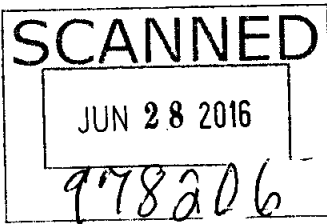


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**CITY OF ST. LOUIS
LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®**



**LAMBERT-ST. LOUIS
INTERNATIONAL AIRPORT®**

**AIRLINE OPERATING AGREEMENT
AND
TERMINAL BUILDING SPACE PERMIT**

SOUTHERN AIR INC.

NO. AL-402

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**LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®
AIRLINE OPERATING AGREEMENT
AND TERMINAL BUILDING SPACE PERMIT
SOUTHERN AIR INC.**

This Airline Operating Agreement and Terminal Building Space Permit is entered into as of the Effective Date, and is between The City of St. Louis, a municipal corporation of the State of Missouri, and Southern Air Inc., a corporation organized and existing under the laws of the State of Delaware.

RECITALS

The City owns and operates the Lambert-St. Louis International Airport®, located in the County of St. Louis, State of Missouri.

Airline is engaged in the business of providing commercial air transportation as an air carrier and is certificated by the United States Government to engage in such business.

Airline wishes to provide commercial air transportation at the Airport and, to that end, Airline was offered the opportunity to become a Signatory Airline in accordance with the terms of the Airport Use and Lease Agreement, but Airline declined and made it known to the City that it prefers to enter into this Agreement.

The City is willing to grant Airline certain rights and privileges for the use of the Airport and its facilities upon the terms and conditions set forth herein.

The parties, therefore, agree as follows:

**ARTICLE I
DEFINITIONS**

Section 101. Meanings and Construction

Except as otherwise clearly indicated by the context, the words and phrases defined in this Section shall have the following meanings when used elsewhere in this Agreement:

"Affiliate" means Affiliate as defined in the Airport Use and Lease Agreement.

"Agreement" means this Airline Operating Agreement and Terminal Building Space Permit.

"Air Transportation Business" means the carriage by aircraft of persons or property as a common carrier for compensation or hire, or the carriage of mail by aircraft in commerce, as defined in the Federal Aviation Act of 1958, as amended.

"Aircraft Parking Position" means the area on the aircraft apron adjacent to each Gate and designated by the City to serve as the position at which aircraft using each particular Gate must be parked.

"Airfield" means the areas of the Airport used for the landing, taking-off, movement, and parking of aircraft, including runways, taxiways, aprons, navigational aids, hazard designation and warning devices, airfield security roads and fencing, blast fencing, lighting, clear zones and safety areas, aviation easements, including land utilized in connection therewith or acquired for such future purpose or to mitigate aircraft noise, and the fuel storage and distribution system associated with the Terminal Buildings, and associated equipment and facilities.

"Airfield Operations Area" or "AOA" means those areas of the Airport used for the landing, taking-off, movement, and parking of aircraft, as the same now exist or as the same hereafter may be added to, modified, changed, or developed.

"Airline" means the Airline named on the signature page hereof.

"Airport" means the Lambert-St. Louis International Airport®, together with any additions, improvements, or enlargements made from time to time.

"Airport Commission" means the now existing Airport Commission of the City created by §18.08.030 of the Revised Code of the City of St. Louis, or such officer, board or commission who or which hereafter may be legally given the powers and duties given to the Airport Commission in existence on the date hereof.

"Airport Director" means the Director of Airports for the City or the person performing the functions of that office, as authorized by the City's Mayor, or that person authorized by the Airport Director to act for or on behalf of the Airport Director with respect to any particular matter under this Agreement.

"Airport Use and Lease Agreement" means the standard agreement establishing the terms, privileges, and obligations of the Signatory Airlines in effect at any time during the term of this Agreement. To the extent necessary for the interpretation of this Agreement, the standard Airport Use and Lease Agreement is incorporated hereto by reference.

"Apron-Level Unenclosed Space" means the unenclosed space under any of the concourses of the Terminal Building, as shown in Exhibit B.

"Assignment" means Assignment as defined in Section 1202.

"Bond or Bonds" means all bonds, notes, or other obligations issued by the City pursuant to the Trust Indenture.

"City" means The City of St. Louis, Missouri.

"City's Authorized Agent" means the entity with which the City enters into an agreement to provide ground-handling services to scheduled, non-scheduled, charter, and other passenger aircraft operators at those Gates designated by the City from time to time for such use.

"Commencement Date" means that certain date mutually agreed to by the parties as set forth in Section 201.

"Common Use Formula" means the formula used to prorate the total monthly fees attributable to the Common Use Space (including the monthly cost of maintaining and operating the inbound baggage claim conveyor system) in each Terminal Building among those airlines using such Common Use Space (the "Common User Airlines") as follows:

- (i) 20 percent of such monthly fee or costs, as the case may be, equally among each such Common User Airlines; provided, however, that no Affiliate, while operating under such designation, shall be counted as a separate Common User Airline for this purpose; and further provided, that Common User Airlines whose Enplaned Passengers equal 3% or less of the aggregate number of Enplaned Passengers for all airlines at the Airport during the most recently available preceding 12-month period shall be counted as a single Common User Airline, and shall share the allocated fee or cost equally among them; and
- (ii) 80 percent based on the percentage that results from dividing the average monthly number of Enplaned Passengers of each Common User Airline during the most recently available preceding 12-month period by the aggregate average monthly number of Enplaned Passengers of all Common User Airlines during such period.

The results of the Common Use Formula shall be calculated by the City, and shall become effective on July 1 of every year; provided, however, that the City shall update its calculations upon the commencement of service or use by a new Common User Airline, for which the City shall estimate the average monthly number of Enplaned Passengers for purposes of the Common Use Formula calculations, or upon the cessation of service or use by a Common User Airline.

"Common Use Space" means space used in the operation of the Outbound Baggage Handling System (excluding any baggage screening checkpoint space used by TSA), the designated tug drives within the baggage make-up areas, the inbound baggage handling system, and the baggage claim areas and related facilities and appurtenances in each of the Terminal Buildings, respectively, that Airline uses on a common basis with other airlines assigned to that space, as depicted on Exhibit B.

"Dual Customs" means a location or locations at the Airport in which, both: (1) U.S. customs authorities provide customs clearance service to air cargo entering the U.S. from Mexico, and (2) Mexican customs authorities establish and provide customs pre-clearance services for air cargo going to Mexico from the U.S.

"Effective Date" means the date in which this Agreement has been duly signed and executed by both the City and Airline, as shown on the signature page of this Agreement.

"Enplaned Passengers" means all originating and on-line and off-line connecting passengers of Airline and of all other airlines enplaning at any of the Terminal Buildings, but excluding through passengers.

"Environmental Laws" means all applicable federal, state, and local statutes, ordinances, regulations, rules, laws, permits, permit conditions, and orders relating to the generation, emission, discharge, release, use, storage, transportation, or disposal of pollutants, contaminants, Hazardous Materials, wastes, hazardous substances, or chemicals or the preservation or regulation of the environment or natural resources including, without limitation, the Clean Air Act, 42 U.S.C. §7401 *et seq.*; the Clean Water Act, 33 U.S.C. §1251 *et seq.*, and the Water Quality Act of 1987; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 *et seq.*; the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. §1401 *et seq.*; the Noise Control Act, 42 U.S.C. §4901 *et seq.*; the Occupational Safety and Health Act, 29 U.S.C. §651 *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.*, as amended by the Hazardous and Solid Waste, Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. §300f *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right-to-Know Act, and the Radon Gas and Indoor Air Quality Research Act; the Hazardous Material Transportation Act, 49 U.S.C. §5101 *et seq.*; the Endangered Species Act, 16 U.S.C. §1531 *et seq.*; the National Environmental Policy Act, 42 U.S.C. §4321 *et seq.*; the Toxic Substance Control Act, 15 U.S.C. §2601 *et seq.*; the Atomic Energy Act, 42 U.S.C. §2011 *et seq.*; and the Nuclear Waste Policy Act of 1982, U.S.C. §10101 *et seq.*, as such statutes and laws may be amended from time to time, all regulations, rules, executive orders, policies and instructions pertaining to and lawfully promulgated pursuant to such statute or law as they now exist or may be amended from time to time.

"Environmental Permits" means any and all permits, licenses, approvals, authorizations, consents, or registrations required by applicable Environmental Laws, whether federal, state or local, and any duly filed environmental covenant or land use restrictions applicable to the Airport or the Premises.

"Event of Default" means an Event of Default as defined in Section 1301.

"Exclusive Use Space" means that space within the Terminal Buildings, including Airline's operational, administrative and ticket counter space, as depicted on Exhibit B, in which Airline is granted the right to occupy and use to the exclusion of others, in accordance with the provisions of Article IV.

"Federal Aviation Administration" or "FAA" means the Federal Aviation Administration created under the Federal Aviation Act of 1958, as amended, or any successor agency thereto.

"Fees and Charges" means the fees and charges payable to the City pursuant to Article V. Fees and Charges shall not include Passenger Facility Charges.

"Fiscal Year" or "FY" refers to the City's fiscal year and means the twelve-month period commencing July 1 and extending through June 30 of the following calendar year (and identified by the calendar year in which it ends), or such other fiscal year as the City may establish by ordinance.

"Gate" means each area from which passengers enplane or deplane aircraft, including the associated holdroom and passenger loading bridge, and related tenant improvements.

"Gross Space" means the entirety of any particular area of the Terminal Buildings measured, as appropriate for each area, from the primary interior surface of the exterior walls and from the centerline of interior partitions, or, in the absence of such interior partitions, the point where such centerline would be located if such interior partitions existed, expressed in square feet.

"Hazardous Materials" means friable asbestos or asbestos-containing materials, polychlorinated biphenyls (PCBs), petroleum, crude oil, or natural gas, or source material or byproducts thereof, special nuclear material, pesticides, hazardous waste, toxic substance, or any material defined or treated as a hazardous substance, regulated special waste, pollutant or contaminant (or comparable term) under any of the Environmental Laws.

"Joint Use Formula" means the formula used to prorate the total monthly fee and cost attributable to the Joint Use Space in each area of the Terminal Buildings (e.g., concourse operational area) among those parties using such area (the "Joint User Parties") based on the percentage that results from dividing the relevant square footage attributable to the Exclusive Use Space or Preferential Use Gates of each of the Joint User Parties in that area by the aggregate leasable square footage within such area.

"Joint Use Space" means the areas in the Terminal Buildings that Airline uses jointly with other parties assigned to those areas, as depicted on Exhibit B.

"Landed Weight" means the sum of the Maximum Certificated Gross Landed Weight for all Revenue Aircraft Arrivals over a stated period of time, rounded to the nearest thousand pounds.

"Landing Fees" means the fees payable by Airline for the use of the Airfield Operations Area in accordance with Section 503.

"Maximum Certificated Gross Landed Weight" means, for any aircraft operated by an airline, the maximum certified gross landing weight in one thousand pound units of such aircraft as certified by the FAA and as listed in Airline's FAA-approved Flight Operations Manual.

"Nonpreferential Gate Use Fee" means the fair, reasonable, and nondiscriminatory fee, established by Airline, with the prior approval of the City, for the use of Airline's Preferential Use Gates by a nonpreferential gate user. The Nonpreferential Gate Use Fee may include a space use component as well as an allowance for the use of Airline-owned

equipment and furnishings considered to be essential for the use of that Gate, such as seating, podiums, and the associated passenger loading bridge. The City may disapprove a Nonpreferential Gate Use Fee that exceeds the recovery of reasonable costs. If the City and Airline cannot agree on the amount of the Nonpreferential Gate Use Fee before it must be imposed on a nonpreferential gate user, the City, in its sole discretion, shall establish the fee.

"Nonsignatory Airline" means an airline using the Airport that has not signed an Airport Use and Lease Agreement.

"Notice" means a communication between the parties to this Agreement performed in accordance with the requirements of Subsection 1513(B).

"Outbound Baggage Handling System" means the complete outbound (including inline baggage screening matrix) baggage handling systems for each of the Terminal Buildings used to move the passenger checked luggage from the ticket counter and curbside baggage drop-off areas to the baggage make-up areas.

"Outbound Baggage Handling System Formula" means the formula used to prorate the total monthly cost of maintaining and operating the Outbound Baggage Handling System in each Terminal Building among those airlines using such Outbound Baggage Handling System in that particular Terminal Building (the "System User Airlines") as follows:

- (i) 20 percent of such monthly costs equally among each such System User Airlines; provided, however, that no Affiliate, while operating under such designation, shall be counted as a separate System User Airline for this purpose; and further provided, that System User Airlines whose Enplaned Passengers equal 3% or less of the aggregate number of Enplaned Passengers for all airlines at the Airport during the most recently available preceding 12-month period shall be counted as a single System User Airline, and shall share the allocated cost equally among them; and
- (ii) 80 percent based on the percentage that results from dividing the average monthly number of bags processed by the Outbound Baggage Handling System for each System User Airline during the most recently available preceding 12-month period by the aggregate average monthly number of bags processed by the Outbound Baggage Handling System for all System User Airlines during such period.

The results of the Outbound Baggage Handling System Formula shall be calculated by the City, and shall become effective on July 1 of every year; provided, however, that the City shall update its calculations upon the commencement of service or use by a new System User Airline, for which the City shall estimate the average monthly number of bags to be processed by the Outbound Baggage Handling System for purposes of the Outbound Baggage Handling System Formula, or upon the cessation of service or use by a System User Airline.

"Passenger Facility Charge" or "PFC" means charges imposed by the City pursuant to 49 U.S.C. §40117, as amended or supplemented from time to time, and 14 C.F.R. Part 158, as amended or supplemented from time to time.

"Passenger Loading Bridge Charge" means the charge payable for the use of City-owned passenger loading bridges assigned to Airline as established in accordance with Section 604.

"Preferential Baggage Make-Up Area" means the baggage make-up area within the Terminal Buildings, as depicted on Exhibit B, in which Airline holds priority over other as to use; provided, however, that Airline shall provide access to another airline immediately upon request by such airline to allow for the retrieval of bags missorted by the Outbound Baggage Handling System without unreasonable interference with each other's operations.

"Preferential Use Gates" means those Gates within the Terminal Buildings, as depicted on Exhibit B, in which Airline holds a priority over others as to use in accordance with the provisions of Article IV.

"Premises" means, those areas and facilities in the Terminal Buildings that are assigned to Airline, if any, in accordance with the terms of this Agreement for its exclusive, preferential, joint, or common use and occupancy, consisting of Exclusive Use Space, Preferential Use Gates, Preferential Baggage Make-Up Area, Joint Use Space, Common Use Space, Ticket Counter Queuing Space, and Apron-Level Unenclosed Space, as depicted in Exhibit B.

"Remediation Costs" means any reasonable losses, expenses, or costs incurred by the City in connection with environmental remediation: (i) required by the appropriate governmental agency responsible for enforcing applicable Environmental Laws or Environmental Permits, and/or (ii) attributable to Hazardous Materials left on City property in excess of applicable remediation standards derived by the U.S. Environmental Protection Agency, the U.S. Occupational Safety and Health Administration, the Missouri Department of Natural Resources or other governmental health agency as appropriate for commercial property, safe for occupational exposure or Airport use or which are in violation of applicable Environmental Laws or Environmental Permits, and caused by, or arising out of, Airline's operations at the Airport or the Airline's use or lease of the City's property. Remediation Costs include reasonable investigation and evaluation costs, costs to implement institutional controls or restrictive covenants, sampling and analysis costs, reporting costs, planning and design costs, consultant and contractor costs, labor costs, equipment costs, construction costs, access costs, disposal costs, transportation costs, reasonable administrative costs, reasonable attorneys' fees and other legal fees and litigation expenses, permit fees and costs, monitoring costs, oversight and inspection costs, claims, demands, causes of action, suits, judgments, damages, compensation, debts, costs, expenses, losses, penalties, fines, stipulated penalties, punitive damages, and other similar liabilities caused by or arising out of Airline's handling, use, storage, release, disposal, generation, emission or discharge of Hazardous Materials at the Airport including the Premises.

"Remote Parking Fee" means the fee payable by Airline to the City for the privilege of parking aircraft for a period of time in excess of 4 hours anywhere other than the Airline's assigned Aircraft Parking Position(s).

"Requesting Airline" means an airline requesting the right to use, in common with Airline, all or a designated portion of Airline's Preferential Use Gates in accordance with the provisions of Section 406.

"Revenue Aircraft Arrival" means each landing of an aircraft at the Airport, except:

- (i) landing of an aircraft that departs from the Airport and returns, without having landed at another airport, for meteorological, mechanical, safety, or any other emergency purpose;
- (ii) the landing of aircraft during training flights; or (iii) the landing of aircraft during maintenance test flights.

"Rules and Regulations" means those lawful, reasonable, and not unjustly discriminatory rules and regulations, including ordinances and operating directives, promulgated by the Airport Director, the Airport Commission, or the City from time to time for the orderly operation of the Airport.

"Security Deposit" means an irrevocable letter of credit or other instrument acceptable to the City provided pursuant to Section 506.

"Signatory Airline" means, at any time, each one of the airlines which then has executed an Airport Use and Lease Agreement.

"Terminal 1" means the area comprising the west portion of the Airport's passenger terminal complex, also known as the main terminal building, together with concourses A, B, C and D, including all supporting and connecting structures and facilities and all related appurtenances to said building and concourses.

"Terminal 2" means the following two areas:

- (i) "Terminal 2 Building" which is the unit terminal building situated at the east end of the passenger terminal complex, including Gates E2 through E25, as well as Gates E34, E36, E38 and E40, and all supporting and connecting structures and facilities and all related appurtenances; and

- (ii) "International Facilities" which is the area comprising the federal inspection services (FIS) area, Gates E29, E31, and E33 (as designated by the City from time to time), together with all associated office and operation space, and related appurtenances.

"Terminal Buildings" means the terminal complex area comprised of Terminal 1 and Terminal 2.

"Ticket Counter Queuing Space" means the public area in front of, and extending 15 feet from, Airline's ticket counters, as shown on Exhibit B.

“Transportation Security Administration” or “TSA” means the Transportation Security Administration created under the Aviation and Transportation Security Act of 2001, as amended, or any successor agency thereto.

“Trust Indenture” means the Amended and Restated Indenture of Trust between the City and UMB Bank, N.A., Trustee, dated as of October 15, 1984, as Amended and Restated as of July 1, 2009, and as further amended or supplemented from time to time. The City shall provide to Airline a copy of all such amendments and supplements.

“Usable Space” means the Gross Space of the particular Terminal Building, less any mechanical, electrical, and other utility space.

Section 102. Interpretation

(A) References in the text of this Agreement to articles, sections, paragraphs, or exhibits pertain to articles, sections, paragraphs, or exhibits of this Agreement, unless otherwise specified.

(B) The terms “hereby,” “herein,” “hereof,” “hereto,” “hereunder,” and any similar terms used in this Agreement refer to this Agreement.

(C) Words importing persons shall include firms, associations, partnerships, trusts, corporations, and other legal entities, including public bodies, as well as natural persons.

(D) Any headings preceding the text of the articles and sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction, or effect.

(E) Words importing the singular shall include the plural and vice versa. Words of any gender shall be deemed to include correlative words of the other gender.

(F) The term “including” shall be construed to mean “including without limitation,” unless otherwise expressly indicated.

(G) All references to number of days shall mean calendar days.

(H) Words used in the present tense include the future.

Section 103. Incorporation of Exhibits

The following Exhibits are hereby made a part of this Agreement:

Exhibit A – [Intentionally Left Blank]

Exhibit B –Premises

Exhibit C -- Statistical Report Forms

Exhibit D -- [Intentionally Left Blank]

Exhibit E -- [Intentionally Left Blank]

Exhibit F -- [Intentionally Left Blank]

Exhibit G -- Division of Responsibility for Maintenance and Operation

Exhibit H -- [Intentionally Left Blank]

ARTICLE II TERM OF THE AGREEMENT

Section 201. Term

The term of this Agreement shall commence on July 1, 2016 (the "Commencement Date"), and shall continue month-to-month, unless sooner terminated pursuant to the provisions hereof; provided, however, that the term of this Agreement shall not extend for a period longer than 36 months. Either the City or Airline may terminate this Agreement without cause by giving 30-day Notice to the other party.

ARTICLE III AIRLINE RIGHTS, PRIVILEGES, AND LIMITATIONS

Section 301. Use of Airport

Subject to the terms of this Agreement, Airline shall have the right to conduct its Air Transportation Business at the Airport and to perform all operations and functions that are incidental or necessary to the conduct of such business at the Airport. Nothing in this Article shall be construed as authorizing Airline to conduct any business separate and apart from the conduct of its Air Transportation Business at the Airport. Any rights not specifically granted to Airline for its use of and operations at the Airport pursuant to this Agreement are hereby reserved for and to the City.

(A) *Use in Common of Terminal Buildings.* Airline shall have the right to use, in common with, and subject to the rights of others so authorized, the public areas and public facilities of the Terminal Buildings.

(B) *Use in Common of Airfield Operations Area.*

(i) Airline shall have the right to use the Airfield Operations Area, in common with others so authorized, to land, takeoff, fly over, taxi, tow, park, and condition Airline's aircraft. Airline shall not knowingly permit, without the consent of the City, the use of the Airfield Operations Area or any portion thereof by any aircraft operated or controlled by Airline that

exceeds the design strength or capability of such area as reasonably established by the City.

(ii) Airline shall have the right to park, service, load, and unload its aircraft only in Airline's assigned Aircraft Parking Position(s) or in other areas designated by the City for that purpose, subject to the availability of space.

(C) *Airline Operations.* Airline shall have the right to handle reservations; sell tickets, including electronic tickets; document shipments; and load and unload persons, property, cargo, and mail, including interlining with other airlines.

(D) *Maintenance of Aircraft and Equipment.* Airline shall have the right to conduct routine servicing by Airline, or by its suppliers of materials or by its furnishers of routine services, of aircraft operated by Airline at Airline's assigned Aircraft Parking Position(s), or as otherwise permitted by the City's Rules and Regulations; provided, however, that Airline shall not do, or permit to be done any heavy maintenance (e.g., engine changes, control surface replacements and overhauls) at its assigned Aircraft Parking Position(s) unless such maintenance is consented to by the City. Airline shall restrict its maintenance and/or repairs of ground support equipment (e.g., baggage carts, power units, and trucks) only to areas designated by the City for that purpose. The City reserves the right to require all third-party suppliers of materials or furnishers of services doing business at the Airport to secure a permit from the City, to comply with all applicable Rules and Regulations, and to pay any applicable fees to the City for conducting such activity at the Airport. All Hazardous Materials used and wastes generated in the course of maintenance of aircraft and equipment by Airline and its suppliers, contractors and agents shall, as between the City and Airline, be the sole responsibility of Airline and such materials shall be managed in full conformance with all applicable Environmental Laws and Environmental Permits.

(E) *Ramp Support.* Subject to applicable fees and charges, Airline shall have the right to use water, electric power, telephone, and preconditioned air systems, to the extent supplied by the City, at or adjacent to Airline's assigned Aircraft Parking Positions. To the extent such systems are not supplied by the City, Airline shall have the right to purchase, install, use, and maintain, at Airline's assigned Aircraft Parking Positions, equipment and services necessary for loading, unloading, and general servicing of Airline's aircraft, auxiliary power systems, air start systems, preconditioned air systems, and other miscellaneous aircraft and aircraft-related support equipment and facilities.

(F) *Storage and Use of Fuels, Lubricants, and Deicing Fluids.* Airline shall have the right to erect or install and maintain on the Airport, only at locations designated, and in a manner approved by the City, adequate storage facilities for fuels, lubricants, and deicing fluids, together with the necessary pipes, pumps, motors, filters and other appurtenances incidental to the use thereof. Airline shall install, maintain, and operate such storage facilities in full compliance with all

applicable federal, state and local laws and regulations, and in accordance with insurance underwriters' standards. As between Airline and City, Airline is solely responsible for obtaining and complying with any necessary Environmental Permits for such storage facilities in accordance with applicable Environmental Laws. The City reserves the right to assess a reasonable rental or use charge for any such storage areas, if located outside the Premises.

(i) Airline shall apply deicing/anti-icing fluids only in areas in which appropriate containment systems are operational, or in areas otherwise designated by the City. The City reserves the right to include the costs associated with the operation and maintenance of containment systems in the Airfield.

(ii) All non-hydrant fueling trucks shall be reasonably approved by the City, including their routing and parking locations.

(iii) Airline shall comply with the Airport's storm water management plan and pollution prevention plan in regard to the use and release of deicing/anti-icing fluids and fuels [see Subsection 1002(H)].

(G) *Personnel.* Airline shall have the right to hire and train personnel in the employ of or to be employed by Airline at the Airport.

(H) *Customer Service.* Airline shall have the right to provide to its passengers such services that Airline normally provides at similar airports, such as skycaps and wheelchair services. Airline shall not provide any type of motorized passenger cart services within the Terminal Buildings without the approval of the City.

(I) *Test of Aircraft and Equipment.* Airline shall have the right to test aircraft and other equipment owned or operated by Airline; provided that such testing is incidental to the use of the Airport in the operation by Airline of its Air Transportation Business and will not hamper or interfere with use of the Airport and its facilities by others entitled to use of the same. The City reserves the right to restrict any testing operations it deems to interfere with the safe and efficient use of the Airport and its facilities or to create excessive noise as determined by the City.

(J) *Sale, Disposal, or Exchange of Equipment and Products.* Airline shall have the right to sell, dispose, or exchange aircraft, engines, accessories, gasoline, fuel, oil, lubricants, deicing fluid, and other equipment of Airline, only in areas designated by the City and in conformance with all applicable federal, state, and local laws and regulations.

(K) *Use of Ground Transportation.* Airline shall have the right to load and unload persons, property, cargo, and mail by motor vehicles or other means of conveyance, operated by itself or provided by third-party suppliers, as Airline may desire or require in the operation of its Air Transportation Business, via routes and at locations at the Airport designated by the City; provided, however, that the City

reserves the right to require such third-party supplier or suppliers to secure a permit from the City, to comply with all applicable Rules and Regulations, and to pay any applicable fees to the City to conduct such activity at the Airport.

(L) *Modification of Premises.* Airline shall have the right to conduct the following activities within its Premises, subject to the approval and permitting requirement provisions of Article VIII:

(i) build, install, maintain and operate facilities and equipment for all activities related to its Air Transportation Business at the Airport, including: check-in and ticket counters; reservations offices; administrative offices; operations offices; lockers, restrooms, and related facilities for its employees; and baggage, cargo, and mail handling and storage space; provided, however, that the particular Premises are designed to be used for said purpose or that said use has been approved by the City;

(ii) install and maintain personal property, including furniture, furnishings, supplies, machinery, and equipment deemed necessary or prudent for the operation of its Air Transportation Business; title to such personal property shall remain with Airline, subject to the provisions of this Agreement;

(iii) install and maintain wall treatments, banners, and other identifying signs, subject to the prior approval of the City, and provided that such signs shall be substantially uniform in size, type, and location with those of other airlines, harmonious and in keeping with the pattern and decor of the Terminal Buildings, and consistent with the City's graphics standards and standards for mounting; and

(iv) construct modifications, finishes, and improvements deemed necessary or prudent for the operation of its Air Transportation Business.

(M) *Airline Clubs.* Airline shall have the right to furnish and operate a preferred customer, VIP club, or similar private club. In addition to its space fees, Airline shall pay a concession fee if it provides goods or services for a charge, which concession fee shall be the applicable concession fee rate for like sales payable at the Airport; provided that no such payment shall be required with respect to: (i) goods or services obtained from concessionaires already obligated to make payments to the City with respect to such goods or services, (ii) the rent of conference room space within the club, and (iii) club membership fees, including reciprocal club membership fees, or fees for passes (including day passes) for entry to the club. Notwithstanding the above, club membership fees shall be exempt from concession fees. At Airline's option, such preferred customer or VIP club may be shared with one or more other airlines.

(N) *Handling Arrangements.* Airline shall have the right to enter into handling arrangements as part of its Air Transportation Business at the Airport. The rights

granted to Airline pursuant to this Article may be exercised on behalf of Airline by other Signatory Airlines or by third-party suppliers; provided, however, that the City reserves the right to require such third-party suppliers to secure a permit from the City, to comply with all applicable Rules and Regulations, and to pay any applicable fees to the City to conduct such activity at the Airport.

(O) *Airport Access.* Airline shall have the right of ingress to and egress from the Airport including its Premises and the public areas and public facilities of the Terminal Buildings, for Airline's employees, agents, contractors, passengers, guests, invitees, licensees, suppliers of materials and providers of service, and its or their equipment, vehicles, machinery, and other property; provided, however, that the foregoing shall not preclude the City from: (i) subjecting such persons to the City's Rules and Regulations, (ii) requiring such persons to enter into an agreement with the City when such access is required on an ongoing basis, or (iii) imposing any charge, permit or license fee for the right to do business at the Airport; further provided, however, that ingress to and egress from the Airport may be conditioned on adherence to security requirements, and may be limited on temporary bases for security reasons.

(P) *Right to Purchase Services and Products.* Airline shall have the right to purchase or contract for services and products subject to the limitations contained herein:

(i) Airline may purchase or otherwise obtain products of any nature, including aircraft, engines, accessories, gasoline, oil, grease, lubricants, fuel, propellants, passenger supplies and other materials, equipment, supplies, articles, and goods, used or acquired by Airline in connection with or incidental to Airline's Air Transportation Business at the Airport from any person or company; provided, however, that the City reserves the right to require such person or company to secure a permit from the City, to comply with all applicable Rules and Regulations, and to pay any applicable fees to the City to conduct such activity at the Airport.

(ii) Airline shall have the right to contract with a third party or Airline-owned ground handler to provide to it or to perform for it any of the services or functions which it is entitled to perform hereunder, provided that such third party must maintain any permits and pay all fees required by the City. The contractual relationship between any third party and Airline shall not affect in any way the fulfillment of Airline's obligations, including those of insurance and indemnification for activities, hereunder.

(iii) Any suppliers, contractors or agents performing services for, or selling products to, Airline at the Airport shall conform to applicable performance standards, space use requirements, and the City's Rules and Regulations, including any permit requirement or payment of fees required by the City.

(Q) *Communications and Weather Equipment, Multi-User Flight Information Display System (MUFIDS) and Public Address System.* Airline shall have the right to use the following communications equipment, flight information displays, and public address systems in conjunction with the conduct of its Air Transportation Business:

(i) Subject to the prior approval of the City and conditions stated below, Airline shall have the right to install, maintain, and operate, alone or in conjunction with any other airline(s), or through a nominee, such radio, telecommunications (both wireline and wireless), meteorological, aerial navigation, and computer equipment, facilities and associated wiring, as may be necessary for the conduct of Airline's Air Transportation Business at the Airport. The location of such equipment and facilities, method of installation, and type of equipment shall be subject to the prior approval of the City. The City may require modification, removal, or relocation of such equipment if it interferes with other communication, meteorological, or aerial navigation systems operated by the City, other tenants, or governmental agencies. Such modification, removal, or relocation shall be at the City's sole cost. The City shall have the right to charge a fee, surcharge, or space use charge for any equipment location outside of the Premises. The City retains the right to impose reasonable and non-discriminatory access fees to third-party telecommunications and data service providers

(ii) Airline shall provide electronic flight arrival and departure information through City-installed systems and shall cooperate with the City's installation and maintenance of centralized and remote flight information displays.

(iii) Airline shall have the right to use, in common with others so authorized, the public address system serving the Terminal Buildings. Airline shall not install, cause to be installed, or use any other public address system at the Terminal Buildings without the prior approval of the City.

(iv) Airline shall comply with the Airport's RF Systems Antenna/Radio Frequency Policy, as amended from time to time.

(R) *Food and Beverage.* Airline shall have the following rights to prepare, package, and/or distribute food and beverages with respect to the conduct of its Air Transportation Business at the Airport:

(i) Airline shall have the right to purchase, prepare, and/or package food and beverages to be distributed at no cost to passengers of Airline without paying the applicable concession fee. Airline shall pay a concession fee for all food and beverages purchased, prepared, and/or packaged to be sold at the Airport; provided that no such payment shall be required with respect to food and beverages obtained from vendors already

obligated to make payments to the City with respect to such food and beverages or for food and beverages sold or served in-flight. The concession fee to be paid by Airline shall be the applicable concession fee rate paid by in-flight food catering concessionaires located at the Airport.

(ii) If Airline purchases food and beverages from an off-Airport caterer for delivery to Airline at the Airport, said caterer shall have a contract with, or permit from, the City to do business at the Airport, and said caterer shall be subject to a concession fee equal to the concession fees paid by in-flight food catering concessionaires located at the Airport.

(iii) Airline shall have the right to distribute food and/or beverages to passengers at no cost from Airline's Premises in the event of service delays or other emergencies. Airline shall also have the right to distribute food and/or beverages at no cost to the general public from Airline's Premises; provided, however, that such distribution must be in connection with holidays and/or promotional events.

(iv) Airline shall have the right to install soft drink and/or snack vending machines in its non-publicly accessible Premises for the sole use of Airline's employees, contractors, and agents. Such sales shall not be subject to a concession fee. Vending machines shall not be within the view of the general public. Vending machine locations are subject to the prior approval of the City.

(S) *Employee Parking.* The City may, but is not required to, designate parking areas at the Airport available to Airline's employees while at work at the Airport, subject to the payment of monthly fees as the City shall determine from time to time. The City shall have the right to relocate, re-designate, or otherwise change the location of such parking areas, if any, as needed.

Section 302. Prohibition Against Exclusive Rights

It is hereby specifically understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to provide aeronautical services to the public as prohibited by 49 U.S.C. §§40103(e) and 47107(a)(4), as amended from time to time, and the City reserves the right to grant to others the privilege and right of conducting any or all activities of an aeronautical nature.

Section 303. Restrictions on Exercise of Rights and Reservation of Rights to City

The rights established in this Article shall not be exercised so as to interfere with the City's operation of the Airport for the benefit of all aeronautical users, and shall be subject at all time to the restrictions herein and reservation of rights by the City.

(A) *No Interference with Operations.* If the City in its reasonable discretion determines that Airline or its contractors are exercising the rights and privileges granted to Airline pursuant to this Article (i) in a manner which interferes with the

operation or maintenance of the Airport; (ii) in a manner which adversely affects the health, safety or security of the public or other users of the Airport; or (iii) in a manner that fails to comply with the City's Rules and Regulations, Environmental Permits applicable to Airline, any of the plans or programs prepared in response to the City's Environmental Permits as provided in Section 1002, or the terms of this Agreement, the City shall give Airline Notice of such determination including the specific reasons therefor. Airline shall promptly commence and diligently pursue actions necessary to correct the conditions or actions specified in such Notice. If such conditions or actions are not, in the opinion of the City, promptly corrected after receipt of such Notice or if such conditions or actions required corrective action over a period of time, and Airline has not, in the reasonable opinion of the City, promptly commenced and diligently pursued all such corrective action, then upon 10 days' Notice from the City to Airline, the City may suspend Airline's or its contractor's access to the Airport. Notwithstanding the foregoing provision, the City shall have the right, upon Notice to Airline, to immediately suspend operations of Airline or of said contractors if it deems such action necessary to protect the health, safety or security of the public or other users of the Airport or in emergency situations.

(B) *Integration with Systems.* Airline shall not knowingly do, or permit to be done, anything that may interfere with the effectiveness or accessibility of the drainage, deicing fluid collection system, sewer, water, communications, heating or ventilation, air conditioning, natural gas, sprinkler, alarm or fire protection systems, fire hydrants and hoses, or any other part of the utility, electrical, or other systems installed or located from time to time at the Airport.

(C) *Right to Designate Location.* The City reserves the right to designate the locations within which all of the activities conducted at the Airport, including the activities authorized herein, shall be conducted, and to reasonably change such designations from time to time.

(D) *Airport Access.* The City may, from time to time, temporarily or permanently close or restrict specific roadways, taxiways, taxi lanes, runways, apron areas, doorways, and any other area at the Airport; provided, however, that, unless an emergency situation exists, to the extent that the City deems it practical, Airline shall be notified with regard to such closings in order to minimize the disruption of services being provided. The City shall have the right at any time or times to relocate, reconstruct, change, alter, or modify any such means of access provided for pursuant to this Agreement or otherwise, either temporarily or permanently; provided that a reasonably convenient and adequate means of access, ingress, and egress shall exist or be provided in lieu thereof. The City shall reasonably notify Airline of any such action.

(E) *Telecommunication and Data Networking Infrastructure.* The City, acting in its capacity as proprietor of the Airport, retains the right to act as or designate the provider of wireless and wireline public telecommunications services and public data networking infrastructure for the general public in the public accessible

areas of the Airport. The City shall have the sole right to determine the location of, and install or cause to be installed, all public telephones, public telefax, wireless access, and other public telecommunications devices and conduit in any part of the Airport, provided that doing so does not (i) unreasonably interfere with Airline's operations authorized hereunder or (ii) substantially diminish the space contained in or the functionality of Airline's Premises. Upon reasonable prior notification by the City, the City shall be entitled to reasonable access to Airline's Premises to install or service such devices. The City shall be entitled to all income generated by such telephones and devices and shall have the right to collect reasonable and non-discriminatory charges for access to the telecommunications/data networking infrastructure except for systems or components which are owned by Airline.

(F) *Informational Devices.* The City reserves the right to install or cause to be installed informational devices, including static and electronic advertising, in all public accessible areas of the Terminal Buildings; provided, however, that such installation shall not unreasonably interfere with the operations of Airline authorized herein. The City has the right to enter Airline's Premises to install or service such devices. The City shall be entitled to all income generated by such devices. The City will use its best efforts to restrict the content of advertising messages displayed in informational devices located within Airline's Premises that are deemed to be incompatible with Airline's Air Transportation Business.

(G) *Dual Customs.* Nothing in this Agreement shall be deemed to allow Airline to develop, construct, or provide space within any premises used by or assigned to Airline at the Airport, whether assigned by the City or leased from third parties, for purposes of accommodating Dual Customs services or Mexican customs pre-clearance services. Notwithstanding anything else in this Agreement to the contrary, Airline shall not offer services or associated facilities to third parties for the loading, unloading, processing, and warehousing of air cargo subject to Mexican customs that is part of Dual Customs; provided, however, that Airline retains the right to service itself.

(H) *All Other Rights.* 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 the City.

(I) *Strict Construction of Rights.* The rights granted to Airline hereunder may be exercised by Airline only to the extent such rights are necessary or incidental to the conduct by Airline of its Air Transportation Business at the Airport.

Section 304. Hazards

Airline shall not do, authorize to be done, or fail to do anything at the Airport which may: (i) create or contribute to a nuisance, (ii) in any way obstruct or interfere with rights of others using the Airport, or (iii) create a hazardous condition so as to increase the risks normally attendant upon operations permitted herein.

(A) *Noise Abatement.* Airline shall not engage in any activity prohibited by the City's applicable noise abatement procedures included in the Rules and Regulations, as they may be promulgated from time to time, but only to the extent that the City's noise abatement procedures do not conflict with applicable laws or regulations.

(B) *Engine Runups.* Airline shall perform aircraft engine runups only at locations and during time periods approved by the City, in its sole discretion.

(C) *Disabled Aircraft.* As soon as reasonably possible after release from proper authorities, Airline shall promptly remove any of its disabled aircraft from the Airfield Operations Area or Aircraft Parking Positions, shall place any such disabled aircraft only in such storage areas as may be designated by the City, and shall store such disabled aircraft only upon such terms and conditions as may be reasonably established by the City. If Airline fails to promptly remove its disabled aircraft from the Airfield Operations Area or Aircraft Parking Positions, the City may remove said aircraft and take other reasonable and appropriate action under the circumstances. The City shall add the cost of such removal or other action, plus actual administrative costs, including time and expenses, as an additional charge due hereunder on the first day of the month following the date of such work. The City's rights under this Section are in addition to all other rights and remedies provided to the City hereunder.

(D) *Aircraft Apron Operations:*

(i) Airline shall not operate the engines of aircraft so as to endanger persons or property on the aircraft apron.

(ii) The City retains the right to review and approve all aircraft push-out, power-out, and/or power-back operating procedures at each Aircraft Parking Position, which approval shall not be unreasonably delayed or denied.

Section 305. Airport Security

(A) Airline shall not do or permit its agents, employees, and its contractors or suppliers while such contractors or suppliers are providing services to Airline, to do anything at the Airport that would be in conflict with or violate the requirements of any federal, state, or local law, regulation or security directive regarding airport security, as they may be amended from time to time, or the Airport Security Program.

(B) Airline shall be responsible for obtaining and coordinating any security badging, vehicle decals, and/or any other actions required to ensure that Airline's agents, employees, contractors, or suppliers are in compliance with the City's security plan, and any federal, state, or local law, regulation and security directive regarding airport security, as they may be amended from time to time. Airline shall

be responsible for all costs associated with obtaining such badge and/or access privileges.

Section 306. Impact on Airport Certification

Airline shall not knowingly do or permit its agents, directors, or employees to do anything at the Airport that would be in conflict or violate the requirements of 14 C.F.R. Part 139, "Certification of Airports," as amended from time to time, or any successor regulation, order, or directive, or that would jeopardize the Airport's operating certificate obtained pursuant to such federal regulations.

Section 307. Avigation Rights

The City reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Airport, including Airline's Premises, for navigation or flight in said airspace for landing on, taking off from, or operating at the Airport.

Section 308. Airline Summary

Upon request by the City, Airline shall provide to the City a written summary containing the following information and such additional information as the City may reasonably request from time to time:

- (A) The names, addresses, and telephone numbers of Airline officials responsible for station operations, flight operations, properties, and facilities, including a 24-hour emergency contact. Airline shall update information as needed.
- (B) The published schedules of Airline's flight activity at the Airport.
- (C) The description of Airline's fleet and identification of the type and series of aircraft. Airline shall reasonably notify the City of the introduction of an aircraft that is not being operated by Airline at the Airport on the date of this Agreement.

ARTICLE IV PREMISES

Section 401. General

Airline understands and agrees that, to the extent necessary and as set forth below, this Agreement constitutes a space permit and it is not a lease. For its operations at the Terminal Building, Airline may:

- (A) use the Premises assigned to it by the City in the Terminal Buildings in accordance with the provisions of this Article;
- (B) use one or more Gates designated by the City for use by the City's Authorized Agent in accordance with the provisions of Section 405; or

- (C) sublease space in one of the Terminal Building from a Signatory Airline, provided that Airline is a designated Affiliate of such Signatory Airline.

Section 402. Premises

(A) If Airline elects the option provided in Subsection 401(A), the City hereby assigns to Airline for Airline's use, subject to the provisions of this Agreement, the Premises as shown on Exhibit(s) B. Airline accepts the Premises for its use in the performance of its Air Transportation Business in AS IS condition, with no warranties or representations, expressed or implied, oral or written, made by the City or any of its agents or representatives.

(B) If space changes are made consistent with the provisions of this Agreement, revised exhibits may be substituted for those herein without the necessity for amendment of this Agreement; which substitution may be made by Notice to Airline from the City.

(C) Airline agrees that the measurements obtained from the City's Computer-Aided Drafting and Design ("CADD") drawings of the Terminal Buildings shall be used for determining the amount of space in the Terminal Buildings, including the Premises, and for calculating the Terminal Building Fees payable to the City in accordance with Section 502. Such CADD drawings are the basis for the exhibits to this Agreement. As the spaces in the Terminal Buildings and the Premises change from time to time, the City may revise the exhibits to this Agreement by notifying Airline that it is substituting new exhibits.

Section 403. Preferential Use Gates

If Airline is assigned one or more Preferential Use Gates, Airline shall have a priority in using such Preferential Use Gates as follows:

(A) Airline's right to its Preferential Use Gates shall be subject to an average Gate utilization requirement of 4 flight departures each day per Gate assigned to Airline.

(B) Airline shall have the right to permit the occasional use of any of its Preferential Use Gates by other airlines to accommodate non-routine irregular operations.

(C) If Airline fails to meet the average Gate utilization requirement set forth in Subsection 403(A) during any given six-month period, Airline may be subject to losing its preferential right to one or more Gates, so that, thereafter, Airline will meet the average Gate utilization requirement with its remaining Preferential Use Gates.

(D) If the City requires Airline to relinquish one or more of its Preferential Use Gates, the City, in its sole discretion, shall select the Gate(s) to be relinquished, and

such Gate(s) shall be deleted prospectively from Airline's Premises and Airline's Terminal Building Fee obligation with respect to such Gate(s) shall cease.

Section 404. Passenger Loading Bridges

(A) Airline shall have the right to use the City-owned passenger loading bridges and appurtenant equipment at each of Airline's Preferential Use Gates in accordance with the provisions of this Agreement.

(B) If passenger loading bridges are not supplied by the City, Airline shall have the right to install and use its own passenger loading bridges and appurtenant equipment at its Preferential Use Gates.

Section 405. Accommodation in Gates Serviced by City's Authorized Agent

If Airline elects the option provided in Subsection 401(B), and upon Airline's request, the City may grant to Airline the right to use, in common with other airlines, one or more Gates designated by the City for use by City's Authorized Agent subject to Airline's payment of applicable fees.

Section 406. Accommodation in Preferential Use Gates

The City may grant Requesting Airline(s) the right of use in common of all or a designated portion of Airline's Preferential Use Gates and rights of ingress and egress subject to and in accordance with the terms and conditions of this Agreement.

(A) The right to use Airline's Preferential Use Gates (and associated Aircraft Parking Positions, appurtenant equipment, and ancillary support space which are reasonably necessary for the effective use of such Gates), shall be scheduled so as not to interfere with Airline's scheduled deplaning, enplaning, and servicing activities. In accommodating Requesting Airline(s) in Airline's Preferential Use Gates, the City shall provide for departure not later than one hour before Airline's next scheduled arrival and for arrival not earlier than one hour after Airline's scheduled departure. Airline shall have priority over other users with respect to overnight parking on Airline's assigned Aircraft Parking Position, provided that Airline may be required to remove a parked aircraft from its Assigned Parking Position during regular hours of operations to accommodate use by others in accordance with the provisions of this Article.

(B) Airline shall be entitled to collect from the Requesting Airline the Nonpreferential Gate Use Fee, and may also impose reasonable charges for the Requesting Airline's use of its proprietary systems and equipment.

(C) When granted use of space under the provisions of this Section, the Requesting Airline(s) shall have the right in all cases to ground-handle their own operations or to be handled by the operator of their choice.

(D) City shall require that the Requesting Airline enter into an agreement to pay Airline the fees and charges specified in this Section, and to indemnify the City and Airline in connection with Requesting Airline's use of Airline's Preferential Use Gates and associated Aircraft Parking Positions, and shall require the Requesting Airline to provide a payment guarantee and proof of insurance. The terms of the indemnification and the required insurance shall be those set out in Article XI; provided, however, that Airline may request to be named as an additional insured.

(E) Requesting Airline has the right to make improvements and alterations necessitated by any required long-term accommodation, the scope of which shall be subject to approval by Airline and the City. Approval shall not be unreasonably withheld.

(F) Upon the termination of such use in common with Airline, Requesting Airline shall be responsible for returning all Gate and other facilities used by the Requesting Airline to the condition received, normal wear and tear excepted, unless Airline and the City release Requesting Airline from this requirement.

Section 407. [Intentionally Left Blank]

Section 408. Consolidation of Operation

If the City needs additional Terminal Building facilities, the City may, in its sole discretion and upon 30-day Notice to Airline, recapture a portion of the Premises and require Airline to consolidate its operations into its remaining Premises at Airline's sole cost and expense.

Section 409. Relocation of Premises

In order to optimize use of Airport facilities, the City reserves the right to reassign any or all of Airline's Premises. Airline's relocation of any of its Premises resulting from such reassignment shall be at Airline's sole expense.

**ARTICLE V
FEES AND CHARGES FOR THE USE OF THE AIRPORT**

Section 501. General

Fees and Charges payable by Airline to the City for the use of the Airport shall be based upon Airline's designation at the Airport as follows:

(A) If Airline is designated as an Affiliate of a Signatory Airline, during the period and to the extent of such designation Airline shall pay Fees and Charges to the City as established and calculated in the Airport Use and Lease Agreement for such Signatory Airline.

(B) During any period that Airline is not designated as an Affiliate of a Signatory Airline, Airline shall pay to the City Fees and Charges established in the Airport Use and Lease Agreement for Nonsignatory Airlines.

Section 502. Terminal Building Fees

(A) Airline shall pay the City for the use of any Exclusive Use Space, Preferential Baggage Make-Up Area, and Preferential Use Gates assigned to it a monthly fee equal to one twelfth (1/12) of the applicable rate established in accordance with Section 501 multiplied by the amount of space assigned to Airline as set forth in Section 402.

(B) Airline shall pay the City for the use of any Common Use Space and Joint Use Space assigned to it a monthly fee based on one twelfth (1/12) of the applicable rate set forth in accordance with Section 501 and calculated in accordance with the applicable Common Use Formula and Joint Use Formula.

(C) Airline shall pay the City for the use of the Outbound Baggage Handling System a monthly charge based on the monthly cost incurred by the City for the maintenance and operation of the Outbound Baggage Handling System in each Terminal Building, allocated in accordance with the Outbound Baggage Handling System Formula.

(D) Notwithstanding the provisions in Section 501 and Subsections 502 (A)-(C), the fee applicable to Apron-Level Unenclosed Space assigned to Airline shall be \$14.00 per square foot per year for the term of this Agreement.

Section 503. Landing Fees

Airline shall pay to the City for the use of the Airfield Operations Area monthly Landing Fees calculated by multiplying Airline's Landed Weight for that month by the applicable landing fee rate set forth in accordance with Section 501.

Section 504. Passenger Loading Bridge Charges

Airline shall pay the City the applicable monthly charge for the use of any City-owned passenger loading bridge that is assigned to Airline as established by the Airport Use and Lease Agreement.

Section 505. Other Fees and Charges

(A) *Remote Parking Fees.* Airline shall pay to the City for the use of apron space that is not part of Airline's assigned Aircraft Parking Position a Remote Parking Fee of \$100.00 for each such use.

(B) *Utilities.* With respect to its Premises and Airline-installed facilities, trade fixtures, equipment and personal property, Airline agrees to pay all water, sewage, electricity, gas and other utility charges that are charged to Airline for the use

thereof, whether such charges are separately assessed or metered to Airline, as appropriate. All such utility payments to the City are made in trust for the benefit of the public utility providing the service. Utility charges for areas that are separately metered shall be paid monthly, or on such other billing schedule as is established by the City, according to actual use by Airline. For those areas not separately metered, including the Premises, charges for utility services (other than illumination which is to be provided by the City and which is included in the Fees and Charges) shall be assessed by the City on a proportionate basis related to the total area or the number of fixtures served, as the City may reasonably determine. The City may install utility meters in Airline's Premises where it is economically and mechanically feasible.

(C) *Fees for the Use of Gates Serviced by City's Authorized Agent.* If Airline operates from Gates serviced by City's Authorized Agent, Airline shall pay to City's Authorized Agent the fee as established by the City from time to time.

(D) *Other.* Airline shall pay all other charges which are assessed by City for the use of other Airport facilities or for services that may be provided by City to Airline from time to time, including employee parking and issuance of security identification badges.

Section 506. Security Deposit

(A) *Amount and Form of Security Deposit.* Upon execution of this Agreement, Airline shall provide the City with an irrevocable letter of credit, contract bond, or other security or instrument acceptable to the City ("Security Deposit") in an amount equal to 3 months of estimated Fees and Charges, estimated PFC remittals, and any other estimated payments due the City pursuant to this Agreement, as determined by the City based on published flight schedule and anticipated space assignments for Airline's operations. The amount of the Security Deposit may be adjusted from time to time by the City to reflect changes in Airline's financial obligations to the City. The Security Deposit shall guarantee the faithful performance by Airline of all of its obligations hereunder and the payment of all Fees and Charges, and of all PFC remittances due to the City. The Security Deposit shall be in such form and amount, and with such company licensed to do business in the State of Missouri as shall be acceptable to the City, within its reasonable discretion. The Security Deposit is not the sole or exclusive remedy of the City and shall not be construed, in and of itself, as adequate assurance of Airline's future performance, or interpreted as a waiver, discharge or impairment of the City's rights under law or equity.

(B) *Term of Security Deposit.* Airline shall maintain a Security Deposit until 18 months following the expiration or termination of this Agreement. If the Security Deposit includes an expiration date that is earlier than the expiration date required in the prior sentence, the Security Deposit shall provide that, upon its expiration, it shall be automatically extended for a succeeding 12-month period unless, by 60-day Notice, the City is informed of its termination or cancellation. If

Airline's Security Deposit is terminated or cancelled, Airline promptly shall provide the City with a new Security Deposit in full compliance with the requirements of this Section 506.

(C) *City's Right to Use Security Deposit; Replenishment.* If Airline commits an Event of Default pursuant to Section 1301, the City shall have the right to use the amounts of such Security Deposit to pay Airline's Fees and Charges, PFC remittances, or any other amounts owed to the City by Airline then due and payable, or to apply the proceeds to any cost or expense or material damages incurred by the City as a result of Airline's default, or Event of Default under Section 1301. If any such Security Deposit, or portion thereof, is used as stated in this Subsection, Airline shall immediately replenish or provide a renewal or replacement Security Deposit up to the full amount set forth in Subsection 506(A) within 10 days of being notified to do so by the City. The City's rights under this Section shall be in addition to all other rights and remedies provided to the City hereunder.

(D) *Waiver of Security Deposit Requirement.* Notwithstanding the provisions of Subsections 506(A)-(C), the City will waive the Security Deposit obligation if it determines that Airline qualifies for relief from such obligation. To qualify for such relief, Airline must:

- (i) be an Affiliate of a Signatory Airline during a period when such Signatory Airline qualifies for a waiver of the Security Deposit requirement in accordance with the terms of the Airport Use and Lease Agreement; and
- (ii) not be under an Event of Default pursuant to, and not have received Notice in accordance with, Section 1301.

Any such waiver of the Security Deposit shall be limited to the extent of the guarantee of Airline by a Signatory Airline in accordance with section 512 of the Airport Use and Lease Agreement. If, after having waived the Security Deposit obligation in accordance with this Subsection, the City determines that any of the requirements for relief are not satisfied, Airline shall immediately provide a Security Deposit in accordance with the provisions of Subsection 506(A).

Section 507. Statistical Report

(A) Airline shall complete and submit to the City no later than the 15th day of each month, on forms similar to those attached hereto as Exhibit C, reports summarizing statistics and information for Airline's prior month of operations at the Airport necessary for the computation of Fees and Charges due to the City, and such other statistical and financial data that the City determines is necessary for the computation and administration of Airline's financial obligations hereunder, including the following data:

- (i) total number of flight departures at each gate assigned to Airline;
- (ii) total number of originating and connecting passengers;

- (iii) total number of domestic enplaned and deplaned passengers;
- (iv) total number of international enplaned and deplaned passengers;
- (v) total number of landings by type of aircraft and Maximum Gross Certificated Landed Weight by type of aircraft;
- (vi) total pounds of air cargo enplaned and deplaned;
- (vii) total pounds of air mail enplaned and deplaned; and
- (viii) total amount of food and beverage purchased to be sold, if any, in accordance with the provisions of Subsection 301(R).

The information submitted by Airline to City pursuant to this Subsection shall be in addition to any other information required elsewhere in this Agreement to be submitted by Airline.

(B) In addition to the activity report required by Subsection 507(A), Airline shall complete and submit to the City no later than 30 days after the end of each calendar month, on a form similar to that attached hereto as Exhibit C, a remote aircraft parking report summarizing the total number of aircraft parkings during the prior month subject to the Remote Parking Fee.

(C) The City shall have the right to rely on said activity reports in determining Fees and Charges due to the City. Airline shall have full responsibility for the accuracy of said reports. Late payment and payment deficiencies due to incomplete or inaccurate activity reports shall be subject to the late payment and late penalty charges as set forth in Subsection 509(E).

(D) The acceptance by the City of any Airline payment shall not preclude the City from verifying the accuracy of Airline's reports or computations, or from recovering any additional payment actually due from Airline. Interest on any additional amount due shall accrue from the date the payment was originally due, at the rate prescribed as calculated in Subsection 509(E).

Section 508. Airline Records and Audit

(A) Airline shall maintain books, records, and accounts, including computerized records, relevant to the determination and payment of any Fees and Charges, PFC remittals, and other payments due to the City in accordance with this Agreement including: records of its aircraft arrivals and departures; gate utilization; originating and connecting, enplaned and deplaned, domestic and international passengers; aircraft landings; enplaned and deplaned air cargo and mail; food and beverage purchased for resale; and sublease and subcontracted services arrangements at the Airport. Each such item of information shall be maintained for a period of at least three years following the expiration or termination of this Agreement, and longer if necessary for pending litigation. Airline may maintain such books, records and

accounts at its corporate offices, but shall make such material available at the Airport upon 15-day Notice.

(B) The City and such persons as may be designated by it, including its auditors and financial consultants, shall have the right, during normal business hours, with 15-day Notice to Airline, to examine, audit, and make copies of such books, records, and accounts, including computerized records. Except as otherwise provided, the cost of such examination or audit shall be borne by the City; provided, however, that the cost of such audit shall be reimbursed to the City by Airline if: (i) the audit reveals an underpayment by Airline of at least 5% for Fees and Charges, PFC remittance, or other payment payable by Airline hereunder for any Fiscal Year, as determined by such audit, or (ii) Airline has failed to maintain accurate and complete books, records, and accounts in accordance with this Section.

(C) If Airline fails to maintain true and complete books, records, and accounts resulting in an underpayment of Fees and Charges by Airline to the City, the City may recalculate the total amount of Fees and Charges, PFC remittances, or other payments due to the City by Airline in accordance with this Agreement. In such case Airline shall remit to the City within 15 days of receipt of a demand or invoice from the City the delinquent amount plus interest, fees and charges as provided for in Subsection 509(E).

Section 509. Payment Provisions

(A) *Terminal Building Fees and Passenger Loading Bridge Charges.* Terminal Building fees for the use of the Premises, including Passenger Loading Bridge Charges shall be due and payable on the first day of each month in advance without invoice from the City.

(B) *Landing Fees.* Landing Fees for the preceding month shall be due and payable, without invoice from the City, on or before the 15th day of each month, and shall be transmitted to the City together with Airline's monthly statistical report as required in Subsection 507(A).

(C) *Other Fees.* All other Fees and Charges required hereunder shall be due and payable within 20 days of the date of the invoice.

(D) *Form of Payment.* Airline shall pay all sums due hereunder in lawful money of the United States of America, without notice or demand, without deduction or setoff, by wire transfer or check made payable to the "Treasurer, City of St. Louis," which check shall be delivered postage or other charges prepaid to:

By U.S. Mail:

Airport Assistant Director of Finance
Lambert-St. Louis International Airport
P.O. Box 10036
Lambert Station
St. Louis, Missouri 63145

By Express Mail:

Airport Assistant Director of Finance
Lambert-St. Louis International Airport
10701 Lambert International Boulevard
St. Louis, Missouri 63145

By Wire Transfer:

Routing Number: 081000210-1001018702
Bank Name: USBank (Checking)
Account Name: Airport Revenue Fund
(include a description of the transfer (e.g. "ABC
Airline Account"))

or as hereafter the City may designate by Notice to Airline.

(E) *Interest Charges and Late Charges on Overdue Payment.* If Airline fails to make payment of any sums due hereunder by the due dates set forth herein, Airline shall pay to the City, in addition to all other remedies available to the City and all other payments to be made by Airline to the City, an interest charge equal to 1.5% for each month of the overdue amount, and costs and attorney's fees reasonably incurred by the City in attempting to obtain payment, if any. Payments received later than 30 calendar days from their respective due date shall be assessed an additional one-time late charge of 5% of the amount due, in addition to applicable interest charges.

Section 510. Year-End Adjustments to Actual and Settlement

(A) As soon as possible following the completion of the annual audit for each Fiscal Year, the City shall recalculate Airline's Fees and Charges and provide Airline with a settlement for such previous Fiscal Year based on the accounting of the total costs actually incurred, revenues and other credits actually realized (reconciled to the audited financial statements of the City), and total Landed Weight during such Fiscal Year.

(i) If the amount of Airline's Fees and Charges paid during such Fiscal Year is more than the amount of Airline's Fees and Charges required (as recalculated pursuant to Subsection 510(A)), such excess amount shall be credited by the City to Airline in equal monthly installments over the remaining months of the then-current Fiscal Year; provided, however, that if Airline is under an Event of Default pursuant to, and has received Notice in accordance with, Section 1301, the City may apply such excess to pay any and all amounts owed to the City by Airline, or to pay any cost or expense or material damages incurred by the City as a result of Airline's default.

(ii) If the amount of Airline's Fees and Charges paid during such Fiscal Year is less than the amount of Airline's Fees and Charges required (as recalculated pursuant to Subsection 510(A)), such deficiency shall be paid by Airline to City in equal monthly installments over the remaining months

of the then-current Fiscal Year; provided, however, that if Airline is under an Event of Default pursuant to, and has received Notice in accordance with, Section 1301, or if this Agreement is terminated, such deficiency and all outstanding Fees and Charges shall be due immediately.

(B) This Section 510 shall survive the termination of this Agreement, and Airline shall discharge its obligations hereunder.

Section 511. Security Interests

(A) All PFCs collected by Airline for the benefit of the City that are in the possession or control of Airline are held in trust by Airline on behalf and for the benefit of the City. Title to such PFCs shall remain in the City. Airline and its agents hold no legal or equitable interest in such PFCs. Should Airline be the subject of a bankruptcy or insolvency proceeding, such PFCs shall not be considered to be property of the Airline or the Airline's estate under 11 U.S.C. §541. To the extent that Airline holds any property interest in such PFCs, and notwithstanding that Airline may have commingled such PFCs with other funds, Airline hereby pledges to the City and grants the City a first priority security interest in, lien on, right of setoff against, and assignment of, the Airline's interest in such PFCs, including any and all proceeds resulting therefrom whether now or hereafter held, and in any and all accounts into which such PFCs are deposited to the extent of the total amount of such PFCs (net of the airline compensation amounts allowable in accordance with 14 C.F.R. §158.53) held in such accounts.

(B) As a guarantee by Airline for the payment of all Fees and Charges, and all PFC remittances due to the City, Airline hereby pledges to the City and grants the City a security interest in all of the improvements to its Premises, and any fixtures located on or used by Airline at the Airport.

ARTICLE VI [INTENTIONALLY LEFT BLANK]

ARTICLE VII CAPITAL IMPROVEMENTS

Section 701. General

As the City may deem necessary to protect the interest of the public, the City may, in its sole discretion, acquire land, plan, design, and construct facilities, or purchase and install equipment to preserve, rehabilitate, protect, enhance, expand, or improve the Airport or any part thereof.

Section 702. [Intentionally Left Blank]

Section 703. [Intentionally Left Blank]

Section 704. [Intentionally Left Blank]

Section 705. [Intentionally Left Blank]

Section 706. [Intentionally Left Blank]

Section 707. [Intentionally Left Blank]

Section 708. [Intentionally Left Blank]

Section 709. Effect of Construction on Premises

(A) The City shall have the right, at such times as may be reasonable for purposes of maintaining or constructing improvements, modifications, or expansions to the Airport, to close, relocate, reconstruct, change, alter, or modify the Premises and/or the means of access to the Premises pursuant to this Agreement or otherwise, either temporarily or permanently; provided, however, that the City shall:

- (i) give reasonable notification of the construction activities to Airline;
- (ii) provide adequate means of ingress and egress for the Premises or, in lieu thereof, alternate premises of comparable size, condition, utility, and location to the Premises, to the extent reasonably possible, with adequate means of ingress and egress; and
- (iii) minimize as reasonably possible any interference with Airline's operations.

(B) If reasonable alternate premises are provided to Airline by the City in accordance with Subsection 709(A)(ii), Airline shall vacate the Premises, or portions thereof, and relocate to the alternate space.

(C) If no alternate premises are provided to Airline by the City in accordance with Subsection 709(A)(ii), and if any part of the Premises is rendered unusable, as determined by the City, as a result of an action taken by the City under this Section, the fees payable hereunder with respect to the Premises shall be abated ratably in the proportion that the unusable area bears to the total Premises of the same category or type of space. Such abatement in fees will continue until such time as the affected Premises are restored adequately for Airline's use.

ARTICLE VIII TENANT IMPROVEMENTS

Section 801. Alterations and Improvements by Airline

Airline may construct and install, at Airline's sole expense, such improvements in its Premises as Airline deems to be necessary for its operations. The plans and specifications, location, and construction schedule for such improvements, including any substantial alteration or addition thereto, along with a signed form known as the Tenant Construction or Alteration Application ("TCA"), must be submitted to and approved by the City prior to the commencement of any and all such construction, alteration, refurbishment, demolition, excavation, renovation, reconstruction, or installation. Airline shall comply with the requirements of all applicable laws, Environmental Permits, Environmental Laws, and building codes and the City's Rules and Regulations governing tenant construction, alterations, and improvements. No reduction or abatement of Fees and Charges shall be allowed for any interference with Airline's operations by such construction. All such alterations and improvements by Airline shall be subject to the following:

(A) No excavation or demolition at, construction, alteration, or modifications of, or refurbishments to, the Premises shall commence until after Airline has received the City's written approval of its TCA including detailed project plans, specifications, drawings, and schedules. Notwithstanding the prior sentence, and without limiting any other requirement imposed by this Agreement, in case of an emergency affecting the health or safety of the public, Airline may take immediate and reasonable action to protect the public without first submitting a TCA; provided, however, that: (i) promptly following such emergency, Airline shall notify the City of the circumstances surrounding the emergency and the actions taken by Airline; and (ii) as immediately thereafter as reasonably possible Airline shall submit a TCA detailing the actions taken and yet to be taken by Airline related to such emergency. Airline also understands and agrees that certain work elements described in its TCA may require separate or additional approval from the City before proceeding with the specific work element. As such, Airline understands and agrees that ongoing coordination with the City at all times is crucial. Airline shall provide the City with at least ten (10) working days written notice prior to commencement of any work at the Premises involving the excavation of soils or demolition so that the City may have a representative present at the work site during such demolition or excavation.

(B) The City shall have the right to refuse approval of such plans and specifications. The City may, at its own cost, inspect any such alterations or improvements.

(C) Upon the expiration or termination of this Agreement, all improvements made to Airline's Premises and permanent additions or alterations thereto shall become the property of the City; provided, however, that any trade fixtures, signs,

equipment, and other movable personal property of Airline shall remain the property of Airline, subject to the terms of Article XIV.

(D) Airline shall promptly pay all lawful claims made against the City and discharge all liens filed or which exist against the Premises, any other portion of the Airport, or Airline's trade fixtures or trade equipment arising out of or in connection with the failure to make payment for work done or materials provided by Airline, its contractors, subcontractors, or materialmen. Airline shall have the right to contest the amount or validity of any such claim or lien without being in default hereunder; provided, however, that while contesting the amount and validity of any such claims or liens Airline shall provide the City, at the City's request, with a performance bond in an amount equal to the amount of the claim or lien. Airline shall give timely Notice to the City of all such claims and liens.

(E) Airline shall use, and shall cause each of its officers, directors, employees, agents, contractors, and suppliers to use, the highest degree of care when entering upon any property owned by the City in connection with the work. Airline shall comply, and shall cause each of its officers, directors, employees, agents, contractors, and suppliers to comply, with any and all instructions and requirements for the use of City-owned property.

(F) In any contract relating to the construction or installation of improvements in the Premises, Airline shall carry or require its contractors and suppliers to:

(i) carry policies of Builders Risk Insurance, Commercial General Liability, and Automobile Liability Insurance in accordance with Section 1101(B)(vi); and

(ii) furnish performance and payment bonds in the full amount of any contract in a form acceptable to the City. Payment bonds shall comply with the coverage requirements and conditions of Section 107.170 of the Missouri Revised Statutes, as amended. Copies of the bonds shall be given to the City for approval before work begins. Any sum or sums derived from said performance and payment bonds shall be used for the completion of said construction and the payment of laborers and material suppliers, as the case may be.

(G) Airline shall use only City-approved contractors or subcontractors for improvements affecting control and/or programming of Airport systems including, but not limited to, security access control, fire alarm and detection, HVAC control, closed circuit televisions (CCTVs), elevators, and baggage handling systems.

(H) Upon the completion of the improvements hereunder, Airline shall submit to the City a copy of its acceptance letter certifying completion, a certified copy of any certificate or permit which may be required by any federal, state or local government or agency in connection with the completion or occupancy thereof by Airline, and a certified set of "as built" drawings.

Section 802. Nondisturbance

Any work by Airline and its contractors shall be conducted in an orderly and proper manner, and shall not otherwise disturb, create a hazard, or interfere with other projects on, or the operations of, the Airport. Airline shall promptly comply, and shall cause its contractors to comply, with any reasonable request from the City to correct its conduct or that of its contractors. If Airline or its contractors fails to comply with the provisions of this Section, the City shall have the right to stop any or all work being performed, until such compliance is achieved, without terminating this Agreement.

ARTICLE IX OPERATION AND MAINTENANCE OF AIRPORT

Section 901. Division of Responsibility

A schedule identifying the division of responsibility for operations and maintenance between the City and Airline is attached hereto as Exhibit G and made a part hereof. If changes are made consistent with applicable provisions of this Agreement to the division of responsibility for operations and maintenance set forth in this Article IX and Exhibit G, such changes or modifications may be made without the necessity of an amendment to this Agreement, provided such changes or modifications are agreed to by Airline and the Airport Director, with the approval of the Airport Commission on behalf of the City.

Section 902. Maintenance by the City

(A) The City shall operate, maintain, keep in good repair, and clean all of the public areas and facilities of the Airport, including the Common Use Space and the Joint Use Space; the structures associated with the Terminal Buildings; loading bridges acquired on or before July 1, 2011; and common use systems, including the Outbound Baggage Handling System, owned and operated by the City.

(B) The City shall be responsible for maintaining the Airport utility systems as follows:

(i) *Electrical.* The City shall maintain the electrical system mains up to the distribution points. In addition, the City shall maintain the electrical circuits beyond the distribution points to the extent that such electrical circuits are an integral part of the public, common, or joint use systems owned and operated by the City.

(ii) *Plumbing.* The City shall maintain the plumbing system mains, supplies, and sewers up to the dedicated plumbing lines of Airline.

(iii) *HVAC.* The City shall maintain the Heating, Ventilating and Air Conditioning ("HVAC") system mains, and be responsible for the supply of steam and chilled water, up to the dedicated lines of Airline. The City shall maintain the HVAC systems and units serving the publicly accessible

areas of the Terminal Buildings, including the Preferential Use Gates, Common Use Space, the Joint Use Space.

(iv) *Fire Suppression Lines.* The City shall maintain the fire suppression lines up to the dedicated fire suppression lines of the Airline.

(C) Airline shall be charged for the cost, plus actual administrative costs, of any repair, maintenance, or cleaning performed by the City that is caused by the negligence or willful misconduct of Airline, its employees, agents, contractors, or suppliers. Such charge shall constitute part of Airline's Fees and Charges payable on the month following the date of invoicing by the City for such work.

Section 903. Maintenance by Airline

(A) *Cleaning.* Airline shall, at its sole cost and expense, perform or cause to be performed services which will at all times keep its assigned Exclusive Use Space, Preferential Baggage Make-Up Area, Preferential Use Gates, Aircraft Parking Positions, and Apron-Level Unenclosed Space clean, neat, orderly, sanitary and presentable.

(B) *Removal of Trash.* Airline, at its sole cost and expense, shall remove from its assigned Exclusive Use Space, Preferential Baggage Make-Up Area, Preferential Use Gates, and Apron-Level Unenclosed Space all waste, trash and refuse, and from its assigned Aircraft Parking Positions, any foreign object debris capable of causing damage to aircraft, and shall dispose of it in a manner approved by the City. Hazardous Materials or other special wastes shall be managed by Airline in full conformance with applicable Environmental Laws and Environmental Permits.

(C) *Maintenance and Repairs.* Airline shall repair and maintain in good condition (casualty damage and reasonable wear and tear excepted) the Premises, and all alterations or improvements thereto, except for those items for which the City is responsible pursuant to Section 902. Maintenance and repairs shall be in quality and class equal to or better than the original work to preserve the Premises in good order and condition, based on a standard of care reflecting prudent property management. Airline shall repair all damage to the Premises caused by Airline or its employees, agents, contractors, suppliers, passengers, or invitees.

(D) *Utilities.* Airline shall be responsible for maintaining the utility systems as follows:

(i) *Electrical.* Airline shall maintain the electrical circuits beyond the distribution points to the extent that such electrical circuits serve Airline's assigned Exclusive Use Space, Preferential Baggage Make-Up Area, and/or Airline's equipment located within its assigned Preferential Use Gates.

(ii) Plumbing. Airline shall maintain the dedicated plumbing lines, including sewer lines, serving Airline's assigned Exclusive Use Space and Preferential Baggage Make-Up Area.

(iii) HVAC. Airline shall maintain the dedicated HVAC systems and units within Airline's assigned Exclusive Use Space and Preferential Baggage Make-Up Area serving such space.

(iv) Fire Suppression Lines. Airline shall maintain the dedicated fire suppression lines servicing Airline's assigned Exclusive Use Space. Airline shall notify the City at least 24 hour before performing such repairs (see Section 801(G) above). Notwithstanding the prior sentence, in case of emergency affecting the health or safety of the public, Airline may effect necessary repairs to protect the public without first providing 24-hour notice to the City; provided, however, that such notification shall be given as promptly as possible under the circumstances.

(E) *Passenger Loading Bridge Maintenance.* On or about July 1 of each year, Airline shall submit to the City for City's approval, which approval shall not be unreasonably withheld, conditioned, or denied, a 12-month maintenance schedule for each City-owned passenger loading bridge acquired prior to July 1, 2011 associated with each of the Preferential Use Gates assigned to Airline. Airline shall report to the City at the close of each Fiscal Year any repair and maintenance completed on each such passenger loading bridge, and the cost expended for all repairs and maintenance. Airline shall pay all costs of operating, repairing and maintaining such passenger loading bridges.

Section 904. City Right to Enter, Inspect, and Require Corrective Action

(A) The City shall have the right at reasonable times to enter upon any of the Premises for any of the purposes listed below:

(i) to inspect the Premises for any purpose necessary for or incidental to or connected with the City's obligations hereunder, or in the exercise of the City's capacity as Airport owner;

(ii) to identify those items of maintenance, cleaning, or repair required of the Airline or the City, pursuant to this Article;

(iii) to perform such maintenance, cleaning, or repair as the City reasonably deems necessary, and which is the responsibility of the City hereunder;

(iv) for fire protection, safety, or security purposes;

(v) to make structural additions and alterations to the Airport;

(vi) as provided in Section 905;

(vii) to perform environmental remediation as provided in Section 1002(E) or as otherwise required by applicable Environmental Laws or Environmental Permits, and

(viii) upon the expiration or termination of this Agreement.

(B) The City shall provide reasonable notification and such right of entry shall not unreasonably interfere with Airline's use or occupancy of its Premises, except if the situation endangers the health or safety of persons or the safety of operations at the Airport. The right of inspection reserved to the City shall impose no obligation on the City to make inspections to ascertain the condition of the Premises and shall impart no liability upon the City for failure to make such inspections. The failure of the City to inspect or monitor or notify Airline of a default or of a hazardous or unsafe condition with respect to Airline's operations hereunder shall not release Airline from its liability to perform its obligations hereunder or impose any liability on the City, and in any other event where the City determines that it is necessary or desirable to do so to preserve the Airport or any portion thereof or to correct any conditions likely to cause injury or damage.

(C) Airline shall perform all corrective work required of it that is identified in such inspection(s) within 30 days of receipt of a notification from the City. If correction cannot reasonably be completed within such 30 day period, including corrective work undertaken by Airline that is being diligently pursued, this period may be extended at the sole but reasonable discretion of the City. Matters affecting public health, safety, and welfare, including trash and debris problems, shall be corrected promptly after the City notifies the Airline's station manager or his designee either orally or in writing via hand-delivery.

Section 905. Failure to Maintain by Airline

If City reasonably determines that Airline has failed to properly clean, remove trash and refuse, maintain, or repair the Premises as required in Section 903, the City shall provide to Airline a list of deficiencies, reflecting the amount of time to be reasonably allowed for Airline to correct same. If Airline fails to correct such deficiencies within the time allowed and has not registered an objection as to its obligation to do so, the City, following 5 days further notification by the City to Airline, may enter upon the Premises and correct the listed deficiencies. The City shall add the cost of such work, plus actual administrative costs, to the Fees and Charges due hereunder on the first day of the month following the date of such work, and such cost shall be and constitute a part of the Fees and Charges. Subsequent to receipt of the further notification of intent to perform repairs, maintenance, or cleaning from the City, Airline shall not undertake performance of such repairs, maintenance, or cleaning without specific prior authorization from the City.

Section 906. City Obligations

Except as specifically provided for herein, the City shall not be under any duty or obligation to Airline to repair, maintain, or clean the Premises or any portion thereof, or

any facilities or equipment constructed thereon. The City shall not be responsible or liable to Airline for any claims for compensation for any losses, damages, or injury, including lost profits, sustained by Airline resulting from failure of the Airport structures or utility systems, or caused by the natural physical conditions on the Airport, whether on the surface or underground, including stability, moving, shifting, settlement of ground, or displacement of materials by fire, water, windstorm, tornado, act of God, state of war, terrorism, civilian commotion or riot, or any other cause or peril beyond the control of the City, except to the extent covered by the City's insurance or as may be caused by the City's negligence, willful misconduct, or bad faith.

ARTICLE X COMPLIANCE WITH LAWS

Section 1001. Observance and Compliance with Laws

(A) Airline, its officers, directors, employees, agents, and its contractors and suppliers while such contractors and suppliers are providing services to Airline, shall comply with:

- (i) all applicable federal, state and local laws and ordinances, including directives of the FAA applicable to the Airline's operation at the Airport;
- (ii) the Rules and Regulations governing the Airport; and
- (iii) the provisions of the Airport certification manual, as it may be amended from time to time.

Airline shall make reasonable efforts to cause its passengers, guests and invitees to comply as well.

(B) Upon Airline's request, the City shall promptly provide to Airline a copy of the Rules and Regulations and the Airport certification manual. The City shall also provide copies of amendments or additions to the Rules and Regulations to Airline's station manager or his designee in the regular course of business. The City shall provide Airline with reasonable notification of any amendment or additions to the Rules and Regulations.

(C) Notwithstanding anything to the contrary, references herein to a statute or law shall be deemed to be a reference to: (i) such statute or law as it may be amended from time to time, and (ii) all ordinances, regulations, rules, executive orders, policies and instructions pertaining, and lawfully promulgated pursuant, to such statute or law as they now exist or may be amended from time to time.

Section 1002. Compliance with Environmental Laws

Airline agrees that in conducting any activities or business at the Airport, including any activities directly related or incidental to its Air Transportation Business, Airline shall comply with any and all applicable Environmental Laws including any plans, monitoring,

recordkeeping or programs prepared in conformance with applicable Environmental Laws. Airline further agrees as follows:

(A) *Environmental Permits.*

(i) Airline shall obtain and maintain any and all Environmental Permits required by applicable Environmental Laws to conduct the activities in which Airline engages at the Airport.

(ii) Airline shall comply with any requirement imposed by an Environmental Permit obtained by the City that is or are applicable to Airline or Airline's activities at the Airport, including any plans, monitoring, recordkeeping or programs prepared in conformance with such Environmental Permits or Environmental Laws; provided, however that the City shall adequately give Notice to Airline of such applicable Environmental Permit, Environmental Law and associated requirements, including all applicable deadlines for compliance.

(iii) The City and Airline shall cooperate to ensure compliance with the terms and conditions of any applicable Environmental Permit, Environmental Law and any associated requirements to insure safety and to minimize cost of compliance.

(B) *Duty to Notify City.* In the event of any release or threatened release of Hazardous Materials caused, handled or owned by Airline, its employees, agents, contractors, suppliers, passengers, guests, or invitees, and which is required by applicable Environmental Laws, Environmental Permits, Rules and Regulations, or any plan or program prepared in response to applicable Environmental Laws or Environmental Permits to be reported by Airline, whether as a result of negligent conduct or otherwise, at, on, under or about the Airport, or any portion thereof, or in the event any written claim, demand, complaint or action is made or taken against Airline that pertains to Airline's failure or alleged failure to comply with any applicable Environmental Laws or Environmental Permits at the Airport or which pertains to the release of Hazardous Materials by Airline at the Airport, Airline shall notify the City as soon as reasonably practical of all known facts pertinent to such release, threatened release, claim, demand, complaint, action, or notice, and shall provide the City with copies of any and all such claims, demands, complaints, notices, or actions so made. If Airline is required, by any applicable Environmental Laws, Environmental Permits, or governmental agency, to file any written notice or report of a release or threatened release of Hazardous Materials at, on, under or about the Airport, or any part thereof, Airline shall simultaneously provide a copy of such notice or report to the City.

(C) *Environmental Remediation.* Airline shall undertake with all due diligence all necessary steps to remedy and remove at its cost any Hazardous Material, or environmental condition or damage to the extent caused by, or resulting from, the activities, conduct or presence of Airline or its agents, employees, contractors, or

suppliers at the Airport, whether resulting from negligent conduct or otherwise ("Remediation Work"). Such Remediation Work shall be consistent with remediation standards established by or derived from the appropriate government agency responsible for enforcing Environmental Laws or Environmental Permits. Except in the event of an emergency, such Remediation Work shall be performed after Airline submits to the City a written plan for completing such Remediation Work and receives the prior approval of the City through Notice; provided, however, that the City's approval shall not be unreasonably withheld or delayed. The City expressly reserves the right to review and approve any proposed: remedial investigations, remedial work plans, interim and final remedies, institutional controls, including environmental covenants, or other associated documents prior to submittal to the relevant governmental agencies responsible for enforcing Environmental Laws or Environmental Permits and prior to recording any instrument or the land title. Specific cleanup levels for any Remediation Work by Airline shall be designed to meet and satisfy the requirements of all applicable Environmental Laws and Environmental Permits and be consistent with the commercial use of the Airport, as determined by the governmental agency responsible for enforcing Environmental Laws or Environmental Permits or for establishing cleanup levels. Neither an ongoing remediation, including any testing or monitoring, nor the use of institutional controls, shall either unreasonably or materially impair or interfere with the City's use and enjoyment of its property or the Airport, or that of current and future Airport users or tenants. Upon reasonable notice, the City shall have the right to conduct a reasonable review and inspect all such Remediation Work at any time using consultants and representatives of its choice at City's sole expense. Such inspection shall not unreasonably interfere with Airline's operations.

(D) *Access for Environmental Inspection.* Upon reasonable notification to Airline, the City shall have reasonable access to the Premises to inspect the same in order to confirm that Airline is using the Premises in accordance with the requirements of this Section 1002. Airline shall cooperate fully with any such inspections provided that such inspections shall not unreasonably interfere with Airline's operations. If the City's inspection results in any type of written report, the City shall provide Airline a reasonable opportunity to timely review and comment on a draft of the report. Airline shall provide to City for its review and comment copies of: any and all notices to Airline of alleged non-compliance issued by governmental agencies responsible for enforcing Environmental Laws or Environmental Permits; non-privileged draft official submittals (proposed final drafts) prepared by, or on behalf of, Airline responding to such alleged non-compliance; and any and all consent orders or administrative determinations, whether preliminary or final, issued by such governmental agencies. The City agrees to maintain the confidentiality of the documents produced in accordance with this Subsection to the extent consistent with the City's legal obligations.

(E) *Corrective Action by City.* If Airline fails to comply with any applicable Environmental Laws or Environmental Permits governing its activities at the Airport, or if Airline fails to conduct necessary Remediation Work in a timely

manner as required under this Section, the City, as required by applicable Environmental Laws and Environmental Permits, in addition to the rights and remedies described elsewhere herein and any other rights and remedies otherwise available to the City, may enter the Premises and take all reasonable and necessary actions to conduct Remediation Work to remove Hazardous Materials or other contaminants for which Airline is responsible under this Agreement and remedy Airline's non-compliance with such applicable Environmental Laws and Environmental Permits. All Remediation Costs incurred by the City shall be paid or reimbursed by Airline. The City shall add the cost of the Remediation Work plus actual administrative costs, to the Fees and Charges due hereunder on the first day of the month following the date of such work, and such cost shall be and constitute a part of the Fees and Charges. Subsequent to receipt of the City's Notice to perform the Remediation Work, the Airline shall not undertake performance of such Remediation Work without the specific prior authorization from the City. Remediation Work, if necessary, and any other actions taken by the City pursuant to this Section, shall be performed in accordance with the provisions of Subsection 1002(C), but only after first having provided Notice to Airline of such failure to comply, and 30 days within which Airline may demonstrate why no such alleged failure is present, or to timely remedy such alleged failure that may be present. If Airline's compliance reasonably requires more than 30 days to complete, the City may enter the Premises and take such reasonable and necessary measures to achieve compliance only upon Airline's failing to timely begin curing such noncompliance within such 30 day period and to continue diligently working to achieve compliance thereafter.

(F) *Review of Environmental Documents.* At the reasonable request of the City, and at City's expense, Airline shall make available for inspection and copying, at reasonable times, any and all non-privileged documents and materials Airline has prepared pursuant to any applicable Environmental Laws or Environmental Permits, or submitted to any governmental agency, which documents and materials relate to Environmental Laws or Environmental Permits and which pertain to the Airport or the Premises, and which would be discoverable in litigation.

(G) *Cumulative Remedies.* All remedies of the City as provided herein with regard to environmental pollution, contamination, damage, Hazardous Materials releases or threatened releases, or any actual or alleged violation of any applicable Environmental Laws or Environmental Permits are deemed to be cumulative in nature. The City's right to indemnification as provided under this Section shall survive the expiration or termination of this Agreement.

(H) *Pollution Control.* In addition to all other requirements of this Agreement, Airline, at its cost, shall manage all its operations at the Airport in compliance with all applicable Environmental Laws, Environmental Permits, and with applicable best management practices outlined and delineated in the Airport's Storm Water Pollution Prevention Plan and Storm Water Management Plan, which shall be provided to Airline at Airline's request.

(I) *Environmental Covenants.* So long as they do not adversely impact Airline's day-to-day operations at the Airport, Airline will not object to and, if requested by the City, will subordinate any rights it has under this Agreement to an environmental covenant or environmental land use restriction which (i) restricts the use of groundwater underlying the Premises or the Airport; (ii) limits the use of the Premises to nonresidential uses; and/or (iii) reasonably restricts access to soil underlying the Premises or the Airport.

Section 1003. Passengers with Disabilities

Airline shall be responsible for providing boarding assistance to individuals with disabilities as required by 14 C.F.R. Part 382 and 49 C.F.R. Part 27; provided, however, that Airline may use the mechanical lift devices owned and made available by the City in accordance with the provisions of a separate passenger mobile lift device permit that may be granted to Airline by the City.

Section 1004. Nondiscrimination

(A) Airline for itself, its personal representatives, successors in interest, and assigns, agrees that no person on the grounds of race, creed, color, national origin, sex, age, or disability shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in (i) the use of the Airport; or (ii) the construction of any improvements on, over, or under the Airport, and the furnishing of services thereon.

(B) Airline shall comply with all applicable nondiscriminatory requirements that may be imposed pursuant to the Federal Aviation Act of 1958, as amended; the Civil Rights Act of 1964, as amended; 49 C.F.R. Parts 21, 23, and 26, as said regulations may be amended; and state and local laws.

Section 1005. Prevailing Wage

Airline shall include in all service contracts pertaining to the Premises language specifying the minimum prevailing wages to be paid and fringe benefits to be provided by the service contractor to employees of said service contractor in accordance with the provisions of the Revised Code of The City of St. Louis, Chapter 6.20.

ARTICLE XI INSURANCE, DAMAGE, AND INDEMNIFICATION

Section 1101. Insurance

(A) *General.* Airline at all times during the term hereof, shall cause St. Charles County, Missouri, St. Clair County, Illinois, St. Louis County, Missouri, the City, their officers, agents and employees and Airline to be insured on an occurrence basis against the risk of claims and demands by third persons for bodily injury (including wrongful death) and property damage arising or alleged to arise out of

the acts or omissions of Airline, its officers, agents, and employees pursuant to this Agreement both on the Premises and the Airport.

(B) *Risks and Minimum Limits of Coverage.* Airline shall procure and maintain the following policies of insurance:

(i) Comprehensive Airline Liability (including aircraft liability, premises liability, products/completed operations liability, hangarkeeper liability, passenger liability, mail and cargo liability) with war risk allied perils (together, "Airline Liability Insurance") in an amount not less than \$300 million per occurrence and in aggregate, where applicable; provided, however, that War Risk Allied Perils coverage may be provided by the FAA War Risk Insurance Program, or other program generally available in the marketplace. If Airline is providing services at the Airport solely pursuant to the federal Essential Air Service program using aircraft capable of carrying 10 passengers or fewer, Airline may satisfy this requirements with Airline Liability Insurance in an amount no less than \$50 million per occurrence and in aggregate.

(ii) Automobile Liability Insurance in an amount not less than \$10 million primary (no excess), combined single limit per occurrence for automobiles used by Airline in the course of its performance hereunder, including Airline's non-owned and hired autos.

(iii) Workers' Compensation and Employer's Liability Insurance in accordance with Missouri laws and regulations. With respect to Workers' Compensation Insurance, if Airline elects to be self-insured, Airline shall comply with the applicable requirements of law. Airline shall require that all its subcontractors or licensees similarly provide such coverage (or qualify as a self-insured) for their respective employees. City, its officers, employees, or agents shall not be liable or responsible for any claims or actions occasioned by Airline's failure to comply with the provisions of this paragraph. The indemnification provisions hereof shall apply to this Section. It is expressly agreed that the employees of Airline are not employees of the City for any purpose, and that employees of the City are not employees of Airline.

(iv) Contents Insurance. Airline shall be solely responsible for obtaining insurance policies that provide coverage for losses of Airline owned property. The City shall not be required to provide such insurance coverage or be responsible for payment of Airline's cost for such insurance.

(v) Builders Risk Insurance. During any period of construction, alteration, refurbishment, demolition, excavation, installation, renovation, or reconstruction for which Airline contracts, Airline shall carry, or shall require its contractor or contractors to carry, a policy of Builders Risk Insurance in an amount sufficient to insure the value of the work. The City

shall be named Loss Payee on Builders Risk coverage to the extent of the City's interest therein (except to the extent coverage relates to Airline's equipment and personal property). Airline may elect to self-insure for individual projects with a total cost of \$50,000 or less. In addition, Airline or its contractor(s) shall carry not less than \$3 million of commercial general liability (combined single limit liability) and not less than \$3 million per accident combined single limit of automobile liability insurance coverage (including owned, non-owned and hired vehicles) during the period of construction, alteration, refurbishment, demolition, excavation, installation, renovation, or reconstruction.

(vi) Other Property Coverage. Airline shall provide an "All Risk" insurance policy providing protection from direct loss arising out of any fortuitous cause other than those perils or causes specifically excluded by norm and which covers Airline's improvements to the Premises, trade fixtures, and equipment. The City shall be named Loss Payee on such coverage to the extent of the City's interest therein (except to the extent coverage relates to Airline's equipment and personal property).

(C) *Issuers of Policies.* The issuer of each policy required herein shall be a financially sound insurance company authorized to do business in the State of Missouri. Acceptable insurers include insurance companies with an "A.M. Best Company" rating of at least an "A-," or other insurers or insurance syndicates of similar recognized responsibility.

(i) Form of Policies. The insurance may be in one or more policies of insurance.

(ii) Non-waiver. Nothing the City does or fails to do shall relieve Airline from its duties to provide the required coverage hereunder, and the City's actions or inactions shall not be construed as waiving the City's rights hereunder.

(iii) Insured Parties. Each policy, except those for Workers' Compensation and Employer's Liability shall name the City, its officers, agents, and employees as "additional insured" on the certificate of insurance, including all renewal certificates, to the extent of Airline's indemnification obligations hereunder. Upon City's request, Airline shall provide City with an endorsement (unless policy allows for blanket endorsement, of which Airline shall provide reasonable proof) and a certificate consistent with the requirements of this Subsection. Inclusion as an "additional insured" is not intended to, and shall not, make the City a partner or joint venturer with Airline in its operations.

(iv) Deductibles. Airline shall assume and bear any claims or losses to the extent of any deductible amounts and waives any claim it may ever have for the same against the City, its officers, agents, or employees; provided,

however, that nothing herein stated shall diminish Airline's rights or increase Airline's obligations in respect to its undertakings or hold harmless defense and indemnification set forth in Section 1104 hereof.

(v) Cancellation. Each liability policy, except Worker's Compensation and Employer's Liability Insurance, shall expressly state that it may not be cancelled or materially modified unless 30 days, or in the case of War Risk, 7 days, advance Notice is given to the City by the insurance company or authorized representative of Airline.

(vi) Subrogation. Each policy shall contain an endorsement by which the issuer waives any claim or right in the nature of subrogation to recover against the City, its officers, agents, or employees.

(vii) Certification of Primary Insurance. Each policy hereunder except Workers' Compensation shall be primary insurance to any other insurance available to the Additional Insured.

(viii) Liability for Premium. Airline shall be solely responsible for payment of all insurance premiums required pursuant to this Agreement, and the City shall not be obligated to pay any premiums; provided, however, that if Airline fails to obtain the insurance as required herein or make premium payments, the City may, with written notification, effect such insurance or make such payments on Airline's behalf and, after Notice to Airline, the City may recover the cost of those payments with the installment of Fees and Charges next due, plus 15% administrative charge, from Airline.

(ix) Proof of Insurance. Within thirty (30) days of the Commencement Date of this Agreement and at any time during the term hereof, Airline shall furnish the City with certificates of insurance. Airline shall use its best efforts to submit to the City a certificate showing that such insurance coverage has been renewed at least 5 days prior to the expiration of any such policy. If such coverage is canceled or materially modified, Airline shall, within 15 days after the date of such notice from the insurer of such cancellation or material modification, file with the City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon reasonable notification by the City to Airline, the City shall have the right to examine Airline's insurance policies at the Airlines' offices at the Airport.

(D) *Maintenance of Coverage*. Notwithstanding the proof of insurance requirements set forth above, it is the intention of the parties hereto that Airline, continuously and without interruption, maintain in force the required insurance coverages set forth above.

(E) *City Right to Review and Adjust Coverage Limits.* The City reserves the right at reasonable intervals throughout the term of this Agreement to cause the insurance requirements of this Article to be reviewed, at its sole cost, by an independent insurance consultant experienced in insurance for public airports, taking into consideration changes in statutory law, court decisions, or the claims history of the airline industry as well as that of Airline, and, based on the written recommendations of such consultant, after providing adequate notice to and in consultation with Airline, to reasonably adjust the insurance coverages and limits required herein but not more often than every 24 months.

Section 1102. Airline Actions Affecting Insurance

Airline shall not knowingly do or permit to be done anything, either by act or failure to act, that may cause the cancellation or violation of the provisions, or any part thereof, of any policy of insurance for the Airport, or that may cause a hazardous condition so as to increase the risks normally attendant upon operations permitted by this Agreement. If such Airline's act, or failure to act, causes cancellation of any policy, then Airline shall immediately, upon notification by the City, do whatever is necessary to cause reinstatement of said insurance. Furthermore, if Airline does or permits to be done any act or fails to do any act which causes an increase in the City's insurance premiums, Airline shall promptly and timely remedy such actions and/or pay the increase in premiums, upon Notice from the City to do so; but in any event, Airline will hold the City harmless for any expenses and/or damage resulting from any such action.

Section 1103. Damage to Premises

(A) *Minor Damage.* If any part of the Premises, or adjacent facilities directly and substantially affecting the use of the Premises, is partially damaged by fire or other casualty, but said circumstances do not render the Premises unusable as determined by the City, the same shall be repaired to usable condition with due diligence by the City as provided in this Section.

(B) *Substantial Damage.* If any part of the Premises, or adjacent facilities directly and substantially affecting the use of the Premises, is so extensively damaged by fire, or other casualty, as to render any portion of said Premises unusable but capable of being repaired, as determined by the City, the same shall be repaired to usable condition with due diligence by the City as provided in this Section. In such case, the fees payable hereunder with respect to affected Premises shall be paid up to the time of such damage and shall thereafter be abated ratably in the proportion that the unusable area bears to the total Premises of the same category or type of space. Such abatement of fees will continue until the affected Premises are restored adequately for Airline's use. The City shall use its best efforts to provide alternate facilities to continue Airline's operation while repair, reconstruction, or replacement is being completed, but the City shall not be obligated to do so.

(C) *Total Damage.*

(i) If any part of the Premises, or adjacent facilities directly and substantially affecting the use of the Premises, is damaged by fire or other casualty, and is so extensively damaged as to render any portion of said Premises incapable of being repaired, as determined by the City, the City shall notify Airline as soon as practicable under the circumstances after the date of such damage of its decision whether to reconstruct or replace said space. However, the City shall be under no obligation to replace or reconstruct such premises. The fees payable hereunder with respect to affected Premises shall be paid up to the time of such damage and thereafter shall cease until such time as replacement or reconstructed space shall be available for use by Airline.

(ii) If the City elects to reconstruct or replace affected Premises, the City shall use its best efforts to provide alternate facilities to continue Airline's operation while repair, reconstruction, or replacement is being completed, but the City shall not be obligated to do so.

(iii) If the City elects not to reconstruct or replace affected Premises, Airline shall have no further obligation with respect to such affected Premises.

(D) *Scope of Restoration of Premises.*

(i) The City's obligations to repair, reconstruct, or replace affected Premises under the provisions of this Section shall in any event be limited to using due diligence and best efforts to restore affected Premises to substantially the same condition that existed prior to any such damage and shall further be limited by the provisions of Subsections 1103(A)-(C). If the City elects to repair, reconstruct, or replace affected premises as provided in this Section, then Airline shall proceed with due diligence and at its sole cost and expense to repair, reconstruct, or replace its signs, fixtures, furnishings, equipment, and other items provided or installed by Airline in or about the Premises in a manner and in a condition at least equal to that which existed prior to said damage or destruction.

(ii) In lieu of the City's repair, reconstruction, or replacement of the affected premises, as provided in this Section, if Airline requests to perform said function with respect to damage under Subsections 1103(A) and (B), the City may, in its sole discretion, allow Airline to do so. Any such work by Airline must be done in accordance with the requirements of Section 801. The City shall reimburse Airline for the cost of such authorized work performed by Airline as agreed to in writing by Airline and the City. Airline shall be considered to be doing such work on its own behalf and not as an agent or contractor of the City.

(E) *Damage From Airline Negligence.* Notwithstanding the provisions of this Section, if damage to or destruction of the Premises is due to the negligent or willful acts of Airline, its agents, servants, or employees, or those under its control, there shall be no abatement of fees during the restoration or replacement of said Premises. In addition, Airline shall have no option to delete the affected Premises from this Agreement. To the extent that the costs of repairs pursuant to this Section shall exceed the amount of any insurance proceeds payable to the City by reason of such damage or destruction, Airline shall pay the amount of such additional costs to the City. The provisions of this Subsection shall survive the expiration or termination of this Agreement

Section 1104. Indemnification

(A) Airline shall defend, indemnify, and hold harmless St. Charles County, Missouri, St. Clair County, Illinois, St. Louis County, Missouri, the City, their respective officers, agents and employees (the "Indemnified Parties") from and against any and all loss, liability, penalties, damages of whatever nature, causes of action, suits, claims, demands, judgments, injunctive relief, awards, settlements, costs, and expenses, including payments of claims of liability resulting from any injury or death of any person or damage to or destruction of any property including all reasonable costs for investigation and defense thereof (including but not limited to attorneys' fees, court costs and expert fees) of any nature, arising out of a breach by Airline of this Agreement, the conduct of Airline's Air Transportation Business, or the use of the Premises or other areas or facilities at the Airport by Airline, its agents, employees, contractors, or subcontractors, including, but not limited to:

- (i) the acts or omissions of Airline, its agents, employees, contractors, or suppliers; and
- (ii) Airline's use or occupancy of the Airport and the Premises.

Airline shall, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not.

(B) Airline shall defend, indemnify, pay, and hold harmless the Indemnified Parties from and against all applicable taxes and assessments for which the City may become liable and which by law may be levied or assessed on the Premises, or which arise out of the operations of Airline or by reason of Airline's occupancy of its Premises except for any taxes or assessments based on the gross or net income or gross or net receipts of the City that are not allocable to airline-related receipts. However, Airline may, at its own risk, cost, and expense, and at no cost to the City, contest, by appropriate judicial or administrative proceedings, the applicability or the legal or constitutional validity of any such tax or assessment, and the City will, to the extent permitted by law, execute such documents as are necessary to permit Airline to contest or appeal the same. Airline shall be responsible for obtaining bills for all of said taxes and assessments directly from the taxing authority and shall promptly deliver to the City, upon request by the City, copies of receipts of

payment. If the City receives any tax billings falling within the scope of this paragraph, it will forward promptly and timely said billings to Airline. Airline shall, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not.

(C) Airline shall defend, indemnify, and hold harmless the Indemnified Parties from and against any claim, suit, demand, action, liability, loss, damage, judgment, or fine, and all costs and expenses of whatever kind or nature associated therewith in any way arising from or based in whole or substantial part upon claim or allegation of a violation of any federal, state, or local laws, statutes, resolutions, regulations, ordinance, or court order affecting the Airport, by Airline, its agents, employees, contractors, or suppliers, in conjunction with Airline's use and/or occupancy of the Premises or its operations at the Airport. Airline will, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not. Airline shall include the substance of this Subsection (C) in every contract or other agreement which Airline may enter into related to its activities at the Airport, and any such contract or other agreement shall specifically provide that the City is a third-party beneficiary of this and related provisions. This provision does not constitute a waiver of any other condition of this Agreement prohibiting or limiting assignments, subletting or subcontracting.

(D) Airline shall defend, indemnify, and hold harmless the Indemnified Parties from and against any claim, suit, demand, action, liability, loss, damage, judgment, or fine, and all costs and expenses of whatever kind or nature arising from or based in whole or part upon the presence in, or the release into, the environment or the Airport of any Hazardous Materials to the extent caused by, or resulting from, the acts or omissions of Airline or its agents, employees, contractors, invitees, licensees, or suppliers at the Airport whether resulting from negligent conduct or otherwise.

(E) If a prohibited incursion into the air operations area occurs, or if the Airfield Operations Area or sterile area security is breached, by or due to the negligence or willful act or omission of any of Airline's employees, agents, contractors, or suppliers, and such incursion or breach results in a civil penalty action against the City, Airline shall assume the defense of any such action and be responsible for any civil penalty or settlement amount required to be paid by the City as a result of such incursion or breach. The City shall promptly and timely notify Airline of any allegation, investigation, or proposed or actual civil penalty sought for such incursion or breach. Civil penalties and settlement and associated expenses reimbursable under this paragraph include but are not limited to those paid or incurred as a result of violation of FAA or TSA regulations or security directives.

(F) Airline's obligation to defend and indemnify past officers, employees, and agents of the City shall apply to such persons only for claims, suits, demands, actions, liability, loss, damages, judgments, or fines arising from events, occurrences, and circumstances during which said officers, employees, and agents held their office or position with the City.

(G) The City shall promptly notify Airline of each claim, action, proceeding, or suit in respect of which indemnity may be sought by the City against Airline hereunder, setting forth the particulars of such claim, action, proceeding or suit; shall furnish Airline with a copy of all judicial filings and legal process and any correspondence received by the City related thereto; and shall tender the defense of same to Airline.

(H) The duty to defend, indemnify, hold harmless, and reimburse shall apply to any claim, demands, or suits made against the City for which Airline is responsible pursuant to this Section. Provided, however, that upon the filing by anyone of a claim with the City for damages arising out of incidents for which Airline herein agrees to indemnify and hold the City harmless, the City shall promptly notify Airline of such claim and, if Airline does not settle or compromise such claim, then Airline shall undertake the legal defense of such claim both on behalf of Airline and on behalf of the City, at Airline's expense; provided, however, that Airline shall promptly and timely notify City if a conflict between the interests of Airline and City arises during the course of such representation. Airline shall use counsel reasonably acceptable to the City Counselor of the City or his or her designee, after consultation with the Airport Director, in carrying out its obligations hereunder. The provisions of this Section shall survive the expiration or termination of this Agreement. It is specifically agreed, however, that the City, at its option and at its own expense, may participate in the legal defense of any claim defended by Airline in accordance with this Section. Any final judgment rendered against the City for any cause for which Airline is liable hereunder shall be conclusive against Airline as to amount upon the expiration of the time for appeal therefrom. Nothing in this Article shall be deemed a change or modification in any manner whatsoever of the method or conditions of preserving, asserting, or enforcing any claim of legal liability against the City. This Section shall not be construed as a waiver of the City's sovereign or other immunity.

(I) The City, at its own expense except as otherwise provided herein, shall be invited to attend and participate in all meetings (including those related to settlement) and to appear and participate in all judicial proceedings and to the extent of its interests, approve, in writing, the terms of any settlement related to any claim, action, proceeding or suit set forth in this Section.

(J) Notwithstanding the provisions of this Section, Airline shall have no obligation to defend, indemnify, or hold harmless the City for any consequential damages, lost profits or other special damages, or for any amounts to be paid in connection with losses, liabilities, penalties, damages of whatever nature, causes of action, suits, claims, demands, injunctive relief, judgments, awards and settlements because, and to the extent, of the negligence or willful misconduct of the Indemnified Parties, but only if the Indemnified Parties are conclusively determined to be more than 10% liable due to contributory negligence.

(K) This Section shall survive the expiration or termination of this Agreement. Airline understands and agrees that any insurance protection furnished by Airline

pursuant to Section 1101 shall in no way limit Airline's responsibility to indemnify and hold harmless the City under the provisions of this Agreement.

Section 1105. City Not Liable

Unless otherwise expressly provided for in this Agreement, the City shall not in any event be liable to Airline for:

- (A) any acts or omissions of Airline, its officers, directors, employees, agents, contractors, or suppliers, or for any conditions resulting from the operations or activities of Airline's directors, officers, employees, agents, contractors, or suppliers;
- (B) Airline's failure to perform any of the obligations hereunder or for any delay in the performance thereof;
- (C) any environmental condition in existence at the Airport, or any part thereof, which condition may interfere with Airline's business or other operations or activities, or which might otherwise cause damages to Airline through loss of business, destruction of property, or injury to Airline, its officers, directors, employees, agents, contractors, suppliers, passengers, invitees, or licensees except to the extent such conditions are caused by the City, its employees or agents; or
- (D) bodily injury or any loss or damage to real or personal property or business income occasioned by flood, fire, smoke, earthquake, lightning, windstorm, hail, explosion, riot, strike, civil commotion, vandalism, malicious mischief, or acts of war or terrorism, or for any injury, loss or damage not caused by the negligence, willful misconduct, or bad faith of the City.

ARTICLE XII ASSIGNMENT AND SUBLETTING

Section 1201. [Intentionally Left Blank]

Section 1202. Assignments

Airline shall not assign, transfer, convey, sell, mortgage, pledge, or encumber (hereinafter collectively referred to as "Assignment") this Agreement.

Section 1203. [Intentionally Left Blank]

Section 1204. Subleases

Airline shall not sublease its Premises.

ARTICLE XIII DEFAULT

Section 1301. Events of Default

Each of the following constitutes an "Event of Default" under this Agreement:

- (A) Airline fails to punctually pay when due any Fees and Charges, or any other sum required to be paid hereunder, or fails to remit any PFC when due, or fails to comply with its PFC reporting requirements to the City, and such failure continues for a period of 15 days after Notice of non-payment or non-remittance has been given to Airline by the City.
- (B) Airline fails to keep, perform and observe any promise, covenant or other provision of this Agreement for a period of 30 days after Notice specifying such failure by the City; provided, however, that any such failure which can be cured, but which cannot with due diligence be cured within such 30 day period, shall not give rise to an Event of Default if corrective action is instituted by Airline within such 30 day period and diligently pursued until the failure is corrected.
- (C) Any representation or warranty of a material fact made by Airline herein or in any certificate or statement furnished to the City pursuant to or in connection herewith proves untrue in any material respect as of the date of issuance or making thereof, and such materiality is then continuing.
- (D) Airline discontinues its Air Transportation Business at the Airport for a period of 60 consecutive days or, after exhausting or abandoning any further appeals, Airline is prevented for a period of 60 consecutive days by action of any governmental agency other than the City from conducting its Air Transportation Business at the Airport.
- (E) Airline fails to meet and maintain any of the Security Deposit requirements in accordance with Section 506 for a period of 10 days after Notice of such failure by the City.
- (F) Airline fails to maintain the minimum required insurance coverage as required by Section 1101 for a period of 30 days after Notice specifying such failure by the City, provided that the City shall have the right to immediately suspend Airline's right to operate at the Airport until Airline has obtained the minimum required insurance coverage.
- (G) Airline fails to maintain true and accurate books, records, and accounts resulting in an underpayment of Fees and Charges by Airline to the City, and such underpayment continues for a period of 6 months.
- (H) Airline becomes insolvent (as such term is defined under Section 101 of the Federal Bankruptcy Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code"), or any successor statute thereto); or fails to pay its debts generally as they mature; or takes

the benefit of any present or future federal or state insolvency statute; or makes a general assignment for the benefit of creditors.

(I) Airline files a voluntary petition in bankruptcy or a petition or answer seeking an arrangement of its indebtedness under the Bankruptcy Code or under any other law or statute of the United States or of any state thereof, or under any law or statute of another country; or consents to the appointment of a receiver, trustee, custodian, liquidator, or other similar official, of all or substantially all of its property; or an order for relief is entered by or against Airline under any chapter of the Bankruptcy Code.

(J) Airline is adjudged a debtor or bankrupt and/or an order is made approving a petition filed by any of Airline's creditors or stockholders seeking Airline's liquidation or reorganization under the Bankruptcy Code or under any other law or statute of the United States or any state thereof, and such order or decree is not stayed or vacated within 60 days of its issuance.

(K) A petition under any chapter of the Bankruptcy Code or an action under any federal or state insolvency law or statute, or an action under any insolvency law or statute of another country is filed against Airline and is not dismissed or stayed within 60 days after the filing thereof.

(L) By or pursuant to, or under authority of any legislative act, resolution, or rule, or any order or decree of any court or governmental board, agency or officer, a receiver, trustee, custodian, liquidator, or other similar official takes possession or control of all or substantially all of the property of Airline and such possession or control continues in effect for a period of 60 days.

(M) Airline becomes a business entity in dissolution.

(N) The letting, license, or other interest of or rights of Airline hereunder is transferred to, passed to, or devolved upon, by operation of law or otherwise, any other person, firm, corporation, or other entity, by, in connection with or as a result of any bankruptcy, insolvency, trusteeship, liquidation, or other proceedings or occurrence described in subparagraphs (H) through (M) of this Section.

(O) In accordance with the provisions of 14 C.F.R. Part 158, App. A(B)(7), as it may be amended from time to time, if any of Airline's Premises is financed in whole or in part with PFC revenue, and if Airline has an exclusive lease or use agreement for facilities at the Airport ("Exclusive Facilities"), any portion of such Exclusive Facilities is not fully utilized and is not made available for use by potentially competing airlines.

Section 1302. Termination by the City

(A) Whenever an Event of Default has occurred, the City may at its option, immediately and without further notification of such Event of Default, terminate this Agreement and/or Airline's rights granted hereby, but without discharging any

of Airline's obligations hereunder and, at the City's further option, exclude Airline from its Premises.

(B) The remedies set forth in this Article shall be in addition to all other remedies which are or may be available to the City at law or in equity to enforce the performance and observance of any obligation, agreement or covenant of Airline hereunder, including collection of amounts due.

(C) All rights and remedies given to the City herein and all rights and remedies granted to the City by law shall be cumulative and concurrent. No termination of this Agreement or the taking or recovering of the Premises shall deprive the City of any of the City's remedies or actions against Airline for Fees and Charges or for damages or for the breach of any covenant herein contained, nor shall the bringing of any action for Fees and Charges or breach of covenant, the resort to any other remedy herein provided for the recovery of Fees and Charges, or any delay in exercising such rights, be construed as a waiver of the right to obtain possession of the Premises.

(D) In no event shall this Agreement or any rights or privileges hereunder be an asset of Airline under any bankruptcy, insolvency, or reorganization proceedings.

ARTICLE XIV SURRENDER OF PREMISES

Section 1401. Surrender of Premises

(A) *Surrender of Premises.* On expiration or termination of this Agreement, or on reassignment or reallocation of the Premises as provided herein, Airline shall:

(i) peaceably surrender possession of the Premises and other space made available to Airline hereunder in a clean, sanitary, and good condition, excepting only reasonable wear and tear (taking into account repair and maintenance required to be done by Airline), acts of God, fire, and other casualties, and conditions that can be shown by Airline existed prior to Airline's use of the Premises, and the City shall have the right to take possession of said Premises and other space made available to Airline hereunder; and

(ii) return the Premises to the City in a condition such that Hazardous Materials which were placed, stored, used, generated, treated, released, discharged, disposed, and/or spilled on, under, or about the Premises by Airline, its officers, directors, employees, agents, contractors, or suppliers do not exceed allowable levels established under applicable Environmental Laws and Environmental Permits in accordance with Section 1002(C). If the City is required under applicable Environmental Laws to undertake actions to bring the Premises into compliance with this provision, or any applicable Environmental Laws or Environmental Permits as a result of Airline's failure to timely correct same in accordance with Subsection

1002(C), Airline shall reimburse the City for any Remediation Costs incurred by the City, as provided for in Subsection 1002(E).

The City shall not be required to notify Airline to quit possession at the expiration of the term of this Agreement.

(B) *Removal of Personal Property.* Provided Airline is not in default for non-payment of Fees and Charges, or any other payment due hereunder, or non-remittance of PFCs, Airline shall have the right, on expiration or termination of this Agreement and within 30 days thereafter, to remove or dispose of all trade fixtures and equipment and other personal property installed or placed by Airline, in, on, or about the Airport. Airline shall not be entitled to remove non-trade fixtures without the advance consent of the City. If, following the expiration or termination of this Agreement, the City has immediate need to accommodate a new tenant, the City may remove and store Airline's trade fixtures, equipment and personal property, at Airline's risk.

(C) *Removal Damages.* Airline shall repair any damage caused by the removal of its trade fixtures, equipment, or personal property. Removal shall be at Airline's expense. Notwithstanding the above, consideration shall be given to the intended long-term use of the premises and if the City determines that such premises would not be maintained for a period warranting the repairs indicated above, the City may alter or waive the repair requirement of this Subsection. If the Premises are yielded or delivered to the City in need of repair, reconditioning, or restoration to the condition that existed when Airline first used the Premises pursuant to this Agreement or any preceding agreement (reasonable wear and tear taking into account repair and maintenance required to be done by Airline excepted), after reasonable notification by the City to Airline, the City shall repair or recondition said Premises and the cost thereof, plus actual administrative costs, shall be invoiced to Airline and payable immediately. The City shall determine the condition of the Premises at the expiration or termination of this Agreement.

(D) *Ownership of Fixtures and Personal Property Not Removed.* If, after 30 days following the expiration or termination of this Agreement, Airline fails to remove its fixtures and other personal property from the Premises, such fixtures and personal property may be deemed abandoned. In addition to whatever other rights are available to the City, with prior notification of Airline, the City may: (i) remove, sell, or store Airline property at Airline's expense, or (ii) take title to Airline property in lieu of removal on behalf of Airline. If the City takes title to such property or otherwise disposes of the property, the City shall be entitled to all proceeds of sale of such Airline property as liquidated damages for the breach of this covenant to remove.

**ARTICLE XV
MISCELLANEOUS PROVISIONS**

Section 1501. Relationship of Parties

Nothing herein contained is intended or shall be construed to create or establish a relationship of lessor and lessee between the City and Airline, and nothing herein shall be construed to establish any partnership, joint venture or association or to make Airline the general representative or agent of the City for any purpose whatsoever.

Section 1502. Amendment

Except as otherwise expressly provided herein, this Agreement may not be changed, modified, discharged, or extended except by written amendment duly executed by the parties.

Section 1503. Subordination to Agreements with the United States

(A) This Agreement shall be subordinated to the provisions of any existing or future agreement between the City and the United States Government or governmental authority, relating to the operation or maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of federal funds or the approval to impose or use PFCs for the improvement or development of the Airport. Airline shall not cause the City to violate any assurances made by the City to the United States Government in connection with the granting of such federal funds or the approval of such PFCs.

(B) All provisions of this Agreement shall be subordinate to the rights of the United States of America to operate all of the Airport or any part thereof during time of war or national emergency. Such rights shall supersede any provisions of this Agreement inconsistent with the operation of the Airport by the United States of America.

Section 1504. Subordination to Trust Indenture

(A) This Agreement and all rights granted to Airline hereunder are expressly subordinated and subject to the lien and provisions of the pledges, covenants (including rate covenants), transfers, hypothecation, or assignments made by the City in the Trust Indenture and any Bond ordinance (including related documents authorized or approved by such ordinance) enacted by the City regarding the issuance of Bonds. The 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 therefor.

(B) Airline understands that the City is and will be the issuer of Bonds. With respect to outstanding Bonds that may be issued in the future, the interest on which is intended to be excludable from gross income of the holders of such Bonds for

federal income tax purposes under federal law, Airline shall 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 Premises, if the act or failure to act may cause the City to fail to be in compliance with the provisions of federal law with respect to those types of Bonds, as it now exists or may be amended, supplemented, or replaced, or the regulations or rulings issued thereunder, nor will Airline take, or persist in, any action or omission that may cause the interest on the tax-exempt Bonds either (i) not to be excludable from the gross income of the holders thereof for federal income tax purposes; or (ii) to become subject to the alternative minimum tax for federal income tax purposes.

Section 1505. Certificate in Connection with Issuance of Bonds

In connection with any issuance of Bonds by the City, upon not less than 30 days prior request by the City, Airline shall deliver to the City a statement in writing certifying, to the extent true:

- (A) that this Agreement is unmodified and in full force and effect (or if there have been modifications, a description of such modifications and that the Agreement as modified is in full force and effect);
- (B) that to Airline's knowledge the City is not in default under any provision of this Agreement, or, if in default, the nature thereof in detail; and
- (C) such further matters as may be reasonably requested by the City, it being intended that any such statement may be relied upon by the parties involved in such issuance of Bonds.

Section 1506. No Third Party Beneficiaries

This Agreement is for the sole benefit of the parties hereto and their permitted assigns and nothing herein expressed or implied shall give or be construed to give to any person or entity other than the parties hereto and their assigns any legal or equitable rights hereunder.

Section 1507. Counterparts

This Agreement may be executed in one or more counterparts.

Section 1508. Exhibits

All certificates, documents, exhibits, attachments, riders, and addenda referred to herein, including the exhibits referred hereto, are hereby incorporated into this Agreement by reference and made a part hereof as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

Section 1509. Survival of Warranties

All warranties and covenants set forth in this Agreement shall survive the execution and performance of this Agreement.

Section 1510. Quiet Enjoyment

Upon payment of all amounts due hereunder and performance of the covenants and agreements on the part of Airline to be performed hereunder, the City shall not act or fail to act, except as otherwise provided by this Agreement, in a manner that will prevent Airline from peaceably having and, in accordance with the terms hereof, enjoying the Premises and all rights, licenses, services, and privileges of the Airport and its appurtenances and facilities granted herein.

Section 1511. No Personal Liability

(A) The City shall not be liable for any acts or omissions of any airline, or any condition resulting from the operations or activities of tenants or their representatives. Except as expressly set forth in this Agreement or as a matter of law, Airline shall not be liable for any acts or omissions of any other airline or the City or any condition resulting from the operations or activities of other tenants of the City or their representatives.

(B) No director, officer, employee, or agent of the City or Airline shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or because of any breach hereof or because of its or their execution of this Agreement. Any administrative complaint brought against the City relating to any aspect of this Agreement shall be brought against the City and not against named individual respondents.

Section 1512. Governing Law and Forum Selection

This Agreement is made and entered into in the State of Missouri, and Missouri law shall govern and apply to this Agreement. Any cause of action, claim, suit, demand, or other case or controversy arising from or related to this Agreement shall be brought only in a federal or state court in the City of St. Louis, Missouri. Airline and the City hereby admit and consent to the jurisdiction and venue of such courts. The provisions of this section shall survive the expiration or termination of this Agreement.

Section 1513. Communications and Notices

(A) Except as otherwise expressly provided in this Agreement, all communications, including notifications, requests, authorizations, approvals, demands, and consents provided for hereunder shall be in writing.

If to the City, to:

Airport Director
Lambert-St. Louis International Airport
10701 Lambert International Boulevard
St. Louis, Missouri 63145

with copy to:

Airport Properties Department
Lambert-St. Louis International Airport
10701 Lambert International Boulevard
St. Louis, Missouri 63145

If to Airline, to:

Manager, Operations Planning
Southern Air Inc.
7310 Turfway Road, Suite 400
Florence, KY 41042

or to such other person or address as either the City or Airline may hereafter designate by Notice to the other in accordance with Subsection 1513(B).

(B) All Notices required by this Agreement shall be mailed via certified mail return-receipt requested, via overnight mail with receipt, or personally delivered to the City and Airline at the addresses set forth in Subsection 1513(A), with copy to:

If to the City:

Office of the City Counselor
Airport Legal Department
10701 Lambert International Boulevard
St. Louis, Missouri 63145

If to Airline:

Manager, Operations Planning
Southern Air Inc.
7310 Turfway Road, Suite 400
Florence, KY 41042

or to such other person or address as either the City or Airline may hereafter designate by Notice.

Except as otherwise expressly provided hereunder, any such Notice shall be deemed to have been given or made: (i) if sent by certified mail, 5 days after being

deposited in the mails, postage prepaid and properly addressed; (ii) if via overnight mail, the next business day; and (iii) if delivered by personal service, when delivered to the addressee.

Section 1514. Force Majeure

(A) Neither party hereto shall be liable to the other for any failure, delay, or interruption in performing its obligations hereunder due to acts, events or conditions beyond its control, including acts of God, weather conditions, shortages of energy or materials, embargoes, riots, rebellions, sabotage, acts of a public enemy, war, terrorism, insurrection, strikes, boycotts, picketing, slow-downs, work stoppages or other labor actions affecting the rights or obligations of the City or Airline hereunder, their respective contractors or subcontractors, except to the extent that such failure, delay or interruption directly or indirectly results from failure on the part of the City or Airline, as applicable, to use reasonable care to prevent, or make reasonable efforts to cure, such failure, delay or interruption; provided, however, that, except as herein specifically provided, nothing in this Section is intended or shall be construed to abate, postpone or in any respect diminish Airline's obligations to make any payments due to the City pursuant to this Agreement.

(B) The City shall be under no obligation to supply any service if and to the extent and during any period that the supplying of any such service or the use of any component necessary therefor shall be prohibited or rationed by any law, ordinance, rule, regulation, requirement, order or directive of any federal, state, county or municipal government having jurisdiction.

Section 1515. Invalid Provisions

If any covenant, condition, or provision in this Agreement is held to be invalid, illegal, or unenforceable by any court of competent jurisdiction, or conclusively determined to be inconsistent with federal law or FAA grant assurances, such covenant, condition, or provision shall be deemed amended to conform to applicable laws so as to be valid or enforceable or, if it cannot be so amended without materially altering the intention of the parties, it shall be stricken. If stricken, all other covenants, conditions and provisions of this Agreement shall remain in full force and effect provided that the striking of such covenants, conditions or provisions does not materially prejudice either the City or Airline in its respective rights and obligations contained in the valid covenants, conditions, or provisions of this Agreement.

Section 1516. No Waiver

No provision of this Agreement shall be deemed to have been waived by either party unless such waiver is in writing, signed by the party making the waiver and addressed to the other party, nor shall any custom or practice that may evolve between the parties in the administration of the terms of this Agreement be construed to waive or lessen the right

of either party to insist upon the performance of the other party in strict accordance with the terms of this Agreement.

Section 1517. City's Rights and Remedies are Cumulative

All rights and remedies of the City as provided herein and under law are cumulative in nature.

Section 1518. Construction of Agreement

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. The parties further acknowledge that this Agreement shall not be construed against the City by reason of the preparation of this Agreement by the City.

Section 1519. Timing

The parties expressly agree that time is of the essence in this Agreement. Failure by a party to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall relieve the other party, without liability, of any obligation to accept such performance.

Section 1520. Representatives

The City and Airline shall each designate a representative who, except as otherwise provided hereunder, shall be authorized to act for the City and Airline, respectively, with respect to any actions to be taken by either of them under the terms of this Agreement. Except as specifically set forth herein, for the purposes of actions to be taken by it or by the City, the City's representative shall be the Airport Director. Airline's representative shall be designated by notifying the City. Any party hereto may change its designated representative by notifying the other party.

Section 1521. Approvals

(A) Unless otherwise required by state or local law, wherever in this Agreement the approval, authorization, consent, certification, determination, waiver, or any other action of the City is required, it may be performed by the Airport Director, unless otherwise provided herein. In taking such actions, the Airport Director shall act reasonably, and take into consideration the best interest of the traveling public and the operations of the Airport.

(B) In all instances in this Agreement where consent or approval of one party is required for an action by the other party, such consent shall be in writing unless otherwise agreed by the parties.

(C) Whenever in this Agreement any approval is required, such decision shall be promptly rendered and shall not be unreasonably withheld or conditioned. No disapproval shall be valid if such disapproval constitutes an anticompetitive act as described by a federal agency having jurisdiction over such matters.

Section 1522. Successors and Assigns

The terms, conditions, and covenants of this Agreement shall inure to the benefit of, and be binding upon, the parties hereto and upon their permitted successors, assigns and sublessees, if any. This provision shall not constitute a waiver of any prohibition regarding Assignment or subletting contained in this Agreement.

Section 1523. Authority to Execute

The person(s) executing this Agreement on behalf of Airline warrants to the City that Airline is a duly authorized and existing corporation, that Airline is qualified to do business in the State of Missouri, that Airline has full right and authority to enter into this Agreement, and that each and every person signing on behalf of Airline is authorized to do so.

Section 1524. Entire Agreement

This Agreement, including the attached exhibits, embodies the entire agreement between the City and Airline relating to the subject matter hereof, and supersedes all prior agreements and understandings, written or oral, express or implied, between the City and Airline relating thereto.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement as of the last date written below.

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®:

The foregoing Agreement was approved by the Airport Commission at its meeting on April 6, 2016.

By:

[Signature] 4/6/16
Commission Chairman and Director of Airports Date

The foregoing Agreement was approved by the Board of Estimate and Apportionment at its meeting on May 18, 2016. (BB58)

By:

[Signature] 6-17-16
Secretary, Board of Estimate & Apportionment Date

APPROVED AS TO FORM ONLY:

COUNTERSIGNED:

[Signature] 6-11-16 [Signature] 6/24/16
City Counselor Date Comptroller Date

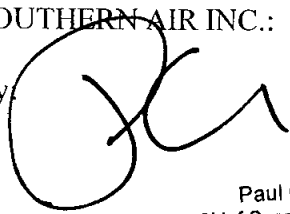
ATTESTED:

[Signature] JUN 27 2016
Register Date

COMPTROLLER'S OFFICE
DOCUMENT NUMBER 70185

SOUTHERN AIR INC.:

By:



Paul Chase
Chief Operating Officer

Title:

Date

1/19/16

ATTESTED:

By:



VP of Supply, IT, Services

Title:

Date

Confidential
garvinm@stlouis-mo.gov
2020-01-15 17:02:51 +0000

**CITY OF ST. LOUIS
LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®
AIRLINE OPERATING AGREEMENT
AND
TERMINAL BUILDING SPACE PERMIT
CARGO ADDENDUM
SOUTHERN AIR INC.**

This Cargo Addendum, is dated _____, 201_, and is between The City of St. Louis, a municipal corporation of the State of Missouri ("City"), and Southern Air Inc., a corporation organized and existing under the laws of the State of Delaware ("Airline").

RECITALS

Airline is engaged in the business of providing commercial air transportation of property ("Air Cargo").

Airline wishes to provide Air Cargo services at the Airport and, to that end, desires to enter into an Airline Operating Agreement and Terminal Building Space Permit ("Agreement") for the use of the Airport.

The City is willing to grant Airline certain rights and privileges for the use of the Airport and its facilities upon the terms and conditions set forth in the Agreement.

The parties therefore agree as follows:

Section 101

The parties acknowledge that Airline, as an Air Cargo Airline, shall not operate from the Terminal Buildings (as defined in the Agreement), and that, consequently, all rights and obligations set forth in the Agreement with respect to the use of the Premises shall be inapplicable, including, but not limited to, the following Sections, Subsections and Exhibits to the Agreement: Subsections 301(A), (H), (L), (M), and (R); Sections 401-409, 502, and 504; Subsection 505(B); Sections 709, 801, 901, 903, 1103, 1204; and Exhibit B.

Section 102

Airline shall arrange for operating space separate from this Agreement with the City or with a third-party Airport tenant whose rights include providing such space. In addition, should Airline require to purchase ground handling services at the Airport, Airline shall make the appropriate arrangements through a third-party Airport tenant whose rights include providing such ground handling services to Air Cargo airlines. The City retains the right to review and approve any agreement for operating space and/or ground handling services entered into between Airline and such third-party Airport tenant prior to the commencement of Airline's operations at the Airport.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement as of date first written above.

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®:

Pursuant to Ordinance 70273, approved May 25, 2016.

The foregoing Cargo Addendum was approved by the Airport Commission at its meeting on April 6, 2016.

By:

[Signature] 6-23-16
Airport Commission Chairman Date

The foregoing Cargo Addendum ~~was~~ approved by the Board of Estimate and Apportionment at its meeting on May 18, 2016. (BB58)

By:

[Signature] 6-17-16
Secretary, Board of Estimate & Apportionment Date

APPROVED AS TO FORM ONLY:

COUNTERSIGNED:

[Signature] 6-11-16
City Counselor Date

[Signature] 6/23/16
Comptroller Date

ATTESTED:

[Signature] JUN 27 2016
Register Date

COMPTROLLER'S OFFICE
DOCUMENT NUMBER 70185

SOUTHERN AIR INC.

By:



Paul Chase
Chief Operating Officer

1/19/16

Title:

Date

ATTESTED:

By:



VP of Supply, IT, & Services

Title:

Date

Confidential
garvinm@stlouis-mo.gov
2020-01-15 17:02:51 +0000

Confidential
garvinm@stlouis-mo.gov
2020-01-15 17:02:51 +0000

EXHIBIT "B"

LEASED PREMISES

Confidential
garvinm@stlouis-mo.gov
2020-01-15 17:02:51 +0000

EXHIBIT "B" ON LINE ACCESS INSTRUCTIONS
LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT

Please follow these instructions to review Exhibit "B", Leased Premises:

1. Go to <https://asa0003.lambert-stl.org>.
2. If you get a window that states "There is a problem with this sites security certificate:"
 - a. Click "Continue to this website (not recommended)"
3. Sign in as follows:
 - a. Group: lFile Transfer
 - b. Username: ftpuser
 - c. Password (case sensitive): STLagreement
4. Click: "Continue"
5. Click on: "SecureFTP" link
6. Sign in again using same credentials in #3 above.
7. Double click on: "StlExhB070116.pdf"
8. Choose "Save"
9. Once the document is saved, click on "Logout" in the upper, right hand corner.

EXHIBIT "C"

STATISTICAL REPORT FORMS

Confidential
garvinm@stlouis-mo.gov
2020-01-15 17:02:51 +0000

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®
MONTHLY STATISTICAL REPORT
DOMESTIC FLIGHTS ONLY

Month of: _____

Airline: _____

Please send to:
 Accounting Manager
 P.O. Box 10036
 St. Louis, MO 63145
 314-426-1221 Fax
 AirportActivityReports@flystl.com

ITEM

1) FLIGHT OPERATIONS
 (Number of Flights)

2) PASSENGERS*

Originating

Terminating

CONNECTING:

Interline (Off Line)

Intraline (On Line)

TOTAL PASSENGERS

3) MAIL

(Pounds)

4) CARGO

Express

Freight

TOTAL CARGO (Pounds)

IN	OUT	TOTAL
OFF	ON	TOTAL

OFF	ON	TOTAL
OFF	ON	TOTAL

- (*) Originating Passengers: Beginning in STL
 Terminating Passengers: Terminating in STL
 Interline Passengers: Transferring between flights on different airlines
 Intra-line Passengers: Transferring between flights on same airline

Certified by: _____

Title: _____

July 1, 2016

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®

MONTHLY STATISTICAL REPORT INTERNATIONAL FLIGHTS ONLY

Month of: _____

Airline: _____

Please send to:
Accounting Manager
P.O. Box 10036
St. Louis, MO 63145
314-426-1221 Fax
AirportActivityReports@flystl.com

ITEM

1) INT'L. FLIGHT OPERATIONS (Number of Flights)
2) INT'L. PASSENGERS*
Originating International
Terminating International
TOTAL INT'L. PASSENGERS
3) Total Passengers Clearing Federal Inspection Service
4) MAIL
TOTAL INT'L. MAIL (POUNDS)
5) CARGO
Express
Freight
TOTAL INT'L. CARGO (Pounds)

IN	OUT	TOTAL
OFF	ON	TOTAL

x \$2.50		\$ _____
(FIS Fee)		
OFF	ON	TOTAL
OFF	ON	TOTAL

- (*) Originating Passengers: Beginning in STL
 Terminating Passengers: Terminating in STL
 Interline Passengers: Transferring between flights on different airlines
 Intraline Passengers: Transferring between flights on same airline

Certified by: _____

Title: _____

July 1, 2016

MAKE ALL CHECKS PAYABLE TO: TREASURER, CITY OF ST. LOUIS
SEND TO: AIRPORT ASSISTANT DIRECTOR OF FINANCE, P.O. BOX 10036
ST. LOUIS, MO 63145 (314)426-1221 fax or AirportActivityReports@

Listed below is the landing weight report of

for the month of _____ 20____

TYPE OF AIRCRAFT	NUMBER OF SCHEDULED REVENUE ARRIVALS	NUMBER OF UNSCHEDULED REVENUE ARRIVALS*	CERTIFIED WEIGHT EACH LANDING	TOTAL CERTIFIED LANDING WEIGHT	for the month of _____, 20__	
					LANDING FEE RATE PER THOUSAND POUNDS	MONTHLY LANDING FEE
				0		\$0.00
						\$0.00
						\$0.00
						\$0.00
TOTALS						\$0.00

PLEASE LIST ALL ACTIVITY GRANTED LANDING FEE WAIVERS UNDER STL'S AIR SERVICE INCENTIVE PROGRAM BELOW:		
DESTINATION		NUMBER OF

[illegible]

In accordance with the Agreement, this report is due by the 15th of each month along with the Landing Fee Payment.

*Including diverted flights
As of July 2016

11/23/2015

Certified by:

title,

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®
MONTHLY GATE UTILIZATION REPORT

Month/Year: _____
Airline: _____
Gate Number: _____
Total Airline Flight Departures: _____

Please send to:
Accounting Manager
P.O. Box 10036
St. Louis, MO 63145
314-426-1221 Fax
AirportActivityReports@flystl.com

<u>Airline:</u>	<u>Scheduled Departures:</u>	<u>Other Departures:</u>	<u>Airline Total:</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Totals:	_____	_____	_____

Certified by: _____

Title: _____

This Report of due on the 15th day of the month
for the preceding calendar month.

July 1, 2016

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®
REMOTE PARKING FEE REPORT

Month/Year: _____

Airline: _____

Designated Affiliate: _____

(if applicable, i.e. Trans States d/b/a United Express)

Please send to:
Accounting Manager
P.O. Box 10036
St. Louis, MO 63145
314-426-1221 Fax
AirportActivityReports@flystl.com

Please report below the number of occurrences of any aircraft parked for a period of time in excess of four (4) hours at anywhere other than the Airline's designated Aircraft Parking Position(s), during the month above stated:

<u>Number of Occurrences</u>	<u>Rate per Occurrence</u>	<u>Amount Due</u>
_____	\$100.00	\$ _____

Certified by: _____

Title: _____

This Report is due no later than 30 days after the end of each calendar month.

July 1, 2016

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®
AIRLINE FOOD AND BEVERAGES SOLD REPORT

Month/Year: _____

Airline: _____

Please send to:
Accounting Manager
P.O. Box 10036
St. Louis, MO 63145
314-426-1221 Fax
AirportActivityReports@flystl.com

	<u>Total Sales</u>		<u>Rate</u>	<u>Amount Due</u>
Food	\$ _____	x	7.00%	\$ _____
Beverages	\$ _____	x	7.00%	\$ _____
TOTAL	_____			\$ _____

Certified by: _____

Title: _____

This Report of due on the 15th day of the month
for the preceding calendar month.

July 1, 2016

Confidential
garvinm@stlouis-mo.gov
2020-01-15 17:02:51 +0000

Lambert-St Louis International Airport®
Division of Responsibility for Maintenance and Operation
July 1, 2016

Equipment

Exhibit G

	Inbound and Outbound Baggage Handling Systems	City-Owned Loading Bridges Acquired Before July 1, 2011 ¹	City-Owned Loading Bridges Acquired On or After July 1, 2011 ¹	Airline - Owned Loading Bridges	Elevators, Escalators and Moving Sidewalks ²	Public Address System	MUFIDS	Triturator
Maintenance and Repair	C	A ³	C	A	C	C	C	C
Replacement	C	A ³	C ³	A	C	C	C	C
Cleaning	C	A	C	A	C	C	C	C

Other Areas

	Airfield	Terminal Apron	Airport Roadways
Maintenance and Repair	C	C	C
Replacement	C	C	C
Cleaning	C	C ⁴	C
Snow Removal	C	C ⁵	C
Lighting	C	C	C

Notes:

1. Including ground power unit(s), pre-conditioned air, and potable water cabinets.
2. Maintenance and repair, replacement, and cleaning of elevators within Airline's Exclusive Use Space is the responsibility of Airline.
3. Airline responsibility unless another City-owned Loading Bridge is available.
4. Except for foreign object debris, which is Airline responsibility.
5. Except for pedestrian clearance.

A - Airline

C - City

CS:01 WD CS MNC L102

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11-6-15

REGISTERED JUL 10
RECEIVED

Lambert-St Louis International Airport®
Division of Responsibility for Maintenance and Operation
July 1, 2016

Terminal Buildings

Exhibit G

	Ticket Queuing	Preferential Baggage and Exclusive	Preferential Gates	Common Use	Joint Use	Public	Mechanical	Apron-Level Unenclosed Space
Building Interior								
Custodial Service	C	A	A	C	C	C	C	A
Trash and Debris Removal	C	A	A	C	C	C	C	A
Painting and Repairs ¹	C ⁵	A	A	C	C	C	C	A
Door Locks and Keys	N/A	A	A	C	C	C	C	A
Pest Extermination	C	C	C	C	C	C	C	N/A
Decorating	C	A	A	C	C	C	C	C
Building Structural and Exterior ²	C	C	C	C	C	C	C	N/A
Electrical & Lighting ³	C	A	C ⁵	C	C	C	C	C
Plumbing and Sewer ⁴	C	A	C	C	C	C	C	C
HVAC	C	A ⁶	C	C	C	C	C	C
Utilities	C	A	C	C	C	C	C	N/A
Fire Protection Systems	C	A ⁷	C	C	C	C	C	C

Notes:

1. Including, where applicable: floor coverings, interior walls, ceilings, windows, and doors.
2. Including, where applicable: roofs, exterior walls, foundations, floors, windows, and public access doors.
3. Including: relamping, ballasts, fixtures, outlets, and switches.
4. Including: fixtures and drains.
5. Excluding Airline equipment.
6. From the point of connection to the City's HVAC (chilled water, steam, conditioned air) distribution system or HVAC unit serving more than one tenant.
7. Excluding the Preferential Baggage Make-Up Area, which will be maintained by the City.

A - Airline
C - City