fees and charges payable to City by Airline, pursuant to the terms of this Agreement and during the term of this Agreement.

**Article 52
MOST FAVORED NATION**

City covenants and agrees not to enter into any lease, contract or any other agreement with any other Air Transportation Company containing substantially more favorable terms than this Agreement, or to grant to any tenant engaged in Air Transportation Business, rights or privileges with respect to the Airport that are not accorded Airline hereunder, unless the same rights, terms and privileges are concurrently made available to Airline.

If any aircraft operator shall undertake any operations at the Airport for the carriage of passengers, cargo and/or mail by air, City shall require, to the extent legally permissible, such other aircraft operator to execute and deliver an agreement, permit, license, lease or contract with City providing for:

1. The payment of Landing Fees at rates and on such other terms and conditions as are not more favorable to the other party than those rates or terms and conditions then in effect for Airline.
2. The payment of rentals for any space leased from City in the Terminal Area at rates not less than those rental rates then payable by Airline for similar space.

3. The payment for use by such aircraft operator of all Joint Use Space and operating costs of all baggage handling or other passenger service systems calculated and billed to such party as in the case of Airline.

Article 53
INVALID PROVISIONS

If any covenant, condition, or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of such covenant, condition, or provision shall in no way affect any other covenant, condition, or provision herein contained, provided that the invalidity of any such covenant, condition, or provision does not materially prejudice either party hereto in its respective rights and obligations contained in the valid covenants, conditions or provisions in this Agreement.

Article 54
NON-WAIVER OF RIGHTS

No waiver of rights or 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 as, a subsequent waiver of rights or 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. No failure by City or Airline to insist upon the strict performance by the other of any agreement, term, condition or covenant hereof, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any subsequent breach or of such agreement, term, condition or covenant. No waiver of any breach shall affect or alter this Agreement, but each and every agreement, term, condition and covenant hereof shall continue in full force and effect with respect to any existing or subsequent breach thereof.

Article 55
SUCCESSORS AND ASSIGNS

All of the covenants, conditions and agreements contained herein shall extend to and be binding upon the legal representatives, successors and assigns of the respective parties hereto; provided, however, that except as otherwise provided herein, no rights shall inure to the benefit of any successors of Airline unless City's prior approval for the transfer to such successor has first been obtained as herein provided.

Article 56
NO PERSONAL LIABILITY

No member, officer, agent, director or employee of City or Airline shall be charged personally or held contractually liable by or to the other party hereinunder, the terms or provisions of this Agreement or because of any breach thereof or because of its or their execution or attempted execution of this Agreement.

Article 57
HEADINGS

The headings of the articles and sections of this Agreement are inserted only as a matter of convenience and for reference and shall not constitute a part of this Agreement and in no way define, limit, or describe the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions of this Agreement, or the interpretation or construction thereof.

Article 58
APPENDICES, EXHIBITS AND SCHEDULES

All appendices, exhibits and schedules referred to in this Agreement are intended to be and hereby are specifically made a part of this Agreement.

Article 59
APPROVAL OF CITY COUNCIL

It is agreed by the Parties hereto that all or portions of this Agreement are specifically made subject to the approval of City Council of City of Philadelphia.

Article 60
GENERAL RIGHTS; NO PARTNERSHIP FORMED

Insofar as this Agreement grants, permits or contemplates the use of space or facilities or the doing of any other act or thing at the Airport by Airline, such use or the doing of such act or thing is to be in connection with the operation of the Air Transportation Business of Airline for the carriage by aircraft of persons, property, cargo, and/or mail on scheduled or nonscheduled flights, whether as a joint carrier, a contract carrier, a private carrier or otherwise. City does not become a partner of Airline in the conduct of its business or otherwise, or a joint venture or a member of

a joint enterprise with Airline by virtue of this Agreement. Each of the parties has entered into this Agreement solely for its own benefit; and (without limiting the right of either party to maintain suits, actions, or other proceedings because of breaches of this Agreement) the Agreement does not grant to any third person (excepting a successor party to City) a right to claim damages or bring any suits, action, or other proceeding against either City or Airline because of any breach hereof.

**Article 61
REASONABLENESS OF CITY AND AIRLINE**

Unless otherwise specifically set forth in this Agreement, whenever City or Airline approval or consent is required herein, such approval or consent will not be unreasonably withheld, conditioned or delayed.

**Article 62
EXCULPATION**

IN WITNESS WHEREOF, the parties hereto have caused this Airport-Airline Use and Agreement between Airline and City to be executed as of the dates provided below.

CITY OF PHILADELPHIA appearing herein through its duly authorized representative.

Signature

Printed Name

Title

Date

_____ "AIRLINE" _____ appearing herein through its duly authorized representative, _____, _____ President.

Signature

Printed Name

Title

Date

Approved as to form:

Romulo L. Diaz, Jr., City Solicitor