

**ALASKA INTERNATIONAL AIRPORTS SYSTEM  
OPERATING AGREEMENT  
AND  
PASSENGER TERMINAL LEASE**

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*Exhibits*

*Signature Pages*

**ALASKA INTERNATIONAL AIRPORTS SYSTEM  
OPERATING AGREEMENT  
AND  
PASSENGER TERMINAL LEASE**

ADA-@

This Operating Agreement and Passenger Terminal Lease is entered into by and between the State of Alaska, (the "State"), acting by and through its Department of Transportation and Public Facilities ("DOT&PF") and @ ("AIRLINE"), (together, the "Parties").

WHEREAS, the Ted Stevens Anchorage International Airport ("ANC") and the Fairbanks International Airport ("FAI"), are owned by the State and operated by and through DOT&PF as the principal components of the Alaska International Airports System ("Airport System");

WHEREAS, AIRLINE is engaged in the business of Commercial Air Transportation and desires to use facilities of the Airport System in connection with that business, and has paid all application fees associated with this Agreement and has executed and returned this agreement form to DOT&PF;

WHEREAS, DOT&PF and various airlines, @ [including] / [but not including] AIRLINE, have been party to airline operating agreements that are by their terms set to expire as of 12:00 midnight, June 30, 2013; and

WHEREAS, both Parties desire to enter into this Agreement to grant AIRLINE certain rights and privileges of operating at the Airport System, including where appropriate, the leasing of space in a passenger terminal, and DOT&PF is willing to grant such rights and privileges under the terms and conditions contained in this Agreement;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, and other valuable consideration, the Parties covenant and agree as follows:

**ARTICLE 1  
Definitions**

Section 1.01. Definitions

The words and phrases recited below have the following meanings when used in this Agreement:

1. "Adjacent Aircraft Parking Position" means an Aircraft Parking Position located adjacent to a DOT&PF-operated passenger terminal building, allowing for Vehicle Parking Positions, associated driving lane and Tug Access Routes as shown on

Exhibits "I" and "J", and not separated from the building by a taxiway or aircraft maneuvering area.

2. "Affiliated Airline" means a passenger airline that has a valid Operating Permit at the Airport and is (i) any wholly owned subsidiary or majority-owned airline of AIRLINE, or (ii) any regional airline operating under the name of the AIRLINE or under the name of the AIRLINE's wholly owned subsidiary, or (iii) any airline flying under its own livery; AND in any of the three abovementioned situations is also (i) not selling any seats or space in its own name and all seats or space are being sold in the name of the AIRLINE that the airline is under contract to and (ii) only if such airline has been designated as such in writing by AIRLINE as an "Affiliated Airline" of AIRLINE.
3. "Affiliated Airline Activity" means the flights and/or activity identified on AIRLINE's CAR performed by an Affiliated Airline.
4. "Agreement" means this Alaska International Airports System Operating Agreement and Passenger Terminal Lease as amended or supplemented from time to time in accordance with its terms, and includes all exhibits referenced or attached. "Agreement" includes, as applicable to Signatory Airlines other than AIRLINE, each other Alaska International Airports System Operating Agreement and Passenger Terminal Lease ("Agreement") in this form, other than identification of specific leased premises, between the State, acting through its DOT&PF, and a Signatory Airline.
5. "Aircraft Parking Position" means a location shown on attached Exhibits "I" and "J", including an aircraft hardstand, designated for parking an aircraft, whether used for the loading, unloading, refueling or overnight or temporary storage of the aircraft.
6. "Aircraft Parking Charge Rate" means the base dollar amount calculated for each Fiscal Year under Section 9.08 of this Agreement to be the amount the Airport System charges for parking a narrow-body (single aisle) jet or propeller-driven aircraft at an Aircraft Parking Position for less than four (4) hours without enplaning or deplaning revenue passengers, other than pursuant to a Preferential Use Privilege in conjunction with the lease of Preferential Use Premises.
7. "Aircraft Ramp Cost Center" means that area of paved surface within and part of the Airfield Cost Center that is used for the parking and maneuvering of aircraft and vehicles in designated areas at the Airports, consisting of Adjacent Aircraft Parking Positions, Remote Aircraft Parking Positions, Vehicle Parking Positions, and Tug Access Roads as shown on the attached Exhibits "I" and "J".
8. "Airfield Cost Center" includes all facilities, equipment and improvements located on the airside of the Airports and associated with the landing, taking off, taxiing, maneuvering and parking of aircraft, excluding areas within exclusive land-lease premises, but otherwise including, but not limited to, the Aircraft Ramp Cost

Center, runways, taxiways, approach and clear zones, infield areas, safety areas, navigational aids, airfield lighting and electrical systems, and other facilities and appurtenances of the Airport System that are necessary for aircraft operations.

9. "Airline Majority" means Signatory Airlines not in default under this Agreement which account for more than fifty percent (50%) in number of all Signatory Airlines as of the date of any distribution of ballots to Signatory Airlines, and also that account for more than fifty percent (50%) of total Signatory Airline Revenue from the immediately preceding fiscal year.
10. "Airline/Airport Affairs Committee" ("AAAC") means a body composed of the designated representative of AIRLINE and the designated representative of each other Signatory Airline, appointed and authorized to act on behalf of that airline with respect to all matters required or permitted under this Agreement to be approved or undertaken by the Signatory Airlines or an Airline Majority. However, the Airline/Airport Affairs Committee shall not include any representative of a Signatory Airline during any period in which that airline is in default under that Signatory Airline's Agreement.
11. "Airport" means each of ANC (including Lake Hood Seaplane Base) and FAI, except where the context clearly indicates a specific airport. The plural "Airports" means all Airport System airports.
12. "Airport Administered Premises" means, at any time, those portions of the Terminal Cost Center not leased for the balance of the term of this Agreement to any airline or other Airport tenant, which is made available on a per-use/per-turn or a month-to-month basis to airlines for any of the uses to which Premises under this Agreement may be put, but shall not include Vacant Space. Airport Administered Premises is further defined by the following categories of use:
  - Per-Turn: Holdrooms not leased as Preferential Use Premises, together with an associated Adjacent Aircraft Parking Position.
  - Per-Use: Ticket counter spaces not leased as Preferential Use Premises, together with an associated baggage make-up area.
  - Month-to-Month: Those portions of the Terminal Cost Center used for functions to which Exclusive Use Premises may be put, that are leased by an airline on a month-to-month basis which may be set forth in supplemental exhibit to this Agreement.
13. "Airport Director" means, for each Airport, the person to whom DOT&PF delegates primary authority to act on its behalf at that Airport, as well as any designee acting on behalf of that person.

14. "Airport Directives" means the Airport bulletins, notices, orders, and instructions issued by the Airport Director to facilitate day-to-day operation of the Airport and to implement rules and regulations promulgated by state and federal agencies.
15. "Airport System" means the Alaska International Airports System, including both ANC and FAI, and all current facilities and future additions, improvements or enlargements of the Alaska International Airports System, all of the Revenues derived by the State from which are pledged to the payment of Bonds and designated by the State to be paid into the IARF.
16. "ANC" means Ted Stevens Anchorage International Airport, including its current facilities, all land and water within its boundaries, including Lake Hood Airport Complex, and all rights and easements held by DOT&PF associated with it (all as shown on attached Exhibit "A") and any future additions, improvements or enlargements of Ted Stevens Anchorage International Airport, and includes all facilities owned by DOT&PF functionally related to, or required by or for, operations at the Airport, whether or not located within or outside its boundaries.
17. "Anchorage CPI" means the Consumer Price Index – All Urban Consumers ("CPI-U") established for the Municipality of Anchorage by the United States Department of Labor, or the most closely equivalent successor index.
18. "Annual Debt Service" means the total dollar amount of required deposits in a Fiscal Year to all interest, principal and sinking fund accounts established by the Bond Resolution for any outstanding Bonds and to replenish the Bond Reserve Fund and the Repair and Replacement Reserve Account as those terms are defined in the Bond Resolution.
19. "Annual Legislative Budgets" means the State Legislative capital and operating budgets for the Airport System adopted by the Legislature and approved by the Governor of the State of Alaska.
20. "Annual Rates and Fees Budgets" means the Airport System's annual capital and operating budgets that, as subsets of the Annual Legislative Budgets, serve as basis and input for the calculation of annual Airport System rates and fees.
21. "Bond" means all bonds, notes or other debt obligations issued under Alaska Statutes 37.15.410 - 37.15.550, as amended or superseded.
22. "Bond Resolution" means Resolution 99-01 adopted by the State Bond Committee of the State of Alaska, together with all supplemental, additional and superseding resolutions providing for or relating to the issuance of Bonds.
23. "Capital Improvement Program" means that schedule of Capital Projects described in attached Exhibit "C" to this Agreement.

24. "Capital Project" means any physical asset or program that costs two hundred fifty thousand dollars (\$250,000) or more, including design and planning costs, has an expected useful life greater than three years, and is purchased or constructed to improve, protect, maintain, or develop the Airport System.
25. "Certificated Maximum Gross Takeoff Weight" means the maximum Takeoff weight at which each aircraft may be configured and operated under FAA authorization as articulated in a list established by AIAS for use by Airline in performing monthly CAR reporting. The list was initially established in consultation with AAAC and is subject to periodic amendment in consultation with AAAC.
26. "Certified Activity Report" ("CAR") means a statement of the information required to be submitted monthly to DOT&PF by AIRLINE under Section 11.01.C of this Agreement, and certified on behalf of AIRLINE to be complete and accurate.
27. "Commercial Air Transportation" means the carriage for compensation of passengers, property, freight, or mail by one or more aircraft of FAA Design Group II or larger or having a Certificated Maximum Gross Takeoff Weight of twelve thousand five hundred (12,500) pounds or more, making not less than one hundred fifty-six (156) Landings or not less than fifty (50) international passenger Landings at the Airport System in each consecutive twelve (12)-month period.
28. "Common-Use Premises" means those portions of the Terminal Cost Center leased non-exclusively and non-preferentially to AIRLINE for joint use along with other airlines and Airport tenants. Among other areas, this space includes common-use bag claim space, portions of bag make-up space, tour bag storage space, common-use bag storage space, and common-use cold storage space.
29. "Consultation" means a discussion at an AAAC meeting or contact soliciting comment on an issue by telephone, e-mail or other means from all affected Signatory Airlines that are not in default of this Agreement.
30. "Debt Service Coverage" means the dollar amount that the Airport System is obligated under the Bond Resolution to collect for a Fiscal Year in Revenues net of M&O Expenses, in excess of required deposits for that Fiscal Year to all interest, principal and sinking fund accounts established under the Bond Resolution.
31. "Deferred Allowance Projects" are projects specifically identified by the respective Airport Director to be deferred to future fiscal years and do not exceed the Fiscal Year funding authorization limits described in Section 6.01.E.2.
32. "Designated Signatory Airline Activity" means any cargo flights and/or cargo activity identified on AIRLINE's CAR performed by another airline where that airline has not sold any seats or cargo space in its own name and all seats or cargo space are sold in the name of AIRLINE. The airline flights or activities cannot be designated on AIRLINE's CAR unless the airline is a signatory to an Operating

Agreement or holds a current Operating Permit, and is otherwise in compliance with all Airport requirements.

33. "Enplaned Passenger" means each revenue and non-revenue passenger who embarks at an Airport to (i) originate air travel, (ii) transfer between aircraft of the same airline, or (iii) transfer between aircraft of different airlines. "Enplaned Passenger" does not include a through-passenger traveling on an aircraft that stops at an Airport, but does not change planes or leave the Airport before resuming travel on the same aircraft.
34. "Environmental Law(s)" means any applicable federal, state or local law, statute, code, ordinance, rule or regulation, permit or other governmental agency requirement or approval relating to the environment, including without limitation any final order or interpretation of any Environmental Law by a court or governmental agency with competent jurisdiction.
35. "Excess Revenues" means all the Debt Service Coverage collected for a Fiscal Year and not needed to pay costs or satisfy obligations of the Airport System for that Fiscal Year.
36. "Exclusive Use Premises" means those areas and facilities in the Terminal Cost Center leased to AIRLINE for its sole use and occupancy. Exclusive Use Premises are authorized to be used for office space, lost and unclaimed baggage offices, airline operations and maintenance areas, ground and air crew accommodation, storage space, and VIP lounges.
37. "FAA" means the Federal Aviation Administration created under the Federal Aviation Act of 1958, as amended, and any superior or successor agency with primary jurisdiction over commercial air transportation, and oversight of airports that serve commercial air transportation, in the United States.
38. "FAI" means Fairbanks International Airport, including its current facilities, all land and water within its boundaries, including its seaplane base, and all rights and easements held by DOT&PF associated with it (all as shown on attached Exhibit "B") and any future additions, improvements or enlargements of Fairbanks International Airport, and includes all facilities owned by DOT&PF functionally related to, or required by or for, operations at, the Airport, whether or not located within or outside its boundaries.
39. "Federal Inspection Services" ("FIS") is used to refer to all or any of the federal agencies, excluding the TSA, that process arriving aircraft, airline passengers and crews for entry into the United States.
40. "Flight Number" means the unique airline flight identifier on an official flight plan form filed with FAA related to a landing and associated billable activity at an Airport System airport.

41. "Fiscal Year" means that twelve calendar month period commencing each July 1<sup>st</sup> and concluding the next June 30<sup>th</sup>, or such other twelve calendar month period selected by DOT&PF as the annual accounting period for the Airport System for general accounting purposes.
42. "Force Majeure" means with respect to a material obligation of DOT&PF or AIRLINE under this Agreement, an unexpected or uncontrollable event (e.g., strike, boycott, labor dispute, embargo, shortage of energy or materials, act of God, act of the public enemy, act of superior governmental authority, weather condition, riot, rebellion, sabotage, or any other circumstance for which the party is not responsible or which is beyond its control) that prevents the obligated party from performing that obligation.
43. "Former Agreements" means each Alaska International Airports System Operating Agreement and Passenger Terminal Lease between DOT&PF and any airline providing for use of Airport facilities, with or without rental of terminal space, the term of which were originally set to expire by their terms at 12:00 midnight, Alaska Time, June 30, 2006 or June 30, 2013, respectively.
44. "Fund Deposit Requirement" means, for any Fiscal Year and for each fund and account described in either the Bond Resolution or Article 10 of this Agreement, the greater of the amount required under the Bond Resolution or Article 10 of this Agreement to be deposited for that Fiscal Year into that fund or account. The combined total of such individual Fund Deposit Requirements is referred to in the aggregate as the "Fund Deposit Requirements."
45. "Funds" means those funds created pursuant to the Bond Resolution, together with those funds established pursuant to Article 10 of this Agreement.
46. "Gate and Parking Management Protocols" means the framework of protocols developed by the DOT&PF in consultation with the Signatory Airlines through the airlines operating committee to manage assignment of Adjacent Aircraft Parking Positions and associated unleased terminal space. These protocols are subject to change by the DOT&PF from time to time.
47. "Hazardous Substances" means any substance that is defined under an applicable environmental law as hazardous waste, hazardous substance, hazardous material, toxic, pollutant, or contaminant, as well as any petroleum, petroleum product, or oil.
48. "IARF" means the International Airports Revenue Fund and any other fund or group of funds established now or in the future pursuant to Alaska Statute 37.15.430 and as amended or superseded.
49. "Landing" means any landing at the Airport System after which the aircraft comes to a complete stop, excluding equipment test flight landings and returns to ANC or

FAI because of mechanical problems or weather. A “touch-and-go” in which an aircraft touches down, but then takes off again without ever coming to a complete stop is not a “Landing.”

50. “M&O Expenses” means, for any Fiscal Year, the costs incurred by DOT&PF, either directly or indirectly, to maintain and operate the Airport System and its facilities during that Fiscal Year, including, without limitation (but exclusive of expenses that the Airport System capitalizes in connection with a Capital Project):
- a. all costs and expenses incurred by DOT&PF for its employees assigned to the Airport System, or doing work for or in support of the Airport System, including direct salaries and wages (including overtime pay), payments or costs for payroll expense, such as payments to pension funds, retirement funds or unemployment compensation funds, life, health, accident and unemployment insurance premiums, deposits for self-insurance, vacation and holiday pay, and other fringe benefits;
  - b. costs of materials, supplies, machinery and equipment and similar expenses for the Airport System and not capitalized under generally accepted accounting principles;
  - c. costs of contractual services for maintenance, janitorial, landscaping, decorating, repairs, renewals and alterations and any similar functions for the Airport System and neither reimbursed by insurance, in consequence of a duly submitted insurance claim, nor capitalized under generally accepted accounting principles;
  - d. costs of water, electricity, natural gas, telephone service, multiple user telecommunications and data networking systems, flight information display and baggage information display systems, common user terminal equipment and all other utilities and services to the Airport System, whether furnished by DOT&PF or furnished by independent contractors and purchased by DOT&PF;
  - e. costs of rentals for real property, rental equipment and other personal property relating to the Airport System;
  - f. costs of premiums or assessments for insurance, including property damage, public liability, burglary, employee bonds, workers’ compensation, disability, automobile and all other insurance covering any part of the Airport System and its operations;
  - g. the amount of any judgment or settlement arising out of DOT&PF’s ownership, maintenance or operation of the Airport System payable by DOT&PF during that Fiscal Year, including, without limitation, the amount of any judgment or settlement resulting from claims, actions, proceedings or

- suits alleging a taking of property or interests in property without just compensation, trespass, nuisance, noise, property damage, personal injury or similar claims, actions, proceedings or suits based upon environmental or health and safety impacts, including, without limitation, those resulting from the use of the Airports for the landing and taking off of aircraft;
- h. costs incurred, without recovery, to perform any obligation of any defaulting tenant or permittee, including costs to satisfy, remove or discharge any contractor's, mechanic's or materialman's lien, together with all costs incurred in collecting and attempting to collect any sums due DOT&PF in connection with the ownership and operation of the Airport System;
  - i. costs of advertising by DOT&PF at or on behalf of the Airport System;
  - j. costs to compensate persons, firms or other government agencies appointed or engaged, from time to time, by DOT&PF to render advice and perform architectural, engineering, construction management, financial, legal, accounting, testing, consulting or other professional services in connection with the operation, expansion, alteration, reconstruction, betterment or other improvement of the Airport System or any Airport structures, facilities or systems;
  - k. costs of providing services to the Airport System by DOT&PF, including one million dollars (\$1,000,000) per Fiscal Year to cover a portion of the costs of operating, but not the capital costs of, the State-owned airports at Sitka and Cold Bay, Alaska, the services of which are beneficial to the Airport System as a part of the State's air transportation system;
  - l. any other cost incurred by or allocated to the Airport System to comply with any valid rule, regulation, policy or order of any federal, state or local government, agency or court;
  - m. all other direct and indirect expenses, whether similar or dissimilar, which arise out of DOT&PF's ownership, maintenance or operation of the Airport System, including any tax payable by DOT&PF which may be lawfully imposed upon the Airport System by an entity other than DOT&PF.
51. "Minimum Utilization Rate" means that level of average use of one or more Adjacent Aircraft Parking Positions that an AIRLINE must have maintained to be entitled to continue to lease the terminal facilities associated with those Adjacent Aircraft Parking Position(s) as Preferential Use Premises after utilization review under Article 4 of this Agreement. The applicable Minimum Utilization Rate is stated as a number of seats over a twelve (12)-month period on combined Signatory Airline and its Affiliated Airline aircraft using each Adjacent Aircraft Parking Position grouped by, for example, maximum type, size, or seating capacity of aircraft permitted as described for each Airport in the attached Exhibit "D".

52. "Non-Airline Revenues" means, for any Fiscal Year, all Revenues except Landing fees, terminal fees, fueling fees and aircraft parking fees.
53. "Non-Passenger Flight" means an aircraft operation, consisting of an arrival and a departure, during neither of which the aircraft is transporting revenue passengers.
54. "Non-Signatory Airline" means any commercial air carrier that uses any Airport System facilities, but is not a Signatory Airline.
55. "Non-Signatory Revenues" means, for any Fiscal Year, all Revenues derived from Non-Signatory Airlines.
56. "Other Buildings and Grounds Area Cost Center" includes all other areas, facilities, installations, and improvements of the Airport System not included in the Airfield Cost Center, Aircraft Ramp Cost Center or the Terminal Cost Center.
57. "PFC" means each Passenger Facility Charge and any other charge per passenger authorized under 49 U.S.C. § 40117, or any amendment or successor law, and approved by the FAA for collection with respect to an Airport.
58. "Parties" means AIRLINE and DOT&PF.
59. "Passenger Flight" means an aircraft operation, consisting of an arrival and a departure, during either of which the aircraft is transporting one or more revenue passengers, whether or not the aircraft is also being used to transport cargo.
60. "Preferential Use Premises" means those areas and facilities in the Terminal Cost Center leased to AIRLINE for its use and occupancy on a basis that gives it priority of use over all other users, subject to the provisions of this Agreement. Preferential Use Premises are authorized to be used for such functions as accommodating passengers (such as boarding gate holdrooms), ticketing, baggage handling, sorting, makeup and redelivery.
61. "Preferential Use Privilege" means a right to priority of use over all other users, subject to the provisions of this Agreement.
62. "Premises" means all areas and facilities within the Terminal Cost Center leased to AIRLINE under this Agreement, as shown in Exhibits "E", "F", "K" and "L". The area of each portion of the Premises is agreed to be that stated in the respective exhibit to this Agreement. Any adjustment to that area due to correction of any inaccuracy of measurement shall be applied prospectively only from the date of correction.

63. "Rate Covenant" means Section 4.10 of the Bond Resolution and any similar provision of any supplemental or additional resolution providing for the issuance of Bonds.
64. "Release" means the same as defined in AS 46.03.826(9).
65. "Remote Aircraft Parking Position" means an Aircraft Parking Position other than an Adjacent Aircraft Parking Position.
66. "Rentable Premises" means, at any time, all areas of the Terminal Cost Center that are leased, and all Airport Administered Premises, except for areas devoted to Airport concessions or leased by any entity entitled under state or federal law to occupancy without charge.
67. "Requesting Airline" means a commercial air carrier that requests use of State-owned terminal facilities at an Airport for new or expanded service.
68. "Revenues" means all revenues, fees, charges and rentals derived by DOT&PF from the ownership, lease, use and operation of the Airports, their facilities and improvements, and any facilities and improvements used in connection with them. "Revenues" includes all income earned from the investment of funds required by the Bond Resolution, but does not include the proceeds of any State tax or license, the proceeds of any borrowing by the State, the payment to DOT&PF in respect of debt service on special facility bonds or other special obligations so long as the debt service thereon is not included in the calculation of Airport System rents and fees under this Agreement, PFCs, federal grants-in-aid, or proceeds of condemnation awards or insurance other than business interruption insurance.
69. "Signatory Airline" means, at any time, AIRLINE and each other air carrier that is engaged in Commercial Air Transportation and that has entered into an Operating Agreement with DOT&PF, which Operating Agreement is then in effect.
70. "Terminal Cost Center" includes the State-owned terminal complexes at ANC and FAI, including the passenger terminal buildings with all of their State-owned appurtenances, fixtures and equipment within the drip-line of the building, public parking, employee parking, curbside areas, related landscaping, and access or circulation roads and rights-of-way now or hereafter located thereon.
71. "Terminal Rental Rate" shall be the rate calculated pursuant to Section 9.03 to be paid by airlines.
72. "TSA" means the Transportation Security Administration created under the Homeland Security Act of 2001, as amended, and any superior or successor agency with primary jurisdiction to protect the nation's transportation systems through security regulation and oversight of airports that serve commercial air transportation, in the United States.

73. "Tug Access Routes" means those areas within the Adjacent Aircraft Parking Position area made available for tug routes from the baggage make-up areas within a Terminal.
74. "Turn" means one Landing and departure of an aircraft, whether in transit under a single flight number, or under differing inbound and outbound flight numbers.
75. "Usable Premises" means, at any time, the number of square feet in all of the Airport System terminal buildings excluding those areas and facilities that are used by or provided for mechanical, electrical and plumbing equipment.
76. "Vacant Space" means any space that is deemed by the Airport Director to be not in active use.
77. "Vehicle Parking Position" means a location shown on attached Exhibits "I" and "J" designated for parking a vehicle, whether designated for use by AIRLINE, other airlines and Airport tenants, Airport staff, or contractors.
78. "VIP Lounge" means an Exclusive Use Premises used by AIRLINE as a restricted-access waiting area.

## **ARTICLE 2**

### **Term**

#### Section 2.01. Effective Date of Agreement

- A. The effective date of this Agreement shall be July 1, 2013 provided that it has been signed by both parties as of that date.
- B. So long as an Agreement is in effect between DOT&PF and other Signatory Airlines, if AIRLINE was not a signatory as July 1, 2013, this Agreement shall become effective for all purposes as to AIRLINE on the first day of the month following its execution by both Parties.

#### Section 2.02. Expiration of Agreement

This Agreement shall, unless earlier terminated under its provisions, expire at 12:00 midnight, Alaska Time, June 30, 2023.

#### Section 2.03. Expiration Procedure and Holdover Tenancy

DOT&PF is not required to give AIRLINE notice to quit possession of the Premises at the expiration of this Agreement. Upon expiration of this Agreement, AIRLINE's right to possession shall cease without further notice, and DOT&PF shall have the right to take possession of the Premises. If after the expiration of this Agreement, AIRLINE holds

over with the written consent of DOT&PF, but without a written renewal, the holding over will not operate as a renewal of this Agreement but will create only a month-to-month extension, regardless of any rent or fee accepted by DOT&PF. In that case, the obligations of DOT&PF and AIRLINE to perform under this Agreement shall continue month-to-month until the holdover terminates, provided, however, that DOT&PF shall cease to be bound by the provisions relating to the calculation of rates, fees and charges, which DOT&PF may then alter in any reasonable manner not contrary to the Bond Resolution or any controlling law. Either party may terminate the holdover at any time by giving the other party at least sixty (60) days advance written notice.

### **ARTICLE 3** **Use of the Airport System**

#### Section 3.01. Use, Generally

A. AIRLINE shall enjoy the use of the Airport System, in common with others so authorized, for the purpose of conducting its Commercial Air Transportation business, and subject to the terms and conditions of this Agreement, the requirements of all applicable laws, codes, and regulations, and the requirements of all FAA-required rules, policies, procedures and all Airport Directives promulgated by DOT&PF. DOT&PF agrees not to discriminate unjustly against AIRLINE in the enforcement of DOT&PF's rules, regulations, policies and procedures. In connection with AIRLINE's use of the Airport System as described above in this Section, AIRLINE may perform functions and conduct operations at the Airport System reasonably necessary to its Commercial Air Transportation business. In accordance with the foregoing, AIRLINE's right of use shall include, but not be limited to, the following specific rights:

1. The landing and taking off of its aircraft from Airport System runways;
2. The ground movement of its aircraft on Airport System taxiways and taxilanes;
3. The parking, loading, unloading, servicing and fueling of its aircraft in areas designated by DOT&PF for that use in accordance with the Gate and Parking Management Protocols;
4. The right to install, maintain and operate such aviation radio, communications, meteorological and aerial navigation equipment and facilities as may be necessary or convenient in AIRLINE's opinion for its operation, subject to the prior written consent of DOT&PF, which consent shall not unreasonably be withheld;
5. The right to provide a VIP Lounge, and to sell in the VIP Lounge goods and services, including food and beverages, approved in writing by DOT&PF, provided that AIRLINE reports gross revenues received from such sales on a CAR submitted under Section 11.01.C. of this Agreement and pays to DOT&PF a

concession fee of ten percent (10%) of gross revenues received from any such sales;

6. The right in Exclusive Use Premises to sell proprietary branded items or products, excluding food and beverages, bearing the name of the AIRLINE or displaying directly associated AIRLINE service marks, trademarks, or logos without a concession fee.

7. The right to provide skycap services, through its own forces or through a contractor that has obtained prior written permission from DOT&PF via a permit or other written form of agreement authorizing such skycap services; and

8. The right to purchase fuels, lubricants and any other goods and services at, or to be delivered or performed at, the Airport, and that AIRLINE needs to conduct Commercial Air Transportation, from any person, firm or corporation providing the same at the Airports with any required permission from DOT&PF.

B. The right to perform all functions directly and reasonably related to AIRLINE's Commercial Air Transportation shall not be construed to include

1. The performance of ground-handling services (other than on an occasional one (1)-flight basis), except as provided under Section 13.03 of this Agreement;

2. The performance of services other than air transportation for other airlines or other Airport users absent prior written approval by DOT&PF;

3. The sale of any goods or services on the Airport other than air transportation unless in compliance with express written approval by DOT&PF;

4. The parking of ground support equipment ("GSE") on an Airport other than (i) on AIRLINE's Premises or other premises with the consent of the lessee of that premises, or (ii) in a location authorized by DOT&PF and after AIRLINE has paid for and affixed on the piece of GSE a GSE parking fee sticker to the extent required under Section 7.01.B.12; or

5. The conduct of any other business on the Airport whether or not related to, or affiliated with, Commercial Air Transportation.

### Section 3.02. Restrictions

A. AIRLINE shall not use or permit the use of any portion of its Premises for any unlawful purpose. Neither shall it sell nor offer for sale on the Airport any product or service other than air transportation unless expressly provided herein.

B. AIRLINE shall not do or permit to be done anything that may interfere with the safe and efficient operation of any of the following systems installed on or serving any portion

of the Airport: drainage, water, sewer, fire protection, communications, electrical, plumbing, heating, ventilation, air conditioning and natural gas.

### Section 3.03. Reservations

A. The Airport Director may, from time to time with advance notice and coordination with the Signatory Airlines when circumstances permit, close roadways, taxilanes, taxiways, runways, apron areas, portions of the terminals, or any other portion of the Airport, either temporarily or permanently, when circumstances warrant; provided, however, that the Airport Director will make reasonable efforts to provide alternate means of ingress, egress and movement on the Airport and within the terminals.

B. DOT&PF reserves the right to install in any or all of its passenger terminals multiple user telecommunications and data networking systems (including, among other things, cellular telecommunications, multi-user flight information display systems, multi-user baggage information display systems, and shared use terminal equipment at Airport Administered Premises) and a premises wiring system and to act as the exclusive provider of such equipment and systems. DOT&PF will develop and keep up-to-date any such system with notice to and coordination with AIRLINE, and use DOT&PF's best efforts to accommodate AIRLINE's particular needs to the extent practicable. AIRLINE agrees to connect to and use any such systems or equipment whether installed by DOT&PF within or outside AIRLINE's Premises, and to furnish DOT&PF such data and other information required for the proper operation of such systems and equipment.

## **ARTICLE 4 Lease of Premises**

### Section 4.01. DOT&PF Terminal Management Policy

A. DOT&PF's policy and obligation is to manage Airport System terminals so as to serve the traveling public, maximize efficient utilization of space and facilities, and facilitate the transportation of passengers and goods, while optimizing competitive opportunities for airlines and retaining the ability to accommodate both new entrant airlines and periodic service expansions and contractions by incumbent airlines. Accordingly, DOT&PF must retain sufficient flexibility to close, renovate, demolish or reconstruct terminal space and facilities from time to time, and, in accordance with the provisions of this Agreement, to relocate airlines and concessionaires and tenants temporarily or for the balance of their tenancies in order to accomplish these objectives.

B. In support of DOT&PF's obligation to optimize competitive opportunities for new entrants and incumbent airlines, AIRLINE will, together with the other Signatory Airlines, in good faith cooperate fully with DOT&PF to seek resolution to any conflicting demand for direct lease, rental or Airport Administered use of unleased terminal space and privileges for associated Adjacent Aircraft Parking Positions, including space that becomes available due to the expiration of a lease at the expiration or termination of an

Agreement. DOT&PF will establish and inform AIRLINE of a system for providing notice of the availability of terminal space and, to the extent legally permissible, a procedure affording the AAAC a reasonable opportunity to work out a resolution in the event that any two or more airlines apply to lease, rent or otherwise use any particular portion of unleased terminal space for the same or overlapping periods. AIRLINE will cooperate in good faith with such efforts, including the Gate and Parking Management Protocols, but the ultimate authority for allocation of terminal space shall at all times remain in DOT&PF.

#### Section 4.02. Premises and Preferential Use Privileges

A. DOT&PF hereby leases to AIRLINE, and AIRLINE leases from DOT&PF, "as is," without warranty and subject to build-out or refurbishment only at AIRLINE's sole expense under an Airport-approved building permit and under the terms of this Agreement, the following Premises:

1. Exclusive Use Premises shown on attached Exhibits "K" and "L" (with permitted uses of such space described on attached Exhibits "E" and "F");
2. Preferential Use Premises shown on attached Exhibits "K" and "L" (with permitted uses of such space described on attached Exhibits "E" and "F").

B. Common Use Premises, shown on attached Exhibits "O", "P", and "Q" are hereby made available for AIRLINE's joint use along with other airlines and Airport tenants.

C. Airport Administered Premises will be made available by DOT&PF pursuant to this Agreement for common, shared, or temporary use on a per-Turn, Per-Use and Month-to-Month basis by AIRLINE and any other airline on fair and reasonable terms documented independently from but subject to the terms of this Agreement, without unjust discrimination.

D. So long as AIRLINE leases any Preferential Use Premises associated with a designated Adjacent Aircraft Parking Position, AIRLINE shall have a Preferential Use Privilege in that Adjacent Aircraft Parking Position. Designated Adjacent Aircraft Parking Positions associated with particular Preferential Use Premises are shown on attached Exhibits "I" and "J" (with permitted uses of such Adjacent Aircraft Parking Positions described on attached Exhibits "E" and "F").

E. AIRLINE may have the opportunity to lease positions for the parking of vehicles in assigned Vehicle Parking Positions if it does not lease any Adjacent Aircraft Parking Positions. In such event the designated Vehicle Parking Positions will be shown on attached Exhibits "I" and "J" (with permitted uses of such Vehicle Parking Positions described on attached Exhibits "E" and "F").

F. Except by written consent of DOT&PF, AIRLINE shall not use any terminal space that is not a part of its Premises under this Agreement. However, if at any time

AIRLINE has, without either written consent of DOT&PF or a DOT&PF-approved sublease, used any terminal space not formally leased to AIRLINE, or an Adjacent Aircraft Parking Position designated as associated with terminal space not formally leased to AIRLINE, then AIRLINE shall pay DOT&PF for such unauthorized use. AIRLINE's payment for such unauthorized use shall be the greater of the rent or use charge that would be applicable to such terminal space if that space were leased by AIRLINE under this Agreement, or any charge that would be applicable to AIRLINE's use of that space as Airport Administered Premises. Use of Common Use Premises by AIRLINE for functions designated for Exclusive Use Premises or Preferential Use Premises shall also be deemed an unauthorized use under this provision, for which use AIRLINE shall pay to DOT&PF any difference between AIRLINE's Common Use Premises rate for use of such space and the greatest rate chargeable for the type of premises for which AIRLINE's actual use is designated under this Agreement. AIRLINE agrees to report to DOT&PF any unauthorized use by AIRLINE under this Section within ten (10) days of the use, and to pay to DOT&PF all applicable charges for the unauthorized use upon receipt of an invoice from DOT&PF. So long as AIRLINE makes any unauthorized use of space as described in this Section, AIRLINE shall pay DOT&PF for the space, but no acceptance of payment by DOT&PF shall render the use authorized or entitle AIRLINE to retain possession of the space. Such payment will be credited toward, but will not substitute for, or work a release of, any other damages to which DOT&PF may be entitled. Unless and until DOT&PF approves an application from, and leases such space to, AIRLINE, DOT&PF may require the surrender of the space at any time.

#### Section 4.03. Mid-term Premises Adjustment

AIRLINE shall have a one (1)-time right to reduce its Exclusive Use Premises or Preferential Use Premises by an amount not to exceed fifty percent (50%) of the aggregate square footage of its leased Premises by providing DOT&PF with written notice of its intent to do so not later than January 31, 2018. To reduce the leased Premises and rent the AIRLINE and DOT&PF will execute a supplement to this Agreement that will become effective on the later of June 30, 2018 or on the date the Airline has executed the supplement. The AIRLINE will return space relinquished pursuant to this Section in accordance with the terms of this Agreement.

#### Section 4.04. Utilization Requirement for Lease of Preferential Use Premises

A. During the term of this Agreement, Signatory Airlines, including AIRLINE if AIRLINE leases Preferential Use Premises, will be subject to the utilization rate review procedures set forth in this Section to determine entitlement to retain leasehold interest in their Preferential Use Premises.

B. To be entitled to retain the lease of one or more Preferential Use Premises, for which DOT&PF has designated associated Adjacent Aircraft Parking Position(s), AIRLINE must have achieved and maintained for the most recent twelve (12) months for which data are available prior to utilization review, and state its intention to continue to

maintain, average utilization of those Adjacent Aircraft Parking Positions equal to at least the applicable Minimum Utilization Rate. For any period during which Force Majeure, as described in Section 18.07, substantially impairs AIRLINE's ability to achieve or maintain the Minimum Utilization Rate at a Preferential Use Privilege Aircraft Parking Position, the Minimum Utilization Rate for that Preferential Use Privilege Aircraft Parking Position will be reduced in proportion to the duration of the period of Force Majeure.

C. No earlier than July 1, 2014 and thereafter at intervals no shorter than twelve (12) months after the most recent utilization review, DOT&PF may determine the AIRLINE's utilization of its Preferential Use Premises using: (i) CAR information received from the AIRLINE under Section 11.01 of this Agreement, (ii) the AIRLINE's response to an inquiry as to future intended utilization, and (iii) any other reliable data to ascertain performance of Signatory Airlines against the Minimum Utilization Rates. A Signatory Airline's failure to achieve an applicable Minimum Utilization Rate neither requires DOT&PF to reduce that airline's preferential use premises nor precludes DOT&PF from leasing to that Signatory Airline additional preferential use premises. If DOT&PF has no pending demand for use of a preferential use premises, does not expect such demand before the next rate review, and determines that federal competition planning principles do not oblige DOT&PF otherwise, DOT&PF does not intend unilaterally to reduce the preferential use premises of any Signatory Airline, including AIRLINE, despite its failure to maintain the Minimum Utilization Rate. However, DOT&PF may, in its sole discretion, reduce the preferential use premises of any Signatory Airline, including AIRLINE that has failed to maintain an applicable Minimum Utilization Rate. If DOT&PF expects to experience demand for use of preferential use premises before the next rate review, DOT&PF may reduce the preferential use premises of a Signatory Airline, including AIRLINE, that fails to maintain the Minimum Utilization Rate for the premises, but allow that airline to remain in occupancy under an Airport Administered Premises permit at the lower Terminal Rental Rate until any such demand arises. DOT&PF must, within two (2) months of the date of any utilization review under this Section, send notice of any decision to reduce AIRLINE's Preferential Use Premises due to AIRLINE's failure to maintain the Minimum Utilization Rate. In the event DOT&PF decides not to reduce AIRLINE's Preferential Use Premises despite AIRLINE's failure to maintain the Minimum Utilization Rate, then AIRLINE shall continue to lease all of its Preferential Use Premises for the balance of the term of this Agreement, subject only to adjustment based upon a subsequent utilization review under this paragraph.

D. In the event that DOT&PF decides to reduce AIRLINE's Preferential Use Premises, if any, due to AIRLINE's failure to maintain the Minimum Utilization Rate, DOT&PF shall provide not less than thirty (30) days written notice to AIRLINE stating the amount of reduction in AIRLINE's Preferential Use Premises. Such reduction must be not more than reasonably proportional to the percentage of AIRLINE's Adjacent Aircraft Parking Positions with respect to which AIRLINE failed to maintain the Minimum Utilization Rate. DOT&PF will accomplish any reduction in the Preferential Use Premises under this paragraph by delivering to AIRLINE a self-effective supplement, including updated Exhibits "E", "F", "I", "J", "K" and "L" (where applicable) identifying AIRLINE's deleted

and remaining Preferential Use Premises. Such self-effective supplement will relieve AIRLINE of all prospective rents and other prospective charges or liabilities with respect to the Preferential Use Premises withdrawn from its lease except as may be provided under any new Airport Administered Premises permit of the same space to AIRLINE. Preferential Use Premises that DOT&PF withdraws from AIRLINE shall be available to DOT&PF for either use as Airport Administered Premises or preferential leasing to another air carrier. For purposes of AIRLINE's obligation to vacate Premises and surrender them to DOT&PF, withdrawal of Preferential Use Premises under this Section will be deemed partial termination of a portion of the Premises under Section 14.05 of this Agreement. However, AIRLINE shall have thirty (30) days after the date of a notice of Premises reduction under this Section to remove all removable furniture, furnishings, fixtures, and equipment under Section 14.06, or to make provision acceptable to DOT&PF for their removal, sale to, or acceptance by the DOT&PF. However, DOT&PF may require that pending removal, passenger loading bridges, baggage-handling equipment, furniture and other appurtenances reasonably necessary for the effective use of the withdrawn Preferential Use Premises be made available for use by any airline that DOT&PF permits to use those Premises. In such case, DOT&PF shall fashion an operating arrangement for use of AIRLINE's property that is reasonably fair to the airline parties and that allows AIRLINE to recover its unamortized costs for property and equipment owned by AIRLINE that are affixed to or associated with the withdrawn Preferential Use Premises. AIRLINE's privileges and obligations with respect to all Preferential Use Premises that AIRLINE retains shall remain in full force and effect.

E. Utilization that would otherwise be sufficient to entitle AIRLINE to retain a greater number of Adjacent Aircraft Parking Positions than are actually associated with the Preferential Use Premises that AIRLINE leases at the time of utilization review, will neither guarantee to nor entitle AIRLINE to lease additional preferential use premises nor to gain a Preferential Use Privilege as to an additional Adjacent Aircraft Parking Position. However, in the event that a utilization review reveals that AIRLINE's total number of seats during the relevant twelve (12)-month data period were high enough to have otherwise entitled AIRLINE to retain a Preferential Use Privilege at more Adjacent Aircraft Parking Positions than are associated with the Preferential Use Premises AIRLINE is then actually leasing, and if an Adjacent Aircraft Parking Position and related terminal facilities are available from the pool of Airport Administered Premises and are physically located adjacent to, or in reasonable proximity to AIRLINE's other Premises, then DOT&PF may, at AIRLINE's request, withdraw such terminal facilities from the Airport Administered Premises category and lease them as Preferential Use Premises to AIRLINE. In so doing, DOT&PF shall seek to avoid causing unreasonable operational or competitive disadvantage to another airline and to avoid causing unusual expense to the Airport System or to other parties, provided that DOT&PF shall be presumed to have fulfilled this obligation absent clear and convincing evidence to the contrary. To increase AIRLINE's Preferential Use Premises under this paragraph, AIRLINE and DOT&PF will execute a Supplement to this Agreement updating Exhibits "E", "F", "I", "J", "K" and "L" (where applicable) describing AIRLINE's Premises.

F. Any change in AIRLINE's Preferential Use Premises as a result of a change in AIRLINE's rate of utilization is not considered a modification or relocation to which Section 11.05 applies. AIRLINE shall be responsible for all costs incurred by it or the Airport System associated with AIRLINE's change in or move from or into Preferential Use Premises under paragraphs D or E, above. AIRLINE's responsibility with respect to space withdrawn from AIRLINE under this provision is that provided under Sections 14.05 and 14.06 of this Agreement.

G. DOT&PF retains the right to alter or adjust by self-effective supplement either or both the calculation and level of the Minimum Utilization Rate, and the Adjacent Aircraft Parking Positions to which they apply, at each Airport by self-effective supplement after Consultation with the affected Signatory Airlines and upon sixty (60) days advance written notice. In deciding whether to make such alteration or adjustment, DOT&PF shall consider all relevant factors including, but not limited to, overall levels of passenger and aircraft activity actually experienced and anticipated, changes in market share among Signatory and Non-Signatory Airlines, terminal expansion plans, expanded or contracted airline service, and levels of competition.

#### Section 4.05. Quiet Enjoyment

DOT&PF covenants that, subject to the provisions of this Agreement, AIRLINE shall peaceably have and enjoy the Premises and the rights, privileges, appurtenances and facilities granted in this Agreement.

#### Section 4.06. Application Fee Waiver

Processing fees for Premises to be leased under this Agreement and for preferential use applications identified in Section 4.02 are waived.

### **ARTICLE 5 Subordinate Use of Premises**

#### Section 5.01. DOT&PF Open Access Policy

DOT&PF's policy is to ensure open access to the Airport System by maintaining balanced utilization of Airport facilities. Therefore, DOT&PF reserves the right to require shared use of Exclusive and Preferential Use Premises as specified in this Article 5. It is contemplated that in most cases, shared use will be of limited duration, pending construction of additional terminal facilities or adjustments to the Preferential Use Premises of Signatory Airlines as a result of utilization review and adjustment under Section 4.04 or expiration of this Agreement.

#### Section 5.02. Procedure for Request for Accommodation

A. If any Signatory or incumbent Non-Signatory Airline seeking to expand, or a new entrant airline seeking to commence, service to an Airport is in need of space or

facilities at that Airport and Airport Administered Premises cannot meet that need, DOT&PF may direct the airline to request use of a portion of Signatory Airline premises. Except to the extent that the Requesting Airline has demonstrated to the reasonable satisfaction of DOT&PF that it should not, for competitive reasons, be required to make such requests of one or more Signatory Airlines either individually or in committee, DOT&PF may direct the Requesting Airline to make such request to Signatory Airlines with preferential or exclusive use premises at such Airport either individually or, at the option of the Requesting Airline, to such Signatory Airlines in committee, until either (i) the Requesting Airline's need is satisfied, or (ii) the Requesting Airline has made the request to all such Signatory Airlines. Each Signatory Airline with Preferential Use Premises or Exclusive Use Premises shall make all reasonable efforts to accommodate any such request in a timely manner within any Preferential Use Premises or Exclusive Use Premises leased to it.

B. In the event DOT&PF receives a written request from an airline for space or facilities that could be of a type leased to Signatory Airlines on a Preferential Use Premises or Exclusive Use Premises basis, and the Requesting Airline demonstrates to the reasonable satisfaction of DOT&PF either (i) that it has contacted all Signatory Airlines that have Preferential Use Premises or Exclusive Use Premises at the Airport, and has reason to believe that all reasonable efforts to find accommodation for its proposed operations and the space or facilities it needs will prove unavailing, or (ii) that it should not, for competitive reasons, be required to make such requests of one or more Signatory Airlines, then DOT&PF shall make its own determination. If DOT&PF finds that such Requesting Airline needs such space or facilities to accommodate passengers or aircraft and that DOT&PF cannot provide such space or facilities to such airline on a timely basis, then DOT&PF shall serve written notice to all Signatory Airlines of that determination and notice of DOT&PF's intention to make a further determination, in not less than ten (10) calendar days, as to how the Requesting Airline will be accommodated. DOT&PF may grant such Requesting Airline the right of shared use of all or a designated portion of one or more Signatory Airlines' Preferential Use Premises and Exclusive Use Premises including associated Adjacent Aircraft Parking Positions. In making such determination DOT&PF shall have complete flexibility to fashion an operating arrangement that is reasonably fair to all of the affected parties. Such shared use will include, but not be limited to, the use of passenger loading bridges, baggage-handling equipment, furniture, ticket counters and other appurtenances, that are reasonably necessary for the effective use of the shared use space and facilities, whether the latter are owned or leased by a Signatory Airline or by DOT&PF.

C. In accordance with the rules and priorities set forth in Section 5.03 below, DOT&PF may grant the Requesting Airline the right of shared use of a designated portion of a Signatory Airline's Preferential Use Premises and Exclusive Use Premises, as well as rights of ingress and egress, the right to use the Adjacent Aircraft Parking Positions associated therewith and the right to use passenger loading bridges and other appurtenant equipment which are reasonably necessary for the effective use of such space and facilities, provided, that:

1. Such Requesting Airline provides such Signatory Airline with indemnification and proof of insurance reasonably satisfactory to such Signatory Airline; provided, however, that such Signatory Airline may not require any indemnification more favorable to it than that which such Signatory Airline provides to DOT&PF under this Agreement;
2. Such Requesting Airline agrees to pay the Signatory Airline the sum of the following, without markup:
  - a. An amount equal to a pro rata share of the sum of the terminal rentals and any other applicable payments, fees or taxes payable by such Signatory Airline under this Agreement with respect to such areas during such shared or temporary use period as calculated in this Agreement;
  - b. Additional amounts necessary to recover such Signatory Airline's direct costs, including any operation and maintenance expenses, of such shared or temporary use, including a reasonable allocation of any capital and equipment costs for property and equipment owned by such Signatory Airline and used by the Requesting Airline; and
  - c. A reasonable administrative processing fee calculated in good faith not to exceed any unrecovered indirect cost incurred by the Signatory Airline by reason of the Requesting Airline's use.
3. Such Requesting Airline enters into a written agreement with the Signatory Airline for the shared use, which agreement shall not be inconsistent with the terms and conditions stated in this Agreement and shall be submitted to DOT&PF for written approval prior to its effective date, together with sufficient documentation to substantiate the amounts claimed pursuant to this Section, and such other information as DOT&PF may reasonably require.

D. AIRLINE agrees to make reasonable efforts to facilitate the temporary or shared accommodation of the Requesting Airline's scheduled operations under Section 13.01 of this Agreement. If under Section 5.03, below, DOT&PF selects Premises of AIRLINE for the grant of shared use to a Requesting Airline under paragraph C of this Section, DOT&PF will so advise AIRLINE in writing. Within ten (10) days after receipt of DOT&PF's written notice, which may, but need not, identify specific Premises affected, AIRLINE will make available to that Requesting Airline shared use of its Preferential and Exclusive Use Premises, together with use of such of AIRLINE's passenger loading bridges and other facilities as may be reasonably necessary to accommodate that airline. Until DOT&PF provides other lease space to the Requesting Airline, AIRLINE will conduct its operations cooperatively, with due regard for the needs of the accommodated airline. If DOT&PF and AIRLINE are not able to agree to a form of written agreement pursuant to the provisions of this Article, DOT&PF shall have the right to prescribe the final terms of such agreement, while making reasonable efforts to protect the interests of both parties, and such prescribed terms shall be binding on both

the Requesting Airline and on AIRLINE except as Requesting Airline and AIRLINE may thereafter agree in a sublease agreement approved by the Airport Director under Section 13.01 of this Agreement.

#### Section 5.03. Considerations for DOT&PF-Directed Accommodation

If DOT&PF determines pursuant to Section 5.02, above, that a Requesting Airline needs terminal space and facilities, DOT&PF will take into account the priorities and considerations listed in this Section to select premises for shared use by the Requesting Airline:

A. Airport Administered Premises and Common Use Premises suited to the Requesting Airline's needs shall have first priority as the site for use by the Requesting Airline;

B. Preferential Use Premises shall be available for designation by DOT&PF for shared use when required, in the absence of or in combination with any suitable Airport Administered or Common Use Premises, in order to permit a consolidated operation by the Requesting Airline.

C. Exclusive Use Premises shall be available for designation by DOT&PF for shared use when required, in the absence of or in combination with any suitable Preferential Use, Airport Administered or Common Use Premises, in order to permit a consolidated operation by the Requesting Airline.

D. In all such instances, DOT&PF shall make a good faith effort to avoid or minimize schedule conflicts between the Requesting Airline and AIRLINE, if DOT&PF calls upon AIRLINE to share AIRLINE's Preferential or Exclusive Use Premises, or any Airport Administered or Common Use Premises that AIRLINE is using. When DOT&PF determines that it is necessary under this Article 5 to make any of AIRLINE's Preferential or Exclusive Use Premises available to a Requesting Airline for shared use, DOT&PF shall provide ten (10) days' written notice to AIRLINE that DOT&PF is making specified Preferential or Exclusive Use Premises and any associated Adjacent Aircraft Parking Position available to the Requesting Airline. Preferential Use Premises may be made available to a Requesting Airline at a time when there is a "window" of three (3) hours or longer at any Adjacent Aircraft Parking Position associated with the specified Preferential Use Premises, (two (2) hours or longer at certain ground loading Adjacent Aircraft Parking Positions designated by DOT&PF) with no scheduled flight arrival or departure activity. Beginning the eleventh (11<sup>th</sup>) day after DOT&PF provides such notice, DOT&PF may allow, and AIRLINE must accommodate, Requesting Airline's use of AIRLINE's Preferential Use Premises starting thirty (30) minutes after the scheduled time for the last scheduled activity at the beginning of the window, until thirty (30) minutes before the scheduled time of the next scheduled activity that closes the window. Requesting Airline's use of AIRLINE's Exclusive Use Premises shall be limited to reasonably necessary use incidental to the Requesting Airline's flight activity. Flight and flight-related operations by AIRLINE and the Requesting Airline at the designated

Preferential Use Premises and designated Adjacent Aircraft Parking Position shall be subject to the following conditions:

1. Upon and after the commencement of operations at such Adjacent Aircraft Parking Position by the Requesting Airline, AIRLINE, shall promptly vacate the designated Preferential Use Premises and remove its aircraft and ground equipment from the designated Adjacent Aircraft Parking Position at the commencement of the window or, at the latest, thirty (30) minutes following the opening of the window; in the event the AIRLINE's flight scheduled prior to the opening of the window is not ready to be removed thirty (30) minutes following the opening of the window due to delayed arrival or mechanical issues, AIRLINE shall promptly notify Airport Operations personnel to determine whether the aircraft may be permitted to remain at the Adjacent Aircraft Parking Position or for other directions;
2. DOT&PF will require that the Requesting Airline occupy and use the designated Preferential Use Premises, and position its aircraft or ground equipment at the designated Adjacent Aircraft Parking Position, no earlier than thirty (30) minutes following the opening of the window; and
3. DOT&PF will require the Requesting Airline to vacate the designated Preferential Use Premises and remove its aircraft and ground equipment from the designated Adjacent Aircraft Parking Position not later than thirty (30) minutes prior to the close of the window.

E. In making its decision regarding the designation of terminal space and Adjacent Aircraft Parking Positions to make available for shared use, DOT&PF shall consider the following objectives:

1. avoiding or minimizing real or potential labor problems between the Requesting Airline and any Signatory Airline which is called upon to share Airport Administered Premises or, Exclusive Use Premises, Common Use Premises or Preferential Use Premises;
2. permitting the Requesting Airline to function within a reasonably compact and contiguous area so as to be able to mount an effective and competitive operation;
3. avoiding unnecessary physical separation of the functions of any Signatory Airline which is called upon to share Airport Administered Premises or, Exclusive Use Premises, Common Use Premises or Preferential Use Premises;
4. the size of aircraft, type of flight (international, interstate, commuter or other intra-state) and frequency of schedules proposed to be operated by the Requesting Airline; and

5. facilitating to the extent reasonable under the circumstances the advantages of code-sharing or similar commercial arrangements between airlines.

Section 5.04. Additional Operational Requirements for Shared Use of Exclusive or Preferential Use Premises

A. In the event that DOT&PF has made any of AIRLINE's Exclusive or Preferential Use Premises available for shared use by one or more other airlines, AIRLINE shall give DOT&PF sixty (60) days' notice prior to any proposed schedule change that would conflict with that shared use. Upon receipt of such notice, DOT&PF shall work with AIRLINE and each airline scheduled for shared use in conflict with AIRLINE's proposed new schedule to try to work out voluntary adjustments to one or more of the airlines' schedules so as to eliminate the conflict in use of the shared Exclusive or Preferential Use Premises. If the foregoing efforts by DOT&PF are unsuccessful, then DOT&PF shall re-determine the accommodation for the Requesting Airline under this Article.

B. DOT&PF and AIRLINE agree to apply cooperation and good judgment, in good faith, in dealing with one another and with the Requesting Airline, in any situation in which DOT&PF determines that shared use of Exclusive or Preferential Use Premises is required on an emergency or other unanticipated short-term basis, and AIRLINE and DOT&PF will work with other airlines to accommodate, if possible, other airline flight activity without unduly conflicting with AIRLINE's use of its Exclusive or Preferential Use Premises.

C. In the event that DOT&PF makes any of AIRLINE's Preferential Use Premises available for shared use by one or more other airlines, AIRLINE shall remove, or arrange to have its ground support contractor remove, sufficient ground support equipment from the associated Adjacent Aircraft Parking Position in adequate time to allow ground handlers employed by or under contract to the Requesting Airline enough room to set up required ground equipment to service the Requesting Airline's aircraft. The Requesting Airline will be obligated to ensure that any ground support equipment placed on the associated Adjacent Aircraft Parking Position in conjunction with the Requesting Airline's use is removed in adequate time to allow AIRLINE's ground handlers enough room to set up required ground equipment to service AIRLINE's next scheduled aircraft. The Requesting Airline will be obligated to leave the shared use Preferential Use Premises in the same condition as when received from AIRLINE.

D. If DOT&PF schedules another airline's flight activity at AIRLINE's Exclusive or Preferential Use Premises, AIRLINE shall be relieved of any obligation to indemnify and save harmless DOT&PF, its employees or agents with regard to any claim for damages or personal injury arising out of or in connection with the other airline's use of such Exclusive or Preferential Use Premises, except to the extent caused by the negligence of AIRLINE, its employees or agents.

## **ARTICLE 6**

### **Capital Projects**

#### Section 6.01. Preamble; Pre-Approved Projects

A. DOT&PF may acquire, plan, design and construct or install a Capital Project that is deemed approved by the Signatory Airlines under paragraph C of this Section 6.01 or under Sections 6.02 and 6.03 of this Agreement, and finance such Capital Project through the use of Airport funds, by means of the issuance of Bonds, any other lawfully available source, or any combination of the same. DOT&PF, further, may include, beginning at the date each first begins to accrue, the debt service on such Bonds, and the M&O Expenses of such Capital Project, in determining subsequent Landing fees, rentals or use fees, as appropriate, pursuant to the terms and conditions of this Agreement.

B. Not less than twice each Fiscal Year, DOT&PF will provide to the Signatory Airlines the following reports:

- Status Report of Capital Projects and General Categories Projects Allowances (GCP Allowances) (as described in paragraph E below) which have been approved or deemed approved under the provisions of this Article 6 containing updated information concerning the scope, schedule and budget status of Capital Projects, GCP Allowances and Deferred Allowance Projects, and
- 5-year CIP Outlook providing preliminary information regarding potential upcoming capital projects.

Such reports shall be presented in conjunction with the financial reports described in Section 8.02 of this Agreement.

C. The Capital Projects and seven GCP Allowances identified as part of the Capital Improvement Program described in attached Exhibit "C" to this Agreement shall be deemed approved by the Signatory Airlines. The approval shall be deemed to include reasonable adjustments to the scope, timing, and cost of individual approved Capital Projects or GCP Allowances subject to the overall limitations described in paragraphs D and E.3 below.

D. The Capital Projects identified as part of the Capital Improvement Program shall be funded as described in attached Exhibit "C" to this Agreement. DOT&PF will use its best efforts to obtain and to use federal funds for eligible Capital Projects as shown in Exhibit "C". In the event that any aspect of a Capital Project or its funding changes, such that the portion of the Capital Project that must be funded from airline rates and fees increases by more than ten percent (10%) for non-AIP grant funded Capital Projects or by more than fifteen percent (15%) for Capital Projects funded primarily from Federal AIP grants, over the respective amount projected under the funding plan described in

Exhibit “C”, the increase in funding shall be subject to Signatory Airline vote under Section 6.03.

E. General Categories Projects Allowances

1. The following GCP Allowances are created:

- Annual Improvements
- Advanced Project Design and Planning
- IT Improvements
- Facility Improvements, Renovations and Upgrades
- Equipment
- Environmental Projects
- Airfield Pavement Reconstruction and Maintenance

2. Funding Authorization and Reporting: Exhibit “C” identifies the maximum approved funding authority for each of the GCP Allowances estimated by year. The scope, timing, and cost of individual projects within the GCP Allowances will be determined by the DOT&PF without the need for further specific authorizations. However, DOT&PF shall prepare and provide a Project Nomination Form as described in Exhibit “N” to the AAAC for any individual project with a total project cost greater than five hundred thousand dollars (\$500,000) prior to the commencement of such project and will provide semi-annual CIP Status Reports to the AAAC as required in Sections 6.01.B and 8.02.A.4 which include the following information.

a. Project Information: The project description, cost and funding sources for: (i) identified projects that have been funded under each GCP Allowance and the current status of those projects, and (ii) identified projects that are to be funded in the current and next upcoming Fiscal Years.

b. Collections Information: The current amount of rates and fees collections that are to be collected for each of the GCP Allowances.

3. Annual Collections for GCP Allowances: In setting collection amounts (i.e., the amount to be collected through airline rates and fees) for each GCP Allowance in any Fiscal Year, DOT&PF shall use a rate impact conscious analysis. Such analysis shall evaluate: (i) the amounts programmed into projects to date and expected to be programmed through the next Fiscal Year, and (ii) the collection amounts previously collected under the GCP Allowance which have not been programmed to projects.

As part of the semi-annual reporting DOT&PF will identify Deferred Allowance Projects and provide updates regarding their anticipated year of implementation.

DOT&PF will not collect for Deferred Allowance Projects within the Fiscal Year in which the Deferred Allowance Projects have been identified or, if funds have been collected, will release collected funds for year-end reconciliation. Collection amounts for each GCP Allowance are capped at the lesser of: (i) the cumulative annual maximum funding authority minus prior amounts collected, or (ii) one hundred fifty percent (150%) of the estimated annual funding amount shown in Exhibit "C" plus Deferred Allowance Projects (if any) minus un-programmed prior amounts collected.

GCP Allowance authorizations from previous agreements not programmed into projects prior to commencement of this agreement shall not carry forward into this agreement. Authorizations or collections from one General Category shall not be able to transfer or reallocate to another General Category.

4. DOT&PF may elect to proceed with a Signatory Vote under Section 6.03 rather than use funding under a GCP Allowance for any Capital Projects that exceed five hundred thousand dollars (\$500,000). DOT&PF may also elect to use amounts within a GCP Allowance to provide supplemental funding for discrete separate scope added to projects approved by an Airline Majority under Section 6.03.

5. During Fiscal Year 2018 or at times of extraordinary change in operational requirements or cost escalation, DOT&PF may undertake Section 6.03 adjustments to the annual GCP Allowance amounts to reflect ongoing Airport operational requirements.

#### Section 6.02. Capital Projects Not Requiring Signatory Airline Vote

A. DOT&PF may undertake the following types of Capital Projects (in addition to those contained in the pre-approved Capital Improvement Program described in attached Exhibit "C") without Signatory Airline vote, so long as notice shall have been provided, as required by Section 6.03 of this Agreement. It is understood and agreed that DOT&PF will not phase or divide work on Capital Projects if the sole or primary purpose is to avoid a required vote by the Signatory Airlines. Within the limits imposed by FAA grant assurances and law governing airport revenue diversion and use of airport funds, such Capital Projects may be located inside or outside the normal boundaries of ANC or FAI; provided that any Capital Project located outside such Airport's boundaries must be functionally related to or required for the operation of the Airport. Such Capital Projects could include, but are not limited to, navigational aids, drainage facilities, or noise and other environmental mitigation projects, and the following:

1. Capital Projects, the Airport System share of which, funded from rates and fees, is projected to be five hundred thousand dollars (\$500,000) or less for construction or acquisition, provided, however, that the cumulative rate and fee-funded cost to DOT&PF, net of any grants, for all such Capital Projects undertaken in a single Fiscal Year shall not exceed five million dollars (\$5,000,000); or

2. Capital Projects to satisfy requirements imposed by the FAA, whether by regulation or by grant agreement, or which are the subject of directives, regulations or advisories issued by any government agency, including DOT&PF acting in its non-proprietary capacity, the FAA or any agency of the United States government, or any other superior authority with jurisdiction over the Airport System; or
3. Capital Projects required in order to make available additional terminal space or related facilities for the expansion of an airline, or Capital Projects required in order to make space or facilities available in a terminal for, or otherwise necessary to accommodate, a new entrant or expanding airline, provided such airline enters into a binding commitment to lease the space so made available for at least the remaining duration of this Agreement and on the same terms as provided for lease of comparable space under this Agreement, and provided, further, that existing space or facilities are not otherwise available to accommodate the airline under Article 4 or 5 of this Agreement in a competitive, non-disruptive and otherwise satisfactory manner; or
4. Capital Projects to repair or replace property (the cost of, or revenues from, which are included in the calculation of rents, use fees or Landing fees chargeable to Signatory Airlines) damaged or destroyed by fire or other casualty, to the extent that the cost of the repair or replacement is not paid by insurance or contractual indemnity clause or exceeds the proceeds of any insurance or indemnity, when the property in question must be rebuilt or replaced in order to satisfy an obligation of DOT&PF or to maintain Airport Revenues; or
5. Capital Projects and amounts to settle claims or lawsuits, satisfy judgments or comply with judicial or administrative orders against DOT&PF arising from or relating to its design, ownership, operation, maintenance or use of the Airport System; or
6. Capital Projects that, if not undertaken on an emergency basis, would result in the closure of the Airport System or an essential portion of the Airport System. Emergency Capital Projects do not require advance notification. DOT&PF will notify the Signatory Airlines within five (5) business days of project commencement of an emergency Capital Project; or
7. Capital Projects to be financed either as special purpose facilities, or by third parties, and, in all such cases, whose tenants or users shall be required to pay directly or to reimburse DOT&PF for all costs, including M&O Expenses, associated with such Capital Projects; or
8. Capital Projects to be financed by DOT&PF from sources that do not affect airline rentals, use fees or Landing fees under this Agreement; or

9. Acquisition of land reasonably necessary to preserve the integrity of the Airport System.

B. Notification Process: DOT&PF shall notify the Signatory Airlines in writing, setting forth the following information in advance of commencing the Capital Project unless otherwise provided above:

1. A description of the Capital Project, including available preliminary drawings, a narrative description and location maps, the reasons for and benefits of its acquisition, installation or construction and the use to which DOT&PF intends it to be put;
2. The estimated cost of the Capital Project and the means by which DOT&PF intends to finance its acquisition, installation or construction, an estimate of net M&O Expenses projected to result from the Capital Project and an estimate of its financial impact on Landing fees, rents and use fees;
3. Why the proposed Capital Project falls within the scope of the exception provisions of this Section 6.02.

Section 6.03. Process for Capital Projects Requiring Signatory Airline Vote

A. In the event DOT&PF intends to undertake a Capital Project not identified as part of the pre-approved Capital Improvement Program described in attached Exhibit "C" to this Agreement (other than a Capital Project undertaken pursuant to Section 6.02.A., above, DOT&PF shall initiate the process described in Exhibit "N" and after completion of such process shall notify the Signatory Airlines in writing, setting forth the following information:

1. A description of the Capital Project, including available preliminary drawings, a narrative description and location maps, the reasons for and benefits of its acquisition, installation or construction and the use to which DOT&PF intends it to be put;
2. The estimated cost of the Capital Project and the means by which DOT&PF intends to finance its acquisition, installation or construction, an estimate of net M&O Expenses projected to result from the Capital Project and an estimate of its financial impact on Landing fees, rents and use fees;
3. In the case of a Capital Project that does not fall within the scope of the exception provisions of Section 6.02 of this Agreement, and that has not been deferred under Section 6.03.C or D of this Agreement for the requisite period after Airline Majority disapproval, DOT&PF will include in such notification a statement of the voting procedures and deadlines as provided under paragraph B of this Section 6.03. At DOT&PF's discretion, or if so requested by the chairperson of the AAAC, DOT&PF will convene a meeting with the AAAC within thirty (30) days of

such notice, or at such other time that is reasonably convenient for the parties, for the purpose of discussing and receiving comments concerning the Capital Project (the "Capital Project Meeting").

B. AIRLINE, so long as it is not in default under this Agreement, shall have the right to vote whether to disapprove a GCP Allowance increase or Capital Project that is not pre-approved under Section 6.01.C or falling within Section 6.02 of this Agreement.

1. After or in conjunction with the notification required under paragraph A of this Section 6.03, the Airport System Controller will distribute a ballot to AIRLINE, if not in default, and to each other eligible Signatory Airline, as well as a list of the Signatory Airlines not in default under this Agreement as of the date of distribution, and therefore eligible to receive a ballot. A sample ballot is attached as Exhibit "N". Within thirty (30) days following distribution of the ballots, AIRLINE and each other eligible Signatory Airline must return to Airport System Controller and the then-current chairperson of the AAAC, or to his or her designee, its marked ballot signed by an authorized representative of such respective Signatory Airline. Marked and signed ballots shall be sent electronically via "PDF" format. The Airport System Controller or designee shall, upon receipt of each ballot, mark it with the date and time of receipt. Within twenty-four (24) hours of a request by AIRLINE during the voting period, the Airport System Controller will provide to the then-current chairperson of the AAAC by facsimile or electronic transmission, a copy of each ballot received as of that time. A proposed GCP Allowance increase or Capital Project shall be deemed approved unless by close of business on the last business day of the 30-day voting period, the Airport System Controller or a designee has received timely votes from an Airline Majority voting disapproval of that Capital Project. By close of business on the second business day after the close of the thirty (30)-day voting period, the Airport System Controller or designee will provide by hand delivery, facsimile or electronic transmission to the then-current chairperson of the AAAC a written certification of the vote, with a hard-copy of the certification and copies of the eligible Signatory Airlines' receipt-marked ballots reflecting such vote within ten (10) days thereafter. The then current AAAC Chairperson shall confirm ballot results in writing or by electronic message to Airport System Controller within two (2) days of receipt.

2. Such approval shall be deemed to include approval of reasonable adjustments to scope, timing, funding, and cost of the Capital Project; provided that the portion of a Capital Project funded from rates and fees, may not increase by more than ten percent (10%) for non-AIP grant funded Capital Projects or by more than fifteen percent (15%) for Capital Projects funded primarily from Federal AIP grants of the estimated respective total or rate-and-fee-funded cost as most recently approved. Any cost increase or funding change beyond the limits stated in this paragraph shall be subject to Signatory Airline vote, except that any scope change or cost increase that would be entitled to exemption as an independent Capital Project under Section 6.02 shall be exempt from further Signatory Airline vote.

3. The Commissioner of DOT&PF, or the Commissioner's designee, may request reconsideration of any Capital Project for which approval is denied under paragraph 1 of this Section 6.03.B, by distributing new ballots and calling a meeting to be held with the Signatory Airlines within fifteen (15) days after DOT&PF receives written notice that approval has been withheld. Unless approval is again specifically withheld within thirty (30) days after the reconsideration meeting by a second vote according to the procedures provided in paragraph 1 of this Section 6.03.B, the proposed Capital Project will be deemed approved.

C. In the event an Airline Majority shall have disapproved a proposed GCP Allowance increase or Capital Project under Section 6.03.B of this Agreement, DOT&PF may (i) abandon the proposed Capital Project, (ii) carry out the Capital Project using financing that will not affect Signatory Airlines' rates and fees, or (iii) defer the Capital Project for twelve (12) months from the date of the vote, after which DOT&PF may undertake the Capital Project after a second notice under Section 6.03.A, but without further need for a vote by the Signatory Airlines. In the latter case, DOT&PF may include the capital costs when incurred and operating costs of the Capital Project, when completed and placed in service, in the calculation of rates and fees chargeable to Signatory Airlines, as appropriate.

D. DOT&PF and any and all third parties may rely on AIRLINE's execution of this Agreement and, as applicable, each vote by the Signatory Airlines that is deemed an approval under paragraph B of this Section, as conclusively binding on AIRLINE and as conclusive expression of its consent and contractual authorization for DOT&PF to finance and carry out, each Capital Project that:

1. is identified as part of the pre-approved Capital Improvement Program described in attached Exhibit "C" to this Agreement; or
2. has been duly presented for review by the Signatory Airlines under Section 6.03.A and has either
  - a. not been disapproved under Section 6.03.B; or
  - b. has been deferred for the applicable period under Section 6.03.C and re-noticed to the Signatory Airlines under Section 6.03.A; or
3. is exempt from Signatory Airline vote under Section 6.02.

#### Section 6.04. Mega Project Approval Process

In the event DOT&PF intends to undertake a Capital Project that has a total project cost in excess of five hundred million dollars (\$500,000,000) or the project costs that will be funded from airline rates and fees exceed one hundred million dollars (\$100,000,000), DOT&PF must obtain approval of an Airline Majority in order to proceed with advanced design of the project or construction during the term of this Agreement. The project shall

be deemed disapproved unless by the close of business on the second business day after the close of the thirty (30)-day voting period, an Airline Majority has timely voted approval of the Capital Project. Should the project not be approved by the Airline Majority, DOT&PF may reinitiate the pre-ballot process with additional information as determined appropriate.

## **ARTICLE 7 Rents and Fees**

### Section 7.01. Consideration

The consideration that AIRLINE agrees to provide DOT&PF for this Agreement, including use of the Exclusive Use Premises, Preferential Use Premises, Airport Administered Premises, Common Use Premises, and Preferential Use Privilege Aircraft Parking Positions, is the following:

- A. Provide Commercial Air Transportation to and from an Airport and
- B. Pay the rents and fees and perform all the obligations described in this Agreement. The rents and fees include the following:

1. Exclusive Use Premises Rent: For the Exclusive Use Premises set forth in attached Exhibits "K" and "L", AIRLINE will pay to DOT&PF rent in the amount of the Terminal Rental Rate, calculated as described in Section 9.03 of this Agreement, multiplied by the square footage shown as Exclusive Use Premises on Exhibits "E" and "F", payable on a monthly basis. All rent for the Exclusive Use Premises is due in advance on the first day of each month. AIRLINE may rent Exclusive Use Premises on a month-to-month basis. For such Month-to-Month Premises AIRLINE will pay to DOT&PF rent in the amount of the Terminal Rental Rate calculated as described in Section 9.03 of this Agreement plus a twenty-five percent (25%) premium, multiplied by the square footage as shown on Exhibit "E" and "F".

2. Preferential Use Premises Rent: For the Preferential Use Premises set forth in attached Exhibits "K" and "L", AIRLINE will pay to DOT&PF rent in the amount of the Terminal Rental Rate, calculated as described in Section 9.03 of this Agreement, multiplied by the square footage shown on Exhibits "E" and "F", payable monthly. In the case of shared Preferential Use Premises, AIRLINE will pay to DOT&PF its share of Preferential Use Premises rent as reasonably allocated by written agreement between AIRLINE and the other sharing airline(s). All rent for Preferential Use Premises is due in advance on the first day of each month. For use of a DOT&PF-owned passenger loading bridge installed at any of AIRLINE's Preferential Use Premises, AIRLINE will pay one-twelfth (1/12) of the annual charge for the DOT&PF-owned passenger loading bridge as stated in Section 9.07.C of this Agreement in advance with its monthly Preferential Premises rent.

3. Airport Administered Premises Charges:

a. For any use AIRLINE makes of any Airport Administered Premises for purposes related to passenger transportation, AIRLINE will pay to DOT&PF each month a payment in the amount of the respective charges for use of Airport Administered Premises, calculated as described in Section 9.07 of this Agreement, for all Per-Use and Per-Turn Airport Administered Premises and associated facilities and equipment AIRLINE used in the preceding month, as accurately reported in AIRLINE's CARs described in Section 11.01.C of this Agreement. AIRLINE shall submit payment of the applicable Airport Administered Premises charges together with each CAR on which it reports the Landings of the chargeable Passenger Flights.

b. In the event that AIRLINE's total payments for use of a particular Airport Administered gate during a Fiscal Year reaches the amount that AIRLINE would have been charged to lease the associated holdroom and Adjacent Aircraft Parking Position as Preferential Use Premises for that Fiscal Year, then AIRLINE will not be required to pay the Airport Administered gate use charge for that gate for the remainder of the Fiscal Year. Similarly, in the event that AIRLINE's total payments for use of a particular DOT&PF-owned passenger loading bridge during a Fiscal Year reaches the amount that AIRLINE would have been charged to use that DOT&PF-owned passenger loading bridge if installed on AIRLINE's Preferential Use Premises, then AIRLINE will not be required to pay the passenger loading bridge use charge for that passenger loading bridge for the remainder of the Fiscal Year. Likewise, in the event that AIRLINE's total payments for use of a particular Airport Administered ticket counter and baggage make-up space during a Fiscal Year reaches the amount that AIRLINE would have been charged to lease that ticket counter and baggage make-up space as Preferential Use Premises, then AIRLINE will not be required to pay the Airport Administered ticket counter and baggage make-up space use charge for use of that ticket counter and baggage make-up space for the remainder of the Fiscal Year. It is AIRLINE's responsibility to notify the Airport System Controller upon reaching the Preferential Use Premises charge in any given Fiscal Year.

c. For use of Month-to-Month Airport Administered Premises, AIRLINE will pay to DOT&PF rent in the amount of the Terminal Rental Rate plus a twenty-five percent (25%) premium on the then-current Terminal Rental Rate calculated as described in Section 9.03 of this Agreement, multiplied by the square footage as shown on Exhibit "A" of such agreement, payable monthly.

4. Fee for Subordinate Use of Exclusive or Preferential Use Premises of Others: In the absence of a sublease or ground handling agreement with another Signatory Airline, approved by DOT&PF under Article 13 of this Agreement, for the subordinate use of Exclusive Use Premises or Preferential Use Premises

(including any associated Adjacent Aircraft Parking Positions) of another Signatory Airline, AIRLINE will pay to DOT&PF a payment in the amount of the charges for use of Airport Administered Premises, calculated as described in Section 9.07 of this Agreement, for AIRLINE's use of Exclusive Use Premises or Preferential Use Premises of others on a subordinate basis, as accurately reported in AIRLINE's CARs described in Section 11.01.C of this Agreement. AIRLINE shall submit payment of the applicable fees required under this subsection together with each CAR on which it reports the Landings for the applicable period. To the extent DOT&PF collects a fee under this paragraph from another airline for subordinate use of AIRLINE's Premises, DOT&PF shall pay or credit the amount so collected to AIRLINE.

5. Common Use Premises Charge: For use of Common Use Premises that are available for use by all airlines as shown on attached Exhibits "O", "P", and "Q", AIRLINE will pay to DOT&PF each month, a payment in the amount of the charge at the per Enplaned Passenger rate for use of such space, calculated as described in Section 9.04 of this Agreement, multiplied by the number of AIRLINE's Enplaned Passengers at that Airport in the preceding month, as accurately reported in AIRLINE's CARs described in Section 11.01.C of this Agreement. AIRLINE shall submit payment of the applicable Common Use Premises fees together with each CAR on which it reports the Enplaned Passengers.

6. Preferential Use Parking Rent:

a. For the Preferential Use Privilege that AIRLINE enjoys in either (i) any Adjacent Aircraft Parking Positions associated with AIRLINE's Preferential Use Premises, or (ii) any Remote Aircraft Parking Positions in which DOT&PF has granted a preferential use privilege to AIRLINE, both as shown on attached Exhibits "I" and "J," AIRLINE will pay to DOT&PF rent in the amount of the aircraft ramp rental rate, calculated as described in Section 9.06 of this Agreement, multiplied by the total square footage of all such Aircraft Parking Positions in which AIRLINE enjoys a Preferential Use Privilege as shown on Exhibits "I" and "J". All Preferential Use Privilege rent is payable monthly and is due in advance on the first day of each month.

b. The Preferential Use Parking Rent shall not apply to an aircraft within FAA Design Group II or smaller making use of an Adjacent Aircraft Parking Position associated with FAI gates A and B as designated on Exhibit "J."

7. Vehicle Parking Position Rent: For the convenience AIRLINE enjoys in parking vehicles in Vehicle Parking Positions as shown on attached Exhibits "I" and "J", AIRLINE will pay the applicable Vehicle Parking Position fee per year per position. All Vehicle Parking Position fees are payable monthly and are due in advance on the first day of each month.

8. Common Use Passenger Processing System (CUPPS): For each use AIRLINE makes of CUPPS equipment, AIRLINE shall pay to DOT&PF the applicable charge for such use. AIRLINE shall pay each month the total charges applicable to such uses by AIRLINE in the preceding month as accurately reported in AIRLINE's monthly CARs described in Section 11.01.C of this Agreement. AIRLINE shall submit payment of the applicable CUPPS charges together with each CAR to DOT&PF.

9. FIS Fee:

a. FIS Aircraft Fee: As rent for Airport facilities used by the Federal Inspection Services, AIRLINE will pay to DOT&PF each month an FIS Aircraft Fee for each aircraft operated by AIRLINE exceeding six thousand (6,000) pounds Certificated Maximum Gross Takeoff Weight that clears for entry into the United States at an Airport. AIRLINE shall pay the FIS Aircraft Fee, calculated as described in Section 9.05 of this Agreement, multiplied by the total number of AIRLINE flights that cleared for entry into the United States with FIS as accurately reported in AIRLINE's CARs described in Section 11.01.C of this Agreement. AIRLINE shall submit payment of the applicable FIS Aircraft Fees together with each CAR on which AIRLINE reports the chargeable flights.

b. FIS Passenger Fee: As rent for Airport facilities used by the Federal Inspection Services, AIRLINE will pay to DOT&PF each month an FIS Passenger Fee for each passenger deplaned at an Airport for entry into the United States (not to include either flight crews or through passengers who do not leave the terminal, or passengers on pre-cleared flights). AIRLINE shall pay the FIS Passenger Fee, calculated as described in Section 9.05 of this Agreement, multiplied by the total number of passengers deplaned by the AIRLINE for entry into the United States with FIS in each month as accurately reported in AIRLINES' CARs described in Section 11.01.C of this Agreement. AIRLINE shall submit payment of the applicable FIS Passenger Fees together with each CAR on which AIRLINE reports the chargeable passengers.

10. Fuel Flowage Fee: AIRLINE, directly or through its supplier or agent, will pay to DOT&PF for the term of this Agreement a fuel flowage fee of two point seven cents (\$0.027) per gallon for aircraft fuel dispensed at an Airport for AIRLINE's use, measured as specified in DOT&PF agreements with suppliers. The fee will be paid monthly and is due on the twentieth (20<sup>th</sup>) day of the month after receipt of the fuel. Unless it makes such payment through its fuel supplier(s) or agent(s), AIRLINE shall accurately report its monthly fuel uplift in gallons in AIRLINE's CARs described in Section 11.01.C of this Agreement. AIRLINE shall submit payment of the applicable fuel flowage fees together with each CAR to DOT&PF.

11. Aircraft Parking Charges: AIRLINE will pay to DOT&PF each month charges for use of Adjacent Aircraft Parking Positions in which no Signatory Airline has a

Preferential Use Privilege, and a charge for use of Remote Aircraft Parking Positions as follows:

- a. For each use AIRLINE makes of a Remote Aircraft Parking Position, without enplaning or deplaning any revenue passengers and/or of an Adjacent Aircraft Parking Position in which no Signatory Airline has a Preferential Use Privilege for a Non-Passenger Flight, AIRLINE shall pay to DOT&PF the applicable charge for such use, calculated as described in Section 9.08 of this Agreement. AIRLINE shall pay each month the total charges applicable to such uses by AIRLINE in the preceding month as accurately reported in AIRLINE's monthly CARs described in Section 11.01.C of this Agreement, whether for four (4) hours or less, or for more than four (4) hours, and whether by either jet or propeller driven, narrow-body, or wide-body (two (2) or more aisles) aircraft. AIRLINE shall submit payment of the applicable aircraft parking charges together with each CAR to DOT&PF.
  - b. For each use AIRLINE makes of a Remote Aircraft Parking Position for enplaning or deplaning revenue passengers and/or of an Adjacent Aircraft Parking Position in which no Signatory Airline has a Preferential Use Privilege for a Passenger Flight, AIRLINE shall pay to DOT&PF the charge for use of Airport Administered Premises, calculated as described in Section 9.07 of this Agreement. AIRLINE shall pay each month the total charges for such uses based on the number of such uses by AIRLINE in the preceding month as accurately reported in AIRLINE's monthly CARs described in Section 11.01.C of this Agreement. AIRLINE shall submit payment of the applicable aircraft parking charges together with each CAR to DOT&PF.
12. Ground Support Equipment ("GSE") Parking Sticker Fee: No later than October 1<sup>st</sup> of each year, AIRLINE will pay to DOT&PF the applicable annual GSE parking sticker fee for each piece of self-propelled and non-self-propelled GSE, that AIRLINE desires to be allowed to park at any time during the subsequent twelve (12) month period in an authorized location, on a space available basis, on an Airport other than on AIRLINE's Premises or other premises with the consent of the lessee of that premises. AIRLINE will pay an additional GSE sticker fee for each additional piece of GSE it desires after October 1<sup>st</sup> to park similarly at an Airport.
13. AOA Vehicle Sticker Fee: No later than October 1<sup>st</sup> of each year, AIRLINE will pay to DOT&PF the applicable annual AOA vehicle parking sticker fee for each non-GSE vehicle that AIRLINE desires to be allowed to be driven on the AOA at any time during the subsequent twelve (12) month period. AIRLINE will pay an additional AOA vehicle sticker fee for each non-GSE vehicle it desires to have AOA access after October 1<sup>st</sup>.
14. Badge/Fingerprint Fees: AIRLINE will pay DOT&PF the Airport Badge Fee and a Fingerprinting Fee for each badge issued during the term of this Agreement.

The Airport Badge and Fingerprinting Fees are due at the time of service for each transaction. As may be applicable, AIRLINE will also pay DOT&PF any other badge-related fees duly established by DOT&PF, including fees for replacement badges and for lost or otherwise unreturned badges.

15. Other Fees: DOT&PF reserves the right to impose and collect charges and fees (i) for the use of parking and tenant employee parking on the Airport; (ii) for the use of specified equipment, facilities or services when such use is requested by Signatory Airlines or others; (iii) for the privilege of operating concessions at the Airport; (iv) for the privilege of accessing the Airport to conduct any business other than Commercial Air Transportation; and (v) for use of any premises wiring distribution system or similar Airport infrastructure system, whether made available on a voluntary or mandatory basis.

16. Landing Fee: Rents and fees for the use of all other facilities, rights, and privileges granted to AIRLINE, except as provided elsewhere in this Agreement, will be combined in and represented by a Landing fee that is subject to adjustment pursuant to Article 9 of this Agreement. No other fee may be charged for the facilities, rights, and privileges granted under this Agreement except as provided in this Agreement.

a. The Landing fee rate will be recalculated for each Fiscal Year as set forth in Section 9.09.

b. AIRLINE shall submit payment of its Landing fee obligation for the preceding month upon submission of its CAR for that month as required under Section 11.01.C of this Agreement. The Landing fee obligation for each month will be calculated by dividing the total Certificated Maximum Gross Takeoff Weights of all of AIRLINE's Landings, and Designated Signatory Airline Activity of aircraft of six thousand (6,000) pounds or greater Certificated Maximum Gross Takeoff Weight during the month by one thousand (1,000), and multiplying that number times the then-current Landing fee rate established by DOT&PF in accordance with Article 9 of this Agreement.

#### Section 7.02. Acceptance of Payments and Interest on Overdue Payments

Acceptance by DOT&PF of any payment does not preclude DOT&PF from verifying the accuracy of AIRLINE's calculations and from refunding or recovering any difference established by DOT&PF. Any payment due and not received by DOT&PF accrues interest from the due date until paid in full at the lower of (i) the judgment rate in Alaska as calculated under Alaska Statute 09.30.070(a), or as amended or superseded, in effect at any time of interest accrual (in 2012, for example, the rate was three point seven five percent (3.75%) calculated by adding three percentage points to the Twelfth (12<sup>th</sup>) Federal District discount rate in effect on January 2<sup>nd</sup> of that year), or (ii) any lower maximum rate applicable to this Agreement under Alaska law, including the maximum

rate established by Alaska Statute 45.45.010(b), or as amended or superseded, if applicable. For purposes of calculation of interest, any amount payable for an activity that is subject to reporting on a CAR as provided under Section 11.01.C of this Agreement, is considered due on the date the CAR on which it should be reported is due, whether the activity is reported in that Report or not. Interest on disputed amounts will not be charged to AIRLINE if the dispute is resolved in AIRLINE's favor. Additionally, if any payment due under this Agreement becomes past due by more than sixty (60) days, AIRLINE may be put on a cash only basis for all future fees until AIRLINE brings all outstanding payments due current.

#### Section 7.03. Additional Rent

A. Any fee, charge, reimbursement obligation, or interest due to DOT&PF under this Agreement shall be deemed additional rent and is due upon receipt of an invoice unless otherwise specified in this Agreement or is subject to Section 7.02.

B. After ten (10) days written notice to AIRLINE, DOT&PF may, but is not obligated to, cure any default by AIRLINE of its obligation to perform under this Agreement.

C. In the event of an emergency, or for the protection of health or safety, or if necessary to maintain orderly operation of the Airport, DOT&PF may also perform any responsibility of AIRLINE without advance notice.

D. The costs incurred by DOT&PF, including the costs of any contractor on behalf of DOT&PF, to cure any default by AIRLINE or to perform any responsibility of AIRLINE under this Section 7.03, plus a fifteen percent (15%) administrative fee, is agreed to be additional rent. Unless otherwise provided, all additional rent is due from AIRLINE with the next installment of monthly rent due under this Agreement.

#### Section 7.04. Adjustment of Rents, Rates and Fees

A. The Terminal Rental Rate and all rents, charges, rates and fees based upon it for use of Exclusive Use Premises, Preferential Use Premises, Airport Administered Premises, and Common Use Premises, as well as the Landing fee, the FIS fee, the aircraft ramp rental rate, and all rents, charges rates and fees based upon it for use of Aircraft Parking Positions are subject to annual recalculation under Article 9 and adjustment under Section 9.10 of this Agreement. The Landing fee is also subject to extraordinary adjustment under Section 9.11 of this Agreement.

B. For any Fiscal Year in which total Airport System Revenues otherwise received by DOT&PF, as determined by the audit prepared under Section 8.03 of this Agreement, fail to satisfy the total Airport System Revenue requirement as calculated under Section 9.09 of this Agreement using audited information, DOT&PF will invoice each Signatory Airline, pro rata, for a portion of the shortfall. In that event, AIRLINE will pay to DOT&PF, within thirty (30) days of invoicing by DOT&PF, that same percentage of the shortfall in Revenues for that Fiscal Year as the percentage that AIRLINE's total

Certificated Maximum Gross Takeoff Weights of all of AIRLINE's Landings of aircraft of six thousand (6,000) pounds or greater reported on AIRLINE's CARs for that Fiscal Year bears to the total Certificated Maximum Gross Takeoff Weights of all of Signatory Airline Landings of aircraft of six thousand (6,000) pounds or greater reported on CARs for that Fiscal Year.

#### Section 7.05. Non-Signatory Rates and Fees

A. DOT&PF intends, subject to public notice and comment, to impose a Landing fee rate for Non-Signatory Airline Landings other than Designated Signatory Airline Activity or Affiliated Airline Activity that is twenty-five percent (25%) greater than the Landing fee rate charged Signatory Airlines under this Agreement for aircraft over twelve thousand five hundred (12,500) CMGTW and a four-cent (\$0.04) fuel flowage surcharge for aircraft over twelve thousand five hundred (12,500) CMGTW in addition to the fuel flowage fee to be paid by Signatory Airlines under this Agreement. DOT&PF intends, however, that Non-Signatory Landings at FAI will be exempt from the Landing fee differential and that the Non-Signatory fuel flowage fee surcharge differential at FAI will not apply to the first twenty five million (25,000,000) gallons dispensed to a particular customer that is not a Signatory Airline, nor to any fuel dispensed until the first month following the month in which the total fuel dispensed in that Fiscal Year has reached one hundred million (100,000,000) gallons or more. DOT&PF may also, impose other rates and fees on Non-Signatory Airlines for the use of the Airports that are higher than those rates and fees charged Signatory Airlines under this Agreement.

B. If AIRLINE has not provided uninterrupted Commercial Air Transportation for the previous two years and does not lease Airport terminal space greater than one hundred (100) square feet or Airport land greater than one thousand (1,000) square feet for a term at least through the remaining term of this agreement, AIRLINE will be required to pay Non-Signatory rates for two years and will receive a credit or refund of the difference between Signatory and Non-Signatory rates upon its first and second twelve month period of providing Commercial Air Transportation after signing this Agreement.

#### Section 7.06. Rates and Fess Applicability

If any Designated Signatory Airline Activity or Affiliated Airline Activity at Airport would generate rates and fees if performed by AIRLINE, AIRLINE shall be responsible for the payments due and for any associated reporting requirements.

#### Section 7.07. Basis for Payment

Although AIRLINE is required under this section and Section 11.01.C of this Agreement to make monthly payment to DOT&PF based upon activity accurately reported on AIRLINE's CAR, AIRLINE is obligated to pay all rents, fees and other charges provided for in this Agreement as applicable to all of AIRLINE's activities at the Airport System, whether or not accurately reported on AIRLINE's CARs.

## **ARTICLE 8 Records and Reports**

### Section 8.01. DOT&PF Records of Airport System Cost Centers

A. DOT&PF will maintain a cost accounting system that identifies and segregates by account and cost center the following items for each Fiscal Year: (i) revenues; (ii) operation and maintenance expenses, including administrative expenses of the Airport System; (iii) expenses of DOT&PF allocable to the Airport System; and (iv) capital costs as provided in paragraph D of this Section.

B. Records must be kept for the following cost centers:

1. Airfield Cost Center;
2. Terminal Cost Center;
3. Other Buildings and Grounds Area Cost Center; and
4. Aircraft Ramp Cost Center.

C. The Airport System cost centers, as they presently exist are shown on attached Exhibits "G" and "H".

D. DOT&PF will maintain records that allocate capital funds from the IARF, contributions, Bonds, or other sources to each Airport System cost center. Annual Debt Service, including that to cover Bond issuance expenses, capitalized interest, and funding of special funds from Bond proceeds, must be prorated to each Airport System cost center in proportion to the amount of Bond proceeds expended in each Airport System cost center.

### Section 8.02. DOT&PF Financial Reports

A. At least seven (7) months before the end of its Fiscal Year, Airport System Controller will prepare and submit the following items to each Signatory Airline:

1. A preliminary Annual Rates & Fees Budget to include preliminary estimates of Airport System expenses such as, maintenance, operation, and administrative expenses for the upcoming Fiscal Year. The preliminary Annual Rates & Fees Budget must include a statement of estimated Airport System Revenues.
2. A schedule of Annual Debt Service payments required to be made during the next Fiscal Year.
3. A preliminary calculation of the Signatory Airline rents and Landing fees for the next Fiscal Year.

4. The information regarding the current status of Capital Projects as required in Section 6.01.B. The report shall provide detail for each project category and project by year, to include, but not be limited to the amount approved, the amount funded, the amount spent, the amount encumbered, the amount transferred, the amount lapsed, and the balance of unspent and unencumbered funds remaining for all projects and project categories regardless of source of funding or approval.

B. At least two (2) months before the end of each Fiscal Year, the Airport System Controller will prepare and submit the following items to each Signatory Airline:

1. The proposed final Annual Rates & Fees Budget including all estimated Airport System expenses such as, maintenance, operation, and administrative expenses that are to be included in the airline rates and fees for the upcoming Fiscal Year. The proposed Annual Rates & Fees Budget must include a statement of estimated Airport System Revenues.

2. A schedule of Annual Debt Service payments required to be made during the next Fiscal Year.

3. A calculation of the proposed Signatory Airline rents and Landing fees for the next Fiscal Year.

4. Any updates to the information regarding the current status of Capital Projects as required at Section 6.01.B.

C. Within thirty (30) days after receipt of the reports described in Section 8.02.A, AIRLINE may present written comments concerning the reports. Upon request by the Signatory Airlines, a meeting for additional comments must be held between the Signatory Airlines and DOT&PF. DOT&PF will give due consideration to any comments submitted by AIRLINE and the other Signatory Airlines. The State will not issue a notice for public comment regarding new airline rates and fees sooner than thirty (30) days after the submission of the reports described in Section 8.02.B

D. The proposed Annual Rates & Fees Budget may be revised as a result of DOT&PF's discussions with AIRLINE, others, or as a result of DOT&PF's budget process.

#### Section 8.03. Airport System Annual Audit

To keep AIRLINE informed of the financial performance of the Airport System, DOT&PF will make available to AIRLINE the annual audit of the Airport System's financial statements. Upon request by AIRLINE, DOT&PF will answer questions about the audits or statements.

#### Section 8.04. Fund Balance Annual Reconciliation

To facilitate the annual reconciliation and calculation of Excess Revenue and to track the balance in the Excess Revenue Fund and all other fund balances, the Airport System Controller will undertake and report to AIRLINE along with the annual audit report an annual reconciliation of the balance in each Airport System Administrative Fund described in Section 10.02.A, including any residual balance in the IARF not otherwise designated within an identified fund. The purpose of the report is to determine (i) the actual balance within each fund at the end of the Fiscal Year, (ii) the balance required in each fund to satisfy the requirements of this Agreement, including the funding of any Capital Projects approved under the Former Agreement or this Agreement, and (iii) any balance beyond what DOT&PF reasonably determines it needs to provide the Airport System with sufficient operating flexibility. Upon request by AIRLINE, DOT&PF will answer questions about the annual reconciliation.

### **ARTICLE 9**

#### **Calculation of Rental Rates, Fees and Charges**

#### Section 9.01. Annual Adjustment of Rental Rates, Fees and Charges

Airport System rental rates and other fees will be adjusted annually, effective the first day of each Fiscal Year, such adjustment being hereby incorporated into this Agreement without formal amendment documentation. DOT&PF will provide written notice to AIRLINE of all changes to the rental rate and other fees at least thirty (30) days prior to implementation.

#### Section 9.02. Allocation Methodology

In order to calculate Signatory Airline rental rates, fees and charges, DOT&PF shall account for, and allocate among the cost centers set forth in attached Exhibits "G" and "H", M&O Expenses, Annual Debt Service, each Fund Deposit Requirement, and administrative, overhead, and other indirect costs. All such allocations of expenses and revenues shall be in accordance with the allocation methodology described in attached Exhibit "M". The aggregate of rents, fees, and charges payable by all Signatory and Non-Signatory Airlines, together with Non-Airline Revenues, shall be sufficient to pay the cost of operating, maintaining and improving the Airport System, and to satisfy all of DOT&PF's obligations to make all deposits and payments under this Agreement and any Bond Resolution.

#### Section 9.03. Terminal Rental Rate

A. Each year, DOT&PF will calculate the Terminal Rental Rate per square foot per year for Airport System terminal buildings for the next Fiscal Year using its own reasonable estimates and projections. The Terminal Rental Rate will be charged for Exclusive Use Premises and Preferential Use Premises. Month-to-Month Airport Administered Premises will be charged at a twenty-five percent (25%) premium.

B. DOT&PF will calculate the total Terminal Cost Center expenses for each Fiscal Year by adding together the following amounts projected for that Fiscal Year:

1. The total estimated direct and indirect M&O Expenses including DOT&PF's administrative overhead allocable to the Terminal Cost Center;
2. Annual Debt Service and Debt Service Coverage allocable to the Terminal Cost Center;
3. Any Fund Deposit Requirement established pursuant to either the Bond Resolution or this Agreement that is allocable to the Terminal Cost Center, including deposits under Article 10 of this Agreement to the Maintenance and Operating Reserve Fund, the Supplemental Repair and Replacement Fund, and the Airport System Capital Project Fund; and
4. Fifty percent (50%) of the Airport System FIS fee revenue requirement as calculated in Section 9.05.B not recovered by the FIS fee as calculated in Section 9.05, below.

C. DOT&PF will calculate the Terminal Rental Rate requirement for each Fiscal Year by subtracting the estimated amount of Airport System vehicle parking revenue and concession revenue projected for that Fiscal Year from the Terminal Cost Center expense total calculated under paragraph B of this Section.

D. DOT&PF will calculate the Terminal Rental Rate per square foot per year for Airport System terminal buildings for each Fiscal Year, beginning in Fiscal Year 2014, as follows:

1. Determine the Terminal Rental Rate requirement as defined in Section 9.03.C.
2. Determine an adjusted Usable Premises by: (i) Subtracting the Rentable Premises from the total Usable Premises; then (ii) Multiplying that result by the adjusted Usable Premises Multiplier shown in the table below; then (iii) Subtracting that result from the total Usable Premises.
3. Determine the Terminal Rental Rate by dividing the Terminal Rental Rate requirement by the adjusted Usable Premises.
4. However, in no event may the Terminal Rental Rate be less than sixty-one dollars and fifty cents (\$61.50) per square foot per year for the term of this Agreement.

### Usable Premises Multiplier

2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
6.67%	13.34%	20.01%	26.68%	33.35%	40.02%	46.69%	53.36%	60.03%	66.70%	73.37%	80.04%	86.71%	93.38%	100.00%

#### Section 9.04. Charge for Use of Common Use Premises

A. Each year DOT&PF will calculate a charge per Enplaned Passenger for use of Common Use Premises at the Airport System for the next Fiscal Year using DOT&PF's own reasonable estimates and projections.

B. DOT&PF will determine the charge per Enplaned Passenger for use of Common Use Premises for each Fiscal Year as follows:

1. DOT&PF will calculate a Common Use Premises requirement for each Fiscal Year by multiplying the total square footage of the Common Use Premises, as shown on Exhibits "O," "P," and "Q", by the Terminal Rental Rate for that Fiscal Year as calculated under Section 9.03 of this Agreement.

2. DOT&PF will calculate a charge per Enplaned Passenger for use of Common Use Premises for each Fiscal Year by dividing the Common Use Premises requirement for that Fiscal Year by the number of Enplaned Passengers that are forecasted on Passenger Flights forecasted to use Common Use Premises at all DOT&PF-operated terminals during that Fiscal Year.

#### Section 9.05. FIS Fees

A. Each year DOT&PF will set the FIS Aircraft Inspection Fee and the FIS Passenger Fee for the Airport System for the next Fiscal Year as follows:

	<b>FIS Aircraft Inspection Fee</b>	<b>FIS Passenger Fee</b>
<b>2014</b>	\$37.00	\$5.00
<b>2015</b>	\$39.00	\$5.25
<b>2016</b>	\$41.00	\$5.51
<b>2017</b>	\$43.00	\$5.79
<b>2018</b>	\$45.00	\$6.08
<b>2019</b>	\$47.00	\$6.38
<b>2020</b>	\$49.00	\$6.70
<b>2021</b>	\$51.00	\$7.04
<b>2022</b>	\$53.00	\$7.39
<b>2023</b>	\$55.00	\$7.76

B. DOT&PF will calculate the total Airport System FIS revenue requirement for each Fiscal Year by multiplying the total square footage of all FIS office space, inspection station areas and international bag claim in the Airport System terminal buildings by the terminal rental rate calculated for that Fiscal Year under Section 9.03 of this Agreement.

#### Section 9.06. Aircraft Ramp Rental Rate

A. Each year DOT&PF will calculate the aircraft ramp rental rate per square foot per year for the Airport System's Aircraft Parking Positions for the next Fiscal Year using its own reasonable estimates and projections.

B. The total aircraft ramp rental requirement for each Fiscal Year will be the Aircraft Ramp Cost Center costs for that Fiscal Year, which shall be ten percent (10%) of the total projected direct and indirect M&O Expenses, including DOT&PF's administrative overhead, allocated to the Airfield Cost Center for that Fiscal Year.

C. DOT&PF will calculate the aircraft ramp rental rate for each Fiscal Year by dividing the total aircraft ramp rental requirement for that Fiscal Year by the total number of square feet of all of the Airport System's Aircraft Parking Positions as indicated on attached Exhibits "I" and "J".

#### Section 9.07 Charge for Airport Administered Premises

A. Each year DOT&PF will calculate a charge per use of Airport Administered Premises for the next Fiscal Year for three categories of use. Charges for the respective categories shall be calculated as described in paragraphs (B) – (D) below using DOT&PF's own reasonable estimates and projections. Increases in the respective rates for Airport Administered Premises in a Fiscal Year shall be capped such that in no case shall the annual percentage increase for those rates exceed an amount that is greater than the annual percentage change in the terminal rental rate calculated at Section 9.03 (D) plus 5%.

B. The Airport Administered gate-use charge will be determined as follows.

1. The revenue requirement for Airport Administered gates will be determined by:

a. Calculating the sum of:

i. The product of the Terminal Rental Rate multiplied by the total square footage of all Airport Administered holdrooms; plus

ii. The product of the aircraft ramp rental rate multiplied by the total square footage of all Adjacent Aircraft Parking Positions associated with Airport Administered holdrooms; then

b. Multiplying that sum by the Airport Administered Gate Multiplier shown in the table below:

### Airport Administered Gate Multiplier

2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
50.5%	56.0%	61.5%	67.0%	72.5%	78.0%	83.5%	89.0%	94.5%	100.0%

2. DOT&PF will then calculate separate rates for use of Airport Administered gates by four different classes of aircraft: (i) wide-body (two or more aisles); (ii) narrow-body (with a single aisle, and 100 seats or more); (iii) regional (50-99 seats); and (iv) commuter (less than 50 seats), to be levied on a per Turn basis.

a. The narrow body gate use charge will be calculated as follows:

i. Determine the projected weighted number of Airport Administered gate uses for the year by adding together the projected weighted uses for each type based on the applicable multiplier in the table below:

Aircraft Size	Multiplier
Narrow body	1
Wide body	1.8
Regional	0.7
Commuter	0.4

ii. Divide the Airport Administered gate requirement by the weighted number of uses calculated in paragraph 2.a.i., above.

b. The wide body gate use charge, the regional gate use charge, and the commuter gate use charge, shall each be calculated by multiplying the narrow body gate use charge by the applicable multiplier listed in the table above.

C. The passenger loading bridge use charge will be determined as follows:

1. The revenue requirement for DOT&PF-owned passenger loading bridges will be determined by calculating the sum of:

a. The annual amortized cost of all DOT&PF-owned passenger loading bridges, plus

b. The annual maintenance and operating costs of all DOT&PF-owned passenger loading bridges.

2. DOT&PF will calculate the annual charge for a DOT&PF-owned passenger loading bridge on a preferentially leased gate by dividing the revenue requirement calculated under paragraph C.1, above, by the total number of DOT&PF-owned passenger loading bridges.

3. DOT&PF will calculate the charge for use of a DOT&PF-owned passenger loading bridge on an Airport Administered gate by:

- a. Multiplying the annual charge for a DOT&PF-owned passenger loading bridge calculated under paragraph C.2, above, by the number of DOT&PF-owned passenger loading bridges installed at Airport Administered gates; then
- b. Dividing that result by the (unweighted) sum of all projected aircraft uses on Airport Administered gates equipped with DOT&PF-owned passenger loading bridges.

D. DOT&PF will calculate the Per-Use Airport Administered Premises charge for use of an Airport Administered ticket counter and associated baggage make-up space as follows.

1. The revenue requirement for Airport Administered ticket counter and baggage make-up space will be determined by:

- a. Calculating the product of the Terminal Rental Rate multiplied by the total square footage of all Airport Administered ticket counters and baggage make-up space; then
- b. Multiplying that product by the applicable Airport Administered Space Multiplier as shown in the table below.

Airport Administered Space Multiplier

2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
50.5%	56.0%	61.5%	67.0%	72.5%	78.0%	83.5%	89.0%	94.5%	100.0%

2. DOT&PF will calculate the charge for use of Per-Use Airport Administered ticket counters and baggage make-up space, to be levied on a Per-Use basis as follows.

- a. The ticket counter and baggage make-up space use charge will be calculated as follows:
  - i. Determine the projected number of Airport Administered ticket counter and baggage make-up space uses for the year by adding together the projected uses; then
  - ii. Divide the Airport Administered ticket counter and baggage make-up space revenue requirement calculated in paragraph D.1, above, by the number of uses calculated in paragraph 2.a.i., above.

Section 9.08. Aircraft Parking Charges

DOT&PF will calculate each year an Aircraft Parking Charge Rate for the Airport System for each use of a Remote Aircraft Parking Position by an aircraft that does not enplane or deplane revenue passengers at the Remote Aircraft Parking Position, or for each use of an Adjacent Aircraft Parking Position by a Non-Passenger Flight.

The Aircraft Parking Charge Rate is calculated as follows:

1. Determine an adjusted Airport System ramp rental requirement by subtracting the preferential use aircraft parking rents from the Airport System ramp rental requirement calculated under Section 9.06.B, above; then
2. Determine the number of weighted estimated aircraft parkings by adding together the estimated parkings under each category of aircraft size and parking length multiplied by their respective multiplier as shown in the table below.

Aircraft Parking Charge Multipliers

<b>Aircraft Size &amp; Parking Length</b>	<b>Multiplier</b>
Narrow body < 4 hrs	1
Wide body < 4 hrs	2
Narrow body 4 - 24 hrs	3
Wide body 4 - 24 hrs	4

3. Calculate the base Aircraft Parking Charge Rate by dividing the adjusted Airport System ramp rental requirement by the number of weighted estimated aircraft parkings. The aircraft parking charges are then determined by multiplying the Aircraft Parking Charge Rate by the respective multiplier for the applicable aircraft size and parking length in the table above.

Section 9.09. Landing Fee

A. Each year DOT&PF will calculate the Airport System Landing fee for the next Fiscal Year using its own reasonable estimates and projections.

B. DOT&PF will calculate the total Airport System Revenue requirement for each Fiscal Year by adding together the following amounts projected for the Airport System for that Fiscal Year:

1. The total estimated direct and indirect M&O Expenses, including DOT&PF's administrative overhead, for the Airport System;
2. The Annual Debt Service and Debt Service Coverage of the Airport System to be paid from Airport System rates and fees, plus any other amount required by the

Bond Resolution, but not any portion to be paid with federal grant funds or PFCs; and

3. The aggregate Fund Deposit Requirements established pursuant to either the Bond Resolution or Article 10 of this Agreement.

C. DOT&PF will determine the Airport System Landing fee requirement for each Fiscal Year by subtracting from the total Airport System Revenue requirement the following amounts projected for the Airport System for that Fiscal Year:

1. All operating Revenues, including
  - a. Terminal concession revenues, vehicle parking revenues, rental car revenues, ground transportation revenues, and non-airline terminal rental revenues;
  - b. Tie-down permit revenues and land and building rental and permit revenues;
  - c. Fuel flowage revenues;
  - d. Signatory Airline terminal rental revenues for exclusively and preferentially leased premises;
  - e. Signatory Airline Preferential Use Privilege Aircraft Parking Position revenues;
  - f. Airport Administered Premises and Common Use Premises revenues from use by Signatory and Non-Signatory Airlines;
  - g. All FIS fee revenues from Signatory and Non-Signatory Airlines;
  - h. All revenues for use of Remote Aircraft Parking Positions and for use of Adjacent Aircraft Parking Positions for Non-Passenger Flights; and
  - i. Any miscellaneous operating Revenues, including GSE sticker fees, AOA Vehicle Sticker Fees, Badge/Fingerprint Fees, Vehicle Parking Position fees, and any fees other than Landing fees, to be derived or received by DOT&PF in its operation of the Airport System;
  - j. A portion of Excess Revenues not to exceed the Fund Deposit Requirement under Section 10.03.B for that Fiscal Year minus any amount projected to be used from the Supplemental Repair and Replacement Fund and that is not capitalized in the accounting records maintained under Article 8 of this Agreement.

2. Interest earnings from the IARF for each Fiscal Year, excluding any interest earned on PFC collections; and

3. Any surplus in Landing Fee collections in the preceding Fiscal Year, calculated by subtracting the total Landing fee revenue known and projected actually to be received by DOT&PF for the preceding Fiscal Year from the Airport System Landing fee requirement, updated to reflect known and projected actual information, for that Fiscal Year.

D. DOT&PF will calculate the Signatory Airline Landing fee rate for each Fiscal Year by dividing the Airport System Landing fee requirement as calculated in this Section 9.09 by the total estimated Certificated Maximum Gross Takeoff Weight of all Landings of aircraft having Certificated Maximum Gross Takeoff Weight of six thousand (6,000) pounds or more projected to land at the Airport System that Fiscal Year, adjusting the projected Certificated Maximum Gross Takeoff Weight of Non-Signatory Airline Landings by the percentage by which the Non-Signatory Landing fee rate exceeds the Signatory Landing fee rate. However, in no event may the Landing fee for any Landing having Certificated Maximum Gross Takeoff Weight of six thousand (6,000) pounds or more be less than twenty dollars (\$20.00) nor shall the Landing fee rate be less than fifty cents (\$0.50) per one thousand (1,000) pounds of Certificated Maximum Gross Takeoff Weight.

#### Section 9.10. Mid-Year Adjustment of Rental Rates, Fees and Charges

Not later than the one hundred ninetieth (190<sup>th</sup>) day of each Fiscal Year, DOT&PF shall furnish the Signatory Airlines with a revised projection of Revenues from rental rates, fees and charges, as well as revisions of the various Airport System requirements described in this Article 9, (the "Mid-Year Projection") based on actual receipts and trends in activity reflected by the most recently available information for that Fiscal Year and for the preceding Fiscal Year with regard to each of the rents, fees and charges described in Section 7.01 of this Agreement. If the Mid-Year Projection forecasts total payments of Landing fees, Signatory Airline terminal rentals for exclusively leased and preferentially leased premises, Airport Administered Premises and Common Use Premises, FIS fees, and revenues from Remote Aircraft Parking Positions and non-preferential use of Adjacent Aircraft Parking Positions that would result in an overpayment or underpayment of five percent (5%) or more of the aggregate amount of the revised Airport System requirements for those rents and fees, then DOT&PF may adjust the respective Landing fee, Terminal Rental Rate, FIS Passenger Fee or Aircraft Parking Charge Rate for the balance of the Fiscal Year such that Mid-Year Projection activity levels and collection rates would result in satisfaction of budget requirements.

#### Section 9.11. Extraordinary Adjustments of Landing Fee Rate

A. If at any time DOT&PF projects that the Revenues of the Airport System received by DOT&PF for a current Fiscal Year will not be sufficient to cover the total Airport System Revenue requirement for that Fiscal Year as described in Section 9.09.B of this

Agreement, DOT&PF, after Consultation with the Signatory Airlines, and consideration of reducing M&O Expenses or using reserve funds to meet the requirement, may, after thirty (30) days written notice to AIRLINE, immediately increase the Landing fee rate to the amount necessary to cover the total Airport System Revenue requirement for that Fiscal Year.

B. If the total Landing fee revenue received by DOT&PF for any quarter of any Fiscal Year varies by more than ten percent (10%) from the Airport System Landing fee requirement calculated under Section 9.09.C of this Agreement, using known and projected actual information attributable to that quarter, DOT&PF may adjust the Landing fee for the balance of the Fiscal Year.

## **ARTICLE 10**

### **Bond Resolution; Establishment of Funds**

#### Section 10.01. Subordination to Bond Resolution

A. This Agreement is subordinate in all respects and at all times to every Bond Resolution then in effect.

B. AIRLINE will be given an opportunity to review and comment on drafts of proposed amendments to all existing Bond Resolutions and drafts of official statements for the issuance of additional Bonds. DOT&PF will give due consideration to the comments before adopting the amendments or issuing new Bonds.

#### Section 10.02. Establishment of Funds

A. Within the IARF, DOT&PF has administratively established the following funds (collectively, the "Administrative Funds"):

1. Maintenance and Operating Reserve ("M&O Reserve Fund");
2. Supplemental Repair and Replacement Fund;
3. Airport System Capital Project Fund; and
4. Excess Revenue Fund.

B. Amounts held in Administrative Funds shall be used for the purposes set forth in this Agreement and in the Bond Resolution.

#### Section 10.03. Deposits into Funds

A. At any time when a pledge of Revenues under a Bond Resolution is in effect, all Revenues from the Airport System collected by DOT&PF shall be applied as set forth in the Bond Resolution.

B. The Fund Deposit Requirement for each Administrative Fund or account for each Fiscal Year shall be as follows:

1. The Fund Deposit Requirement for the M&O Reserve Fund shall be the amount required to maintain a balance in the M&O Reserve Fund equal to one-fourth (1/4) of the projected M&O expenses for such Fiscal Year.

2. The Fund Deposit for the Supplemental Repair and Replacement Fund will equal the amount necessary to bring the balance of the Fund to one million seven hundred fifty-two thousand eight hundred seventy-five dollars (\$1,752,875) beginning with Fiscal Year ending in 2012. For each Fiscal Year thereafter, the Fund Deposit for the Supplemental Repair and Replacement Fund will be the amount necessary to bring the Supplemental Repair and Replacement Fund balance to the prior Fiscal Year's required balance multiplied by one (1) plus the percentage increase, if any, in the Anchorage CPI during the most recently ended twelve (12)-month period for which the Anchorage CPI is available.

3. The Fund Deposit Requirement for the Airport System Capital Project Fund shall equal the amount authorized from rates and charges in the Annual Rates and Fees Budget for that Fiscal Year for Capital Projects approved by Signatory Airlines under Section 6.01 or 6.03 of this Agreement, plus the amount authorized from rates and charges in the Annual Rates and Fees Budget for that Fiscal Year for Capital Projects not requiring Signatory Airline approval under Section 6.02 of this Agreement.

C. Each Fiscal Year all Excess Revenues will be deposited to the Excess Revenue Fund.

#### Section 10.04. Uses of Funds

A. The moneys on deposit in the Funds described in this Article 10 shall be used in accordance with the provisions of this Agreement and the Bond Resolution.

B. Any balance in the IARF after the deposits and transfers set forth in this Agreement shall remain in the IARF and shall be available only (i) to meet deficiencies arising in any of the Funds in the order of their priority under the Bond Resolution and (ii) to make future deposits and transfers required under this Agreement.

C. The moneys in the M&O Reserve Fund shall be used by DOT&PF to pay M&O Expenses.

D. The moneys in the Supplemental Repair and Replacement Fund shall be used for any payment that becomes due and payable in any Fiscal Year on account of any award, judgment or settlement resulting from any of the events described in Section 1.01.50.g, or for payment of unanticipated repairs or replacements reasonably necessary to be undertaken without delay to preserve and maintain the Airport System

or its facilities. DOT&PF may withdraw from the Supplemental Repair and Replacement Fund an amount equal to the lesser of (i) the amount of such payment or (ii) the balance of the Supplemental Repair and Replacement Fund and apply such amount to such payment, before including any amounts attributable thereto as M&O Expenses in the calculation of airline fees and charges.

E. The moneys in the Airport System Capital Project Fund shall be used for payment of Capital Projects that were approved under the Former Agreements and Capital Projects that are either approved by the Signatory Airlines under Section 6.03 of this Agreement or are not required to be so approved.

F. Moneys in the Excess Revenue Fund at the close of a Fiscal Year shall be applied in any following Fiscal Year as provided in Section 9.09.C.1.j of this Agreement, or for any other legally permissible purpose consistent with the obligations of the Airport System and of DOT&PF under the Bond Resolution, as designated by the AAAC in writing by its chairperson on or before the first day of May of the Fiscal Year preceding the Fiscal Year in which such moneys are to be applied.

## **ARTICLE 11 Additional Responsibilities of Parties**

### **Section 11.01. AIRLINE's Responsibilities**

A. Information about AIRLINE's Operations: In electronic format as prescribed by DOT&PF, AIRLINE shall, within thirty (30) days after execution of this Agreement, file with the Airport System Controller for each Airport that AIRLINE serves or intends to serve, information describing its operations at that Airport. AIRLINE shall be responsible to keep the information accurate and updated. The report must include:

1. Names and telephone numbers of AIRLINE's corporate officials responsible for various major AIRLINE functions including station operations, flight operations, scheduling, properties, facilities, and the names, titles and telephone numbers of officials responsible for AIRLINE's operations at the Airport;
2. The then-current schedule of AIRLINE's flights to and from the Airport (to be updated semi-annually (approximately every six (6) months) and upon any major intervening schedule change);
3. A description of AIRLINE's fleet and identification of AIRLINE's aircraft that will or may serve the Airport, and the Certificated Maximum Gross Takeoff Weight for each aircraft;
4. The identity of AIRLINE's Affiliated Airlines whose aircraft or personnel may serve the Airport at any time during the term of this Agreement. For each such Affiliated Airline that is not a Signatory Airline, AIRLINE shall furnish DOT&PF with the information requested in paragraphs 1 through 3, above, regarding that

Affiliated Airline (to be updated within ten (10) days of any change). An Affiliated Airline shall be considered an agent of the AIRLINE.

5. A statement of AIRLINE's then-current facility requirements at the Airport, including, if any, its requirements associated with anticipated Designated Signatory Airline Activity; and

6. Any other information DOT&PF reasonably requests as necessary for sound airport management, including management of Airport Administered Premises.

B. Certificated Maximum Gross Takeoff Weight Forecast: At least four (4) months before the end of each Fiscal Year, AIRLINE shall submit to DOT&PF, in writing, its Certificated Maximum Gross Takeoff Weight forecast for Landings by aircraft of six thousand (6,000) pounds or greater Certificated Maximum Gross Takeoff Weight for the next Fiscal Year, broken down by quarter, together with a like forecast for anticipated Designated Signatory Airline Activity or Affiliated Airline Activity that may serve the Airport System during that next Fiscal Year. If AIRLINE fails to furnish its forecast at the time specified, DOT&PF may, without further notice or waiver of AIRLINE's obligation under this paragraph, forecast AIRLINE's activity.

C. CAR and Payment: For any Airport where AIRLINE does not intend to make any Landings, AIRLINE may provide written notice to the Airport Director that it will not be landing at that Airport absent emergency circumstances, and that it will advise the Airport Director in writing prior to initiating service to, or otherwise landing at, that Airport. For each Airport to which AIRLINE has not provided such written notice, or where AIRLINE has landed in the preceding month despite such notice, AIRLINE shall file a CAR each month as follows:

1. On or before the tenth (10<sup>th</sup>) day of each month, unless such day is an official holiday in the State of Alaska, then the first business day thereafter, AIRLINE will provide to the Airport System Controller, by electronic format as prescribed by DOT&PF, a CAR of AIRLINE's operations at that Airport during the preceding month, including the following information:

a. the number of Landings made by AIRLINE at the Airport and the Certificated Maximum Gross Takeoff Weight of each Landing by an aircraft having a Certificated Maximum Gross Takeoff Weight of six thousand (6,000) pounds or more in accordance with Certificated Maximum Gross Takeoff Weight standards as provided by DOT&PF from time to time;

b. the number of Enplaned Passengers, identifying the number of enplaned non-revenue passengers, deplaned passengers, and through passengers of AIRLINE at the Airport;

c. the total tonnages for each of all cargo (i) enplaned, (ii) deplaned or (iii) moved in transit by AIRLINE at the Airport and additional information

regarding cargo activities at the Airport that the DOT&PF may reasonably request;

d. the number of gallons of aircraft fuel and the number of gallons of any other fuel provided to AIRLINE at the Airport, identified according to the fuel provider;

e. total sales of goods and services in a VIP Lounge as authorized under Section 3.01.A.5 of this Agreement, with a subtotal for each classification to which a different percentage fee applies;

f. all use of Aircraft Parking Positions, identifying Aircraft Parking Position, aircraft parked and duration for each use, other than associated with AIRLINE's Preferential Use Premises;

g. all use of Airport Administered Premises, when applicable, identifying gate number, aircraft parked and duration of each use and identifying ticket counter number and duration of each use;

h. all Designated Signatory Airline Activity and Affiliated Airline Activity with applicable information respective to paragraphs a through g, above, by name of airline operating the flight, activity date, and Flight Number; and

i. any other data that DOT&PF may reasonably request.

2. On separate forms, AIRLINE shall report to DOT&PF the same information for each Non-Signatory Airline that AIRLINE ground-handled at the Airport at any time during the preceding month.

3. On the same day that the CAR is due, AIRLINE will submit payment in full of all of its fee obligations under Article 7 and under Article 9 of this Agreement that are based on information contained in that report and able to be calculated from it. Payment shall be made by electronic funds transfer in a manner prescribed by DOT&PF.

4. If AIRLINE fails to submit to the Airport System Controller or designee the CAR or payment required by this Section 11.01.C by the tenth (10<sup>th</sup>) day of any month, AIRLINE shall pay, in addition to interest on all unpaid fees payable with that report, a late fee of thirty dollars (\$30.00) for the first day late, and fifteen dollars (\$15.00) per day thereafter until the report is received. For any CAR not submitted within forty-five (45) days of its due date, Airport System Controller may elect to conclusively presume that AIRLINE's activity for that month was equal to the highest activity level AIRLINE reported on a CAR within the preceding twelve (12) months and bill the AIRLINE accordingly. However; Airport System Controller's presumption of activity does not constitute a cure by AIRLINE of the requirement to submit a CAR.

5. Any amendment to a previously submitted CAR must be filed in electronic format prescribed by Airport System Controller, accurately restate all information on the previously submitted report, and specifically identify each item that has been amended. For any activity reported on the amended CAR for which AIRLINE has not made all required payment, AIRLINE must submit payment in the manner described in paragraph 3, above, on the same day AIRLINE submits the amended CAR. Any material amendment to a previously submitted CAR will invalidate any timely submittal of an original CAR; if the amended CAR is submitted after the deadline for that CAR, then the late fee described in the preceding paragraph 4 will apply from the deadline date to the date Airport System Controller or designee receives the amended CAR. Any amendment to a previously submitted CAR that results in a change of five percent (5%) or more in total charges payable from total charges payable under the originally submitted CAR is considered a "material" amendment.

6. DOT&PF shall be entitled to audit AIRLINE's records by any reasonable method not more frequently than once every twelve (12) months to confirm the completeness and accuracy of the information in AIRLINE's CARs, and for any other reasonable and good-faith purpose relating to this Agreement.

7. DOT&PF reserves the right to collect and use for the calculation of AIRLINE's rents and fees information from other reasonable and accurate sources regarding AIRLINE's activity at the Airport System. If DOT&PF uses information from other sources for the calculation of AIRLINE's rents and fees, AIRLINE has the right to review and provide additional information to justify the AIRLINE's position.

8. AIRLINE must provide written notice to the Airport System Controller of anticipated Designated Signatory Airline Activity or Affiliated Airline Activity in the month prior to when the flights or activity are anticipated.

D. Airline Financial Statements: If, during the period that any Bonds are outstanding, DOT&PF determines that AIRLINE is an "Obligated Person" for purposes of financial disclosure under securities laws or regulations, DOT&PF will request that AIRLINE provide DOT&PF either (i) a copy of the most recently prepared financial statements (audited, if available) of AIRLINE or (ii) if AIRLINE files a Form 10K or Form 10Q with the Securities and Exchange Commission, a cross-reference to such filing. Upon receipt of such a request in writing from DOT&PF, together with a statement by DOT&PF that it has found AIRLINE to be an "Obligated Person," AIRLINE will promptly comply with such request. Subject to any other interpretation required for compliance with securities laws and regulations, for purposes of this Section, an "Obligated Person" is a Signatory Airline or other user of the Airport System (i) having an agreement with DOT&PF that requires, among other things, payment of rates calculated to pay a portion of debt service on the Bonds, and (ii) which Signatory Airline or other user has paid at least twenty percent (20%) of the Revenues for the Airport System for each of the two (2) previous Fiscal Years.

E. Maintenance, Repair, and Alteration Responsibilities: AIRLINE has the maintenance, repair, and alteration responsibilities described in this subsection, and as listed on Exhibit "S". AIRLINE will, at its sole expense and in a manner acceptable to DOT&PF:

1. Maintain and keep all of AIRLINE's Premises, Preferential Use Privilege Aircraft Parking Positions, Vehicle Parking Positions, Airport Administered Aircraft Parking Positions during AIRLINE's use, and surrounding apron area, in a neat, clean, safe and orderly condition, free from litter, debris, refuse and other solid waste.
2. Perform reasonable, ordinary, and preventative maintenance and janitorial service within its Premises, including:
  - a. Maintain and repair all personal property, fixtures and equipment that are not provided by DOT&PF including fixtures, doors, interior windows, plumbing fixtures, baggage conveyors and belts not devoted to common use, fire walls between belt systems, floor and wall finishes or coverings, and ticket counters; and
  - b. Maintain and repair all electrical, plumbing, heating, ventilating, and air conditioning appliances that are not provided by DOT&PF;
3. Immediately repair any uninsured damage at the Airport caused by the fault or negligence of AIRLINE, its servants, contractors, agents, licensees, or employees;
4. Pay to DOT&PF as additional rent any extraordinary cost incurred by DOT&PF in providing AIRLINE with water, sewer service, electricity, or extraordinary use of any other utilities as are required; and
5. Ensure that DOT&PF has emergency access to AIRLINE's Exclusive Use Premises either by delivering keys and combinations to keyless locks to the Airport Director or by providing emergency telephone numbers by which AIRLINE or its agent can be reached on a twenty-four (24)-hour basis.

F. Disabled or Abandoned Aircraft:

1. If any aircraft owned or operated by AIRLINE, through accident or any other reason, is disabled or abandoned in any area of the Airport where it could interfere with the continuous, normal operations or any landing and field facilities, AIRLINE will:
  - a. Immediately provide for approval by the Airport Director a concise plan for removal of the aircraft;

b. As expeditiously as possible remove the aircraft to a location designated by the Airport Director, unless the aircraft is required to remain in place pending investigation by the appropriate federal regulatory agencies; and

c. In the event of any incident where federal investigation in-place is required, immediately upon receiving clearance to do so from the appropriate federal agency investigating such incident, and confirming that clearance with Airport Director, implement the plan to remove the aircraft and any resulting wreckage or debris to the area designated by the federal agency authorizing the removal; otherwise the aircraft wreckage and debris may immediately be removed at AIRLINE's expense to be stored at a location approved by the Airport Director.

2. If AIRLINE fails to proceed immediately to remove the disabled aircraft as provided above, or if any aircraft owned or operated by AIRLINE is abandoned on the Airport, DOT&PF has the right, after reasonable advance written notice to AIRLINE to remove the aircraft by any reasonable means DOT&PF deems necessary under the circumstances, and AIRLINE will reimburse DOT&PF for all costs and expenses (including storage costs) incurred in the removal and will indemnify, save harmless, and defend the State from any liability, cost, or expense resulting from the removal to the extent set forth in Section 12.01 of this Agreement.

G. Daily Flight Information: AIRLINE shall provide DOT&PF with the information for DOT&PF's multi-user flight, gate, and baggage information display systems for wherever such a system is operational at ANC or FAI, by providing real time data output from the AIRLINE's internal flight information display system, computer reservations system, cargo load message transmission, ARINC or SITA transmissions, or other information systems (including commercial information systems) in a format prescribed by DOT&PF on a per flight basis. AIRLINE shall provide to DOT&PF, in real time to the extent practicable, the following information about the AIRLINE's operations and activities at the Airport and other information reasonably requested by DOT&PF.

For each arriving flight:

1. flight number, gate utilized, and baggage claim to be utilized,
2. aircraft registration number and aircraft type,
3. actual time of arrival at the Airport (wheels-on) and actual time of arrival at the gate (aircraft parked at the gate), and
4. the number of deplaned passengers, with daily subtotals for each gate, together with the total number of aircraft seats on all flights that enplaned passengers at each gate.

For each departing flight:

1. flight number and Airport gate utilized,
2. aircraft registration number, aircraft type, and number of seats,
3. actual time of departure from the gate (aircraft pushback) and actual time of departure from the Airport (wheels-up), and
4. the number of enplaned passengers, with daily subtotals for each gate, together with the total number of aircraft seats on all flights that enplaned passengers at each gate.

#### Section 11.02. DOT&PF's Responsibilities

A. During the term of this Agreement, DOT&PF will:

1. Retain FAA Airport certification;
2. Operate and maintain the Airport System in reasonable condition and repair, including the runways, taxiways, aprons, roadways, vehicle parking areas, public areas of the terminal buildings, and all appurtenances, facilities, and services, but excluding interiors and fixtures of leased premises, as listed on Exhibit "S";
3. Keep the public areas of the terminal buildings adequately and attractively equipped, furnished, and decorated, as well as clean and presentable. In the public view areas of the terminal buildings, DOT&PF will provide and supply directional and informational signs, heat, electricity, light, power, air conditioning, wastewater disposal, water, and janitorial services including rubbish removal. DOT&PF will also keep in good repair and condition the exterior and structural portions of the walls, exterior doors, roof, and floor of the Exclusive Use Premises, Preferential Use Premises, Airport Administered Premises, and Common Use Premises, as well as all central electrical and mechanical distribution systems, as listed on Exhibit "S"; and
4. Maintain existing and future utility systems in the terminal buildings in reasonable condition and repair, including heat, electricity, fire alarm, sprinkler, air conditioning, baggage conveyors, and, if provided by the Airport, such infrastructure as a premises wiring distribution system, shared use passenger processing equipment, and closed circuit television, and any lines, pipes, mains, wires, conduits and equipment connected with or appurtenant to all those systems and that are not the responsibility of AIRLINE, as listed on Exhibit "S". DOT&PF may enter the Premises at all reasonable times to make any necessary repairs, alterations, and replacements to these systems.

B. DOT&PF will use its best efforts to restore service as soon as practical after any interruption in the services described in this Section. DOT&PF shall be deemed in compliance with paragraph A of this Section despite any such interruption so long as it diligently pursues restoration of the services.

#### Section 11.03. DOT&PF's Right to Inspect and Make Repairs

A. DOT&PF (or its representative) has the right, at reasonable times and with as little interruption of AIRLINE's operations as practical, to enter AIRLINE's Premises for the following purposes:

1. Inspections to verify AIRLINE's compliance with this Agreement; and
2. To do anything that DOT&PF has the right or obligation to do.

B. Except in the case of an emergency, reasonable notice must be given and DOT&PF will coordinate with AIRLINE in order to minimize interference with AIRLINE's activities.

C. If any damage at the Airport caused by fault or negligence of AIRLINE, its servants, contractors, agents, licensees, or employees, is not repaired in a timely manner, after reasonable advance written notice to AIRLINE to repair the damage DOT&PF may repair the damage and all costs and expenses incurred in the repair of the damage will be charged to AIRLINE as additional rent and will become due immediately.

#### Section 11.04. Alterations and Improvements

A. Before beginning construction or installation of any improvement or alteration, AIRLINE will first submit to the Airport Director an airport building permit application that includes:

1. Detailed drawings of the proposed improvement or alteration or a description of the same that the Director considers sufficient to determine any impact of the proposed improvement or alteration on Airport facilities; and
2. Written proof of approval of the proposed improvement or alteration from all appropriate agencies.

B. DOT&PF will review and approve or disapprove the proposed improvement or alteration in writing, electronically or otherwise, within forty-five (45) days after receipt of the construction drawings referred to in this Section 11.04. However, DOT&PF will not approve proposed installation or construction that does not comply with paragraph D of this Section. Neither approval by DOT&PF of any construction design, nor any other review or approval will be deemed to waive AIRLINE's legal responsibility to maintain and restore its Premises and to comply with all environmental laws and other applicable

federal, state and local laws, regulations and ordinances relating to the construction, design, or operation of AIRLINE's business. Neither will such review or approval work a waiver of any liability of AIRLINE, or an estoppel of any claim of DOT&PF.

C. If AIRLINE constructs or installs any improvement or makes any alteration on the Premises before obtaining a written approved Airport building permit, or without obtaining any necessary federal, state or local agency approval, DOT&PF may, at its sole discretion, require AIRLINE to repair or alter the unauthorized improvements or alterations to meet agency requirements for approval, or to remove the unauthorized improvement or alteration and restore the Premises. DOT&PF may also, in its discretion, impose, and AIRLINE shall pay, an administrative fee of not more than fifteen percent (15%) of the value of the unauthorized installation, improvements or alterations.

D. Any construction or installation proposed and carried out by or on behalf of AIRLINE must be designed and performed so as to satisfy the following criteria:

1. Be consistent with this Agreement;
2. Not interfere with operation of the Airport or activities of other tenants;
3. Be compatible with the architecture and interior design of the terminal as determined by DOT&PF, with any applicable tenant design standard adopted for the Airport, and with any Airport-provided infrastructure systems;
4. Be performed in a safe, neat manner, and completed at no cost to DOT&PF; and
5. Comply with all applicable federal, state, and local building, fire, health and safety codes, generally accepted engineering principles, and generally accepted principles of sound Airport management.

E. In the event that the construction or installation of any improvement or alteration by AIRLINE is determined by DOT&PF to be in violation of the terms and conditions of this Agreement or not in accordance with the drawings, plans or specifications approved by DOT&PF, then DOT&PF shall have the right to stop the construction or installation or, if the work has been completed, to order its immediate removal.

F. Within forty-five (45) days after completion of the construction of any alteration or improvement, AIRLINE will deliver to DOT&PF detailed copies of as-built drawings showing the location and dimensions of the alteration or improvement constructed, including structural, mechanical, and electrical systems.

G. In the event that any of AIRLINE's contractors, sub-contractors, vendors, employees or any other person directly or indirectly acting for, through or under any of them, files or causes to be filed a contractor's, mechanic's or materialman's lien or other

claim or lien against the Premises or any part of or interest in them, or any improvements on them, or against any moneys due to any contractors, sub-contractors, vendors or employees, then AIRLINE agrees to cause such liens and claims to be satisfied, removed or discharged within thirty (30) days after they are filed. Upon the failure of AIRLINE to cause such liens and claims to be satisfied, removed or discharged, DOT&PF shall have the right to cause such liens and claims to be satisfied, removed or discharged. In addition to all other rights and remedies provided under this Agreement or by law, DOT&PF shall be entitled to collect from AIRLINE, and AIRLINE shall pay to DOT&PF as additional rent, any and all expenses DOT&PF incurs with respect to such liens and claims (including any legal fees and disbursements).

#### Section 11.05. DOT&PF Modification and Relocation

A. The Airport Director may relocate AIRLINE or modify any portion of its Premises if necessary to repair, renovate or modify the terminal building or apron or if required in order to accommodate a new entrant or expanding airline. Except in the case of withdrawal of Preferential Use Premises for failure to maintain the Minimum Utilization Rate under Section 4.04.D, if it is necessary to relocate AIRLINE in whole or in part to facilitate such objectives, DOT&PF will furnish AIRLINE written notice sixty (60) days in advance.

B. AIRLINE will vacate and surrender the affected Premises to DOT&PF at the time specified in the notice furnished by DOT&PF pursuant to this Section 11.05.

C. Except as provided in Section 4.04.F in the case of withdrawal of Preferential Use Premises for failure to maintain the Minimum Utilization Rate, if AIRLINE Premises are involuntarily modified or relocated by DOT&PF, DOT&PF will:

1. Reimburse AIRLINE for the unamortized cost of its approved improvements that are acquired, demolished, or not replaced in kind by DOT&PF at the new location. Reimbursement will be made on the basis of capital cost figures furnished by AIRLINE and subject to verification by the Airport System Controller;
2. In accordance with Exhibit "R", provide AIRLINE with substantially similar space so that AIRLINE operations are not unreasonably disrupted. In the event of relocation, this Agreement will be modified to include AIRLINE's new assigned space;
3. Construct the demising walls and interior improvements to AIRLINE's new area. Interior improvements include wall coverings, floors, ceilings, doors, lighting, plumbing, electrical, heating units, air ventilation, requisite data and telecommunications lines, and fixtures. All material replacement will be similar in type and quality to those on the Premises being relocated; and
4. Offer to relocate AIRLINE's fixtures, furnishings, and equipment at DOT&PF expense.

**ARTICLE 12**  
**Indemnification, Insurance and Subrogation**

Section 12.01. Indemnification

A. AIRLINE will indemnify, save harmless, and defend DOT&PF, its officers, agents, and employees from and against any and all liabilities, losses, suits, administrative actions, claims, awards, judgments, fines, demands, damages, injunctive relief or penalties (specifically including civil penalties assessed by the FAA, TSA, U.S. Department of Transportation or any other federal agency), of any nature or kind, for property damage, personal injury, death, violation of any regulation or grant agreement, or any other injury or harm, including sums paid in settlement of claims, attorney fees, consultant fees, expert fees, or other costs and expenses, directly or indirectly arising from, connected to or on account of this Agreement as it relates to AIRLINE, AIRLINE's activities at or relating to the Airport System, or any act or omission by AIRLINE, or by any of its officers, employees, agents, contractors or sublessees.

B. The foregoing indemnity obligation shall apply to all matters subject to its terms, except that as between AIRLINE and DOT&PF, DOT&PF shall bear its own comparative fault for a liability, loss, suit, claim judgment, fine, demand, damage or penalty the legal cause of which is negligence or willful misconduct of DOT&PF, its employees, agents or contractors. If liability to a third party is subject to apportionment according to comparative fault under this provision, AIRLINE and DOT&PF shall seek in good faith to achieve non-judicial agreement as to apportionment of fault as between themselves.

C. AIRLINE shall give DOT&PF prompt notice of any suit, claim, action or other matter affecting DOT&PF to which paragraph A, above, may apply, together with a copy of any letter by an attorney on behalf of a complainant, any complaint filed in court, and any notice or complaint by any regulatory agency. AIRLINE shall also use counsel acceptable to DOT&PF and the Alaska Department of Law in carrying out its defense obligations under this paragraph. DOT&PF shall also have the right, at its option and expense, to participate cooperatively in the defense of and settlement negotiations regarding any such matter, without relieving AIRLINE of any of its obligations under this provision. These indemnity obligations are in addition to, and not limited by AIRLINE's obligation to provide insurance, and shall survive the expiration or earlier termination of this Agreement.

Section 12.02. Insurance

A. DOT&PF will, during the term of this Agreement, procure and maintain property insurance for the Airport terminal building, and other DOT&PF facilities at the Airport in such amounts and for such insured coverages as may reasonably be required for the prudent operation of the Airport. AIRLINE acknowledges that DOT&PF is a governmental entity that has a program of self-insuring some or all of DOT&PF's risks of

loss or damage. Therefore, some or all of the insurance requirements of this subsection may be satisfied through an equivalent self-insurance program.

B. AIRLINE will, during the term of this Agreement, procure and maintain liability insurance for public liability, aviation liability, the Premises, property damage, bodily injury and death, with contractual liability endorsements, insuring all of AIRLINE's operations under this Agreement, including its obligations under the indemnity clause in Section 12.01 of this Agreement. These policies must have a per occurrence dollar amount of coverage not less than that set forth below based upon the maximum passenger seating design capacity of the largest capacity aircraft that AIRLINE operates at the Airport System, regardless whether AIRLINE actually uses that aircraft equipped with that number, or any, passenger seats. An aircraft with no design-specified passenger seating capacity will be considered to have the maximum passenger seating design capacity of the passenger aircraft with an airframe most equivalent in size. The policy dollar amounts of coverage stated below are minimums only; DOT&PF shall be entitled to the full benefit and protection of any higher dollar amount of coverage stated in an insurance policy actually carried by AIRLINE. These policies and minimum dollar amounts of coverage will be consistently applied to all airlines with similar operations and will be consistent with prudent airport industry practices and this Agreement. The following shall be the minimum dollar amounts of coverage for third-party liability insurance or equivalent insurance and do not require any specified minimum sub-limit per seat:

1. If the largest aircraft operated by AIRLINE at the Airport System has a designed maximum seat capacity of up to and including 99 seats:

Maximum design number of seats x 0.75 x \$1,000,000 = Minimum dollar amount of coverage; or

2. If the largest aircraft operated by AIRLINE at the Airport System has a designed maximum seat capacity of 100 or more seats:

Maximum design number of seats x \$1,000,000 = Minimum dollar amount of coverage.

C. Within thirty (30) days after signing this Agreement, AIRLINE will report to DOT&PF the design maximum seat capacity, of each aircraft or type of aircraft operated by AIRLINE at the Airport System. If the maximum seat capacity for any aircraft or type of aircraft operated by AIRLINE at the Airport System is later increased beyond the largest capacity previously reported to DOT&PF by AIRLINE, AIRLINE will report the change to DOT&PF and obtain any required additional insurance coverage before operating the aircraft at the Airport.

D. Each policy of insurance, which shall include the Airline's captive (if any), must be from a company reasonably satisfactory to DOT&PF, under policy forms no more restrictive than the standard form and satisfactory to DOT&PF. Each policy, except War

Risk which shall be subject to standard market cancellation provisions, must provide that it may not be canceled or materially changed during its term without at least thirty (30) days advance written notice to DOT&PF. Each policy must state that it is primary, without any right to contribution from any other insurance, including self-insurance that may be carried by DOT&PF.

E. A certificate on forms prescribed by the State certifying coverage of required insurance, and a declarations page or other evidence of the types, limits, deductibles, exclusions and endorsements must be delivered to DOT&PF within thirty (30) days of the effective date of this Agreement. The certificate must identify DOT&PF's reference number for this Agreement.

F. Where any such policy has a normal expiration during the term of this Agreement, AIRLINE will provide a certificate or satisfactory written evidence of continued coverage prior to such expiration. Within fifteen (15) days prior to the effective date of any cancellation or reduction in the amount or extent of insurance coverage, AIRLINE will deliver to DOT&PF a certificate or satisfactory written evidence certifying coverage that reinstates or otherwise provides at least the required insurance coverage.

G. The failure by either party at any time to enforce the provisions in this Section will not be construed as a waiver of these provisions and will not reduce either party's obligations under this Agreement.

H. DOT&PF reserves the right to modify the requirements of this Section 12.02 provided that such modifications are reasonable and appropriate.

#### Section 12.03. Waiver of Subrogation

DOT&PF and AIRLINE each agree to have all of its respective fire and extended coverage and material damage insurance carried with respect to the Airport, and AIRLINE's aircraft hull coverage, endorsed with a clause that waives all rights of subrogation that the insurer of one party might have against the other party. To that effect, DOT&PF and AIRLINE will cause their insurance companies to endorse the affected property (fire and extended, multiple peril and aircraft hull) coverage with the waiver of subrogation.

#### Section 12.04. Additional Insured

AIRLINE agrees that every insurance policy required under Section 12.02.B will include an endorsement naming DOT&PF as an additional insured. Each policy must provide protection for DOT&PF in the same manner as though a separate policy had been issued to DOT&PF. Each policy must contain, to the extent available, a waiver of subrogation as to DOT&PF and its employees and agents, and of all rights to set-off, counterclaim or any other deduction to which DOT&PF or its employees or agents may be entitled, and that it may not be invalidated as to DOT&PF by any action or inaction of

AIRLINE, including any breach by AIRLINE of any representation, declaration, condition, or warranty contained in the policy.

Section 12.05. Notice of Claim

Each party will give the other party prompt and reasonable notice of any suit, claim or action to which the indemnity provisions of Section 12.01.A would apply or relating in any way to this Agreement.

Section 12.06. Insurance Rates

AIRLINE may not use the Airport in any manner that will increase DOT&PF's insurance rates. If AIRLINE's activities on the Airport result in increased insurance costs for DOT&PF, then DOT&PF may charge the increased cost to AIRLINE as additional rent.

**ARTICLE 13**  
**Assignment or Sublease; Ground-Handling Agreements**

Section 13.01. Assignment or Sublease

A. AIRLINE shall not assign all or any portion of this Agreement, nor shall it enter into any sublease of Premises under this Agreement without the advance written approval of the Airport Director, and any attempted assignment or sublease without such advance written approval will be void and of no effect. The Airport Director will not unreasonably withhold such approval.

1. The Airport Director may approve a sublease of all or a portion of AIRLINE's Premises so long as AIRLINE is not in default of any obligation under this Agreement, and if:
  - a. In the Airport Director's opinion, the proposed sublease is in the best interest of the Airport's operation;
  - b. AIRLINE subleases the space for an amount not exceeding the rent DOT&PF charges for that space plus AIRLINE's maintenance and operation costs, an additional allowance for amortization of AIRLINE's improvements; and
  - c. The term of any sublease does not extend beyond the expiration of the term of this Agreement.
2. The Airport Director's consent to any sublease does not relieve AIRLINE of the necessity of obtaining the Airport Director's consent to any future sublease.

3. The Airport Director may approve an assignment of this Agreement so long as AIRLINE is not in default under this Agreement and if all of the following conditions are met:

- a. In the Airport Director's opinion, the proposed assignment is in the best interest of the Airport System;
- b. AIRLINE assigns this Agreement to an airline qualified under 17 AAC 42 to execute the Agreement and is capable of complying with all the requirements of this Agreement, and that qualified airline agrees in writing to assume all of AIRLINE's obligations and liabilities under this Agreement;
- c. AIRLINE assigns this Agreement for an amount not exceeding the unamortized cost of AIRLINE's tenant improvements and personal property transferred as part of the assignment; and
- d. AIRLINE follows all procedures and satisfies all requirements stated in 17 AAC 42.260 or 17 AAC 42.265, as applicable.

B. If this Agreement is assigned pursuant to the bankruptcy code, 11 U.S.C. § 101 et seq., any consideration for the assignment greater than the amount permitted under Section 13.01.A.3.c is the exclusive property of DOT&PF and is not the property of AIRLINE or AIRLINE 's estate under the Bankruptcy Code.

#### Section 13.02. Merger

This Article does not prevent the assignment of this Agreement, through a merger, consolidation, or succession to the business, of AIRLINE and an airline qualified under 17 AAC 42 to execute this Agreement where qualified airline is capable of complying with all the requirements of this Agreement, and the qualified airline agrees in writing to assume all of AIRLINE's obligations and liabilities under this Agreement, so long as AIRLINE is not in default under this Agreement, to any corporation or business entity that merges, consolidates, or succeeds to the business of AIRLINE, so long as the successor corporation or business entity assumes the rights and obligations of this Agreement and written documentation of the assignment and acceptance of obligations is given to the Airport Director within thirty (30) days after the effective date of the merger, consolidation, or succession.

#### Section 13.03. Ground-Handling Services

So long as AIRLINE is not in default under this Agreement, it or its wholly owned subsidiary or its Affiliated Airline may perform for AIRLINE or another airline that conducts Designated Signatory Airline Activity or Affiliated Airline Activity for AIRLINE at an Airport, all or a portion of the functions that it may perform for itself under the provisions of Article 3 of this Agreement ("Ground-Handling Services") without a

separate fee so long as AIRLINE is itself actively engaged in providing Commercial Air Transportation at that Airport.

## **ARTICLE 14**

### **Default and Termination**

#### Section 14.01. Suspension of Privileges, and Right to Reenter and Re-let After Default

A. Without terminating this Agreement and time being of the essence, AIRLINE will be in default, and all of AIRLINE's rights and privileges, but not its responsibilities and obligations, as a Signatory Airline under this Agreement, other than use and occupancy of its Premises and Airport facilities, will be automatically suspended without further notice, upon the occurrence of any of the following events of default:

1. AIRLINE fails to pay any rent or fee or any other charge as provided for in this Agreement, including interest, within thirty (30) days after the date it is due, or
2. AIRLINE violates any provision of, or fails timely to perform any of its obligations under this Agreement, or
3. AIRLINE fails to continue to perform any obligation of this Agreement after performance is commenced.

B. Without terminating this Agreement and time being of the essence, DOT&PF may immediately reenter, renovate, and re-let all or part of the Premises to others and reassign any associated Preferential Use Privilege for any Adjacent Aircraft Parking Position to others for the account of AIRLINE if AIRLINE either:

1. Fails to pay any rent or fee or any other charge provided for in this Agreement, including interest, within thirty (30) days after receipt of written notice of default, or
2. Fails to immediately cure a default in performance of any obligation under this Agreement within thirty (30) days after receipt of written notice of default. If the nature of the default is such that it cannot be cured within thirty (30) days after the written notice of default by DOT&PF to AIRLINE, AIRLINE will be deemed to have cured the default if it commences to cure the default within the thirty (30) day period and thereafter diligently continues the cure to completion, or
3. Fails to continue to perform any obligation of this Agreement after performance is commenced, or
4. If any petition, proceeding, or action by, for, or against AIRLINE is filed under any insolvency, bankruptcy, reorganization, relief of debtors, or receivership law and is not dismissed by the court within sixty (60) days of the petition, proceeding, or action.

C. In the event of reentry, DOT&PF will charge AIRLINE renovation costs necessary to restore the Premises to the condition of the Premises as of AIRLINE's first occupancy, plus a fifteen percent (15%) administrative fee for all re-let sublease rent received by DOT&PF for AIRLINE's re-let space. AIRLINE will reimburse DOT&PF for any deficiency in rents or fees received for the reentered or re-let space. A deficiency is the difference between AIRLINE's rent and the re-let rent before considering the fifteen percent (15%) administrative fee.

D. Subject to Section 14.04 of this Agreement, before or after a reentry and re-letting as provided in this Section, DOT&PF may terminate all of AIRLINE's rights under this Agreement, and cancel all rights and privileges granted to AIRLINE without any restriction on recovery by DOT&PF for past due rents and fees owed by AIRLINE.

E. Any default under paragraphs A.1 or B.1 of this Section shall continue until DOT&PF has received from AIRLINE all payments due and owing to DOT&PF through the date AIRLINE next timely submits the CAR and payment described in Section 11.01.C of this Agreement.

F. DOT&PF has any and all additional rights and remedies as provided by law.

#### Section 14.02. Partial Termination Due to Damage or Destruction

A. If any Premises, terminal buildings, structures, or any portions of them are damaged by fire or other casualty, DOT&PF will notify AIRLINE within ninety (90) days of the damage whether the damaged space is to be repaired. If the damaged space is to be repaired, DOT&PF will repair the damage with due diligence and will abate the rent allocated to the particular building, room, or other portion of the space rendered untenable for the period from the occurrence of the damage to the completion of the repairs. DOT&PF will do its best to provide AIRLINE with any available temporary substitute space at the rent deemed reasonable by DOT&PF until the repairs are completed.

B. If DOT&PF fails to notify AIRLINE within ninety (90) days after destruction that DOT&PF will repair the damaged space, AIRLINE may elect within one hundred twenty (120) days after destruction to terminate this Agreement as to the space damaged or destroyed, or as to all of the Premises if AIRLINE is unable to reasonably conduct its operations with that portion of the Premises remaining, effective on the date of the damage.

#### Section 14.03. Events Permitting Termination by AIRLINE

AIRLINE may terminate this Agreement if:

1. AIRLINE is prohibited by lawful authority from using the Airport because of any deficiency or unsafe operating condition at the Airport for a period exceeding

sixty (60) days. AIRLINE may terminate this Agreement after the sixty (60) days by giving DOT&PF thirty (30) days advance written notice; or

2. DOT&PF does not perform any material covenant in this Agreement for a period of sixty (60) days after written notice of default to DOT&PF by AIRLINE. DOT&PF will be deemed to have cured the default if DOT&PF commences to cure the default within the sixty (60) day period and diligently continues the cure to completion.

#### Section 14.04. Events Permitting Termination by DOT&PF

Time being of the essence, DOT&PF may cancel or terminate this Agreement immediately and exercise all rights of entry and reentry upon the Premises after the occurrence of any of the following events:

1. AIRLINE fails to provide Commercial Air Transportation;
2. AIRLINE fails to pay any rent, fee or other charge due as provided for in this Agreement, including interest, within thirty (30) days after AIRLINE's receipt of written notice of default from DOT&PF;
3. AIRLINE does not perform any other material provision in this Agreement for a period of sixty (60) days after receipt of written notice of default from DOT&PF. If the nature of the default is such that it cannot be cured within sixty (60) days after written notice of default by DOT&PF to AIRLINE, AIRLINE will be deemed to have cured the default if it commences to cure the default within the sixty (60) day period and diligently continues the cure to completion;
4. AIRLINE or its creditors file a request for AIRLINE's relief under any state or federal insolvency, bankruptcy, reorganization, relief of debtors, or receivership statute and any resulting proceeding is not dismissed by the court within sixty (60) days of the request; or
5. A custodian, trustee, receiver, or agent, or any similar person is appointed or authorized to take charge of a substantial part of AIRLINE's property on the Airport.

#### Section 14.05. Surrender of the Premises and Removal of Property

Upon the expiration or termination of this Agreement, and upon a vacation, authorized or required under this Agreement, of all or any portion of the Premises, including vacation by reason of a notice under Section 4.04.D, AIRLINE agrees to surrender the affected Premises peaceably and in good condition, except for (i) reasonable wear and tear, (ii) loss or damage by fire or other casualty if such loss or damage is fully covered by insurance with respect to which DOT&PF is a named insured or loss payee, (iii) damage resulting from any act of DOT&PF, its employees, agents, contractors, invitees,

licensees and guests, (iv) damage caused by any airline, its agents, contractors, invitees, and guests, to which DOT&PF granted shared use rights with respect to AIRLINE's Preferential or Exclusive Use Premises and with respect to which use AIRLINE had no written agreement with that airline, (v) any changes occasioned by condemnation, and (vi) alterations that DOT&PF approved in writing as not subject to restoration under this Section. Except to the extent the Airport Director requests or consents otherwise, and except as provided under Section 4.04.D, AIRLINE shall, within ten (10) days after expiration or termination, remove from the affected Premises all of its furniture, fixtures, equipment, improvements that can be removed without causing damage to the Premises, any other of its improvements that the Airport Director requires to be removed with repair of any resulting damage, including wiring if requested by DOT&PF, trash and any other item for which AIRLINE is responsible, and except to the extent that DOT&PF requests or consents otherwise, restore the affected Premises as nearly as possible to pre-occupancy condition to the satisfaction of DOT&PF. DOT&PF reserves the right to more fully restore the Premises to its satisfaction and to charge AIRLINE for such restoration, which charge AIRLINE agrees to pay as additional rent.

#### Section 14.06. Ownership of Improvements

A. The ownership of furniture, furnishings, fixtures and equipment that are constructed or installed on the Premises by AIRLINE is as follows:

1. Title to all such furniture, furnishings, fixtures, or equipment that are removable without causing damage to the Premises, remains vested in AIRLINE at all times during the term of this Agreement, provided, however, that in the event any such removable furniture, furnishings, fixtures, or equipment are financed with the proceeds of tax-exempt bonds, title to such improvements shall vest in the DOT&PF immediately upon their installation. Unless the Airport Director consents otherwise, and except as provided under Section 4.04.D, within thirty (30) days after the expiration or termination of this Agreement, or after any notice given to AIRLINE under this Agreement to vacate all or any portion of the Premises, including any such notice under Section 4.04.D, all removable furniture, furnishings, fixtures, and equipment remaining on the Premises will, at the discretion of DOT&PF, become the property of DOT&PF. Alternatively, DOT&PF may sell, modify, destroy or otherwise dispose of such unremoved property as it sees fit. AIRLINE shall reimburse DOT&PF within thirty (30) days after invoicing for any net cost DOT&PF may incur in removing and disposing of such property.

2. Title to any structure or other improvement that cannot be removed without causing damage to the Premises, in the reasonable determination of the Airport Director, vests in DOT&PF upon the expiration or termination of this Agreement unless provided otherwise in a successor agreement. These improvements include interior walls, ceilings, carpeting, finished flooring, electrical wiring, air conditioning ducts and equipment, furnishings, interior decoration, or finishing.

B. AIRLINE shall not abandon any property on the Premises, or elsewhere on the Airport, without the advance written consent of the Airport Director. At its sole expense, AIRLINE will restore all damaged DOT&PF property to its previous condition or reimburse DOT&PF for the expense to repair any property damage.

**ARTICLE 15**  
**Compliance with Law, Taxes, Policies, Rules and Regulations;**  
**Non-Discrimination**

Section 15.01. Compliance With Law

AIRLINE will comply with all present and future statutes, regulations, and ordinances of all federal, state, or local governments that apply to or affect AIRLINE or its operations under this Agreement. DOT&PF will comply with all applicable laws governing its operations under this Agreement.

Section 15.02. Taxes

A. AIRLINE will pay, but payment may not be considered part of Airport System Revenue, all taxes (including any possessory interest tax, assessment, or similar charge) that at any time during this Agreement are levied or liened against AIRLINE.

B. AIRLINE will indemnify and defend DOT&PF from all costs that result directly or indirectly from any tax or assessment for which AIRLINE is liable, including taxes, penalties, expenses, and reasonable attorneys' fees incurred by DOT&PF.

C. At its own expense, AIRLINE may contest the amount or validity of any tax or assessment or similar charge, or contest the inclusion of the space leased under this Agreement as taxable or assessable property, directly with the taxing or assessing authority. AIRLINE will indemnify DOT&PF for all taxes, penalties, costs, expenses, and reasonable attorneys' fees incurred by DOT&PF resulting directly or indirectly from any such tax contest.

D. Upon termination or expiration of this Agreement, AIRLINE will promptly pay in full all due and payable taxes and liens.

Section 15.03. Policies

A. AIRLINE will comply with all applicable provisions of each Airport Certification Manual and Airport Security Program and with all Airport Directives as set forth by the Airport Director.

B. DOT&PF agrees not to promulgate any regulations, Policies and Procedures, or local Airport Directives governing use of the Airport facilities or AIRLINE's operations under this Agreement that are contradictory to:

This Agreement,

Any applicable regulation of the FAA or TSA; or

Any government agency regulation that is binding upon AIRLINE.

C. DOT&PF will give AIRLINE an opportunity to review and comment in advance on any proposed DOT&PF regulations and Airport Directives that may reasonably be expected to affect AIRLINE's operations under this Agreement, other than those regulations or Airport Directives issued on an emergency basis.

#### Section 15.04. Violations

A. AIRLINE shall coordinate any Airport security matter with DOT&PF and shall follow all applicable requirements of the Airport's Security Program, Certification Manual, Operations Orders, and Emergency Program, including all provisions that are regulated under 49 CFR part 1540 (civil aviation security), 49 CFR Part 1542 (airport security) and 14 CFR Part 139 (airport certification and operation) and any other applicable federal, state or local laws or regulations.

B. Any penalty imposed on DOT&PF that results from a violation of the Airport's Security Program, Certification Manual, Operational Orders, Emergency Program, or any applicable federal regulation caused by AIRLINE or by any of AIRLINE's agents or personnel, including any officer or employee, or anyone else acting by, on behalf of, or under the authority of AIRLINE, will, as between DOT&PF and AIRLINE, be the sole responsibility of AIRLINE, and will be reimbursed to DOT&PF within thirty (30) days of written demand if DOT&PF pays the penalty.

#### Section 15.05. Non-Discrimination

A. AIRLINE agrees that discrimination on the grounds of race, color, religion, national origin, ancestry, marital status, age, or sex will not be permitted against any patron, employee, applicant for employment, other person or groups of persons in any manner prohibited by federal or state law. DOT&PF may take any action necessary to enforce this provision, including actions required by any federal or state law or FAA grant agreement.

B. AIRLINE will undertake any affirmative action program as required by 14 CFR Part 152, Subpart E, or any superseding or substitute regulation, to ensure that no person is excluded from participating in any employment, contracting, or leasing activity on the grounds of race, creed, color, national origin, or sex. AIRLINE agrees that no person may be excluded on those grounds from participating in or receiving the services or benefits of any program or activity covered by the regulation. AIRLINE will require its covered sub-organizations to provide assurance that they will also undertake affirmative action programs and require assurances from their sub-organizations, as required by 14 CFR Part 152.

**ARTICLE 16**  
**Environmental Provisions**

Section 16.01. Environmental Provisions

A. No Violation of Environmental Law: AIRLINE shall conduct its activities at the Airport in compliance with Environmental Law. AIRLINE shall not allow the Release on the Airport of any Hazardous Substance that is in violation of any Environmental Law, nor shall AIRLINE allow any such Hazardous Substance present at the Airport as a result of AIRLINE's activities to migrate onto or off the Airport or into the air, any surface or ground water, or onto land, regardless of ownership, in violation of any Environmental Law. If, as a result of its operations at the Airport, AIRLINE causes a violation of any Environmental Law regarding the presence, use, storage, discharge, disposal, Release or threat of Release of any Hazardous Substance or any other Environmental Law (whether or not pertaining to Hazardous Substances), AIRLINE shall promptly take such action at AIRLINE's sole expense as is reasonably necessary to contain, clean up, repair and remedy damages and restore the impacted area to the reasonable satisfaction of DOT&PF and any other governmental agency having jurisdiction over the Release, and take all other necessary steps to cure the violation. In addition to any other remedy provided in this Agreement or at law, DOT&PF shall be entitled to full reimbursement from AIRLINE whenever the Airport incurs any reasonable oversight or other costs directly attributable to AIRLINE's use, management, or Release of Hazardous Substances at the Airport that is in violation of Environmental Laws. Payment of such costs shall be due within thirty (30) days after an invoice is provided by DOT&PF to AIRLINE.

B. Duty to Notify: AIRLINE shall notify DOT&PF as soon as reasonably possible, in writing, should AIRLINE become aware of: (i) any Release or threatened Release by AIRLINE of a Hazardous Substance at the Airport or onto or into any air, lands, or water adjoining or in the vicinity of the Airport that is in violation of Environmental Laws or the occurrence of any other violation of Environmental Laws by AIRLINE at the Airport; (ii) any notice, complaint, claim, statement of violation, report, subpoena, order or other communication given to AIRLINE from any third party (including any relevant governmental authority) with respect to any Release or threatened Release by AIRLINE of a Hazardous Substance at the Airport or other violation of Environmental Laws by AIRLINE at the Airport; or (iii) the commencement of any litigation or governmental agency investigation or complaint, or any notice or information relating to any threat of litigation or other claim or complaint relating to any Release or threatened Release by AIRLINE of any Hazardous Substance at the Airport or other violation of Environmental Laws by AIRLINE with respect to the Airport or the adjoining or nearby lands or waters in the vicinity of the Airport. AIRLINE shall promptly provide DOT&PF with a copy of any written complaint, claim, notice, statement of violation, subpoena, report, order or correspondence it receives from any third party relating to such a Release, threatened Release, or other violation of an Environmental Law, and AIRLINE's written response, if any. Subject to requirements of any other relevant governmental authorities with jurisdiction, AIRLINE shall cooperate and coordinate with DOT&PF in the investigation

of any Hazardous Substance release, threatened Release or other matter covered by the notification obligations above. AIRLINE's compliance with the notification requirements in this paragraph does not relieve it of its responsibility to report directly to and comply with all requirements of any other governmental agency with jurisdiction.

C. Right to Inspect and Correct: If AIRLINE, or the Premises, because of actions caused by AIRLINE is in violation of any Environmental Law concerning Hazardous Substances and AIRLINE does not act promptly to take such action as is reasonably necessary to remedy and cure the violation, DOT&PF has the right but not the obligation, to come onto the Premises, to act in place of the AIRLINE and to take such action reasonably necessary to cure the violation. If DOT&PF has a reasonable belief that AIRLINE's actions or inactions present a threat of violation or a threat of damage to the Premises, DOT&PF reserves the right to enter onto the Premises and take such corrective or mitigating action as DOT&PF deems reasonably necessary. All reasonable expenses and costs (including consultants' fees, expert fees, attorneys' fees, costs and other legal expenses) incurred or owing by DOT&PF in connection with actions taken under this paragraph shall be reimbursed by AIRLINE and become due and payable to DOT&PF within thirty (30) days after an invoice is provided to AIRLINE by DOT&PF.

D. Deicing Requirement: AIRLINE may apply deicing fluid to its aircraft, but must do so in compliance with applicable Environmental Laws and permits issued to DOT&PF and/or to AIRLINE by relevant regulatory authorities, and subject to any additional restrictions or requirements developed by DOT&PF in coordination with AIRLINE to minimize or mitigate discharge, runoff or other environmental impacts which include deicing aircraft only at designated locations. AIRLINE is responsible for properly storing, transporting, using, managing and disposing of deicing fluids so as to avoid Releases in violation of Environmental Laws. AIRLINE shall provide regular reports to DOT&PF and to any other governmental agency having authority over deicing fluids and operations, as required by the relevant authority.

E. Stormwater Provisions: AIRLINE acknowledges that Airport is subject to federal and state stormwater regulations and permits, which are applicable to all AIRLINE operations at the Airport. AIRLINE shall comply with all such stormwater regulations and permit requirements which apply to its activities at the Airport. To the extent AIRLINE obtains or maintains discharge-related permits for its specific activities at the Airport, it shall provide timely notice to and coordinate its permits with DOT&PF to ensure any such discharge permits issued directly to AIRLINE do not restrict or otherwise interfere with Airport operations. Without limiting the applicability of any other stormwater requirements which may apply, AIRLINE agrees to take all reasonable measures to eliminate or minimize any exposure of stormwater to Hazardous Substances and other substances generated, stored, transported, handled or otherwise used by AIRLINE, so as to maintain compliance with applicable stormwater requirements and other Environmental Laws. DOT&PF and AIRLINE both acknowledge that close cooperation between them is necessary to ensure compliance with Airport stormwater discharge requirements and, as part of that process, to consider the operational requirements of

the airlines. DOT&PF will inform AIRLINE of draft and final permits, permit conditions, or amendments to permits that affect AIRLINE's operations. AIRLINE agrees to cooperate and participate in a reasonable manner requested by DOT&PF, including as part of a work group or other committee, to coordinate stormwater activities and compliance at the Airport.

F. Duties Upon Vacation of Premises: Prior to vacating all or a portion of the Premises, or upon expiration or termination of this Agreement, in addition to the other requirements of this Agreement, AIRLINE shall remove and properly dispose of all Hazardous Substances placed or maintained on the Premises by AIRLINE during the term of the Agreement, or existing as a result of AIRLINE's use or occupancy of the Premises, in compliance with applicable Environmental Laws, and shall document the removal and proper disposal to DOT&PF's reasonable satisfaction. In the event AIRLINE fails to remove and dispose of all Hazardous Substances as required by this paragraph, DOT&PF may, but is not required to, take whatever corrective, clean up, remediation and mitigating actions it deems reasonably necessary in accordance with Environmental Laws. All reasonable costs and expenses incurred by DOT&PF in connection with any resolving actions taken under this paragraph shall be reimbursed by AIRLINE and become due and payable to DOT&PF within thirty (30) days after an invoice is provided to AIRLINE by DOT&PF.

G. List of Hazardous Substances: Within sixty (60) days of the effective date of this Agreement and at such other times as might reasonably be requested by DOT&PF, AIRLINE shall provide to DOT&PF either a Material Safety Data Sheet for the Premises or a list of the Hazardous Substances and their chemical constituents, which are present on the Premises and not engaged in temporary transport, their approximate amounts and locations. This information shall include documentation of any Releases of Hazardous Substances that are in violation of Environmental Laws that have occurred or were discovered on the Premises utilized by AIRLINE. AIRLINE shall be responsible for the costs and expenses of any Hazardous Substance surveys or site assessments necessary to complete this reporting requirement.

H. Right to Perform Audits: DOT&PF shall have the right, but not the obligation, to conduct or cause to be conducted environmental audits ("Audits"), of the Premises to determine AIRLINE's compliance with Environmental Laws at any time during the term of this Agreement. Audits may include a review of relevant documents, on-site inspection of facilities, equipment or operations, and sampling, testing or monitoring for the presence of Hazardous Substances. Absent a reasonable belief that AIRLINE is not in compliance with one or more Environmental Laws, an Audit shall not be conducted more frequently than once every two years. Except in the case of an emergency, reasonable advance written notice of an environmental Audit must be provided to AIRLINE, and DOT&PF will coordinate with AIRLINE in order to minimize interference with AIRLINE's normal operations. If an Audit or other information received by DOT&PF demonstrates that a violation of an applicable Environmental Law caused by AIRLINE has occurred or is imminently threatened, DOT&PF shall provide a copy of the Audit to AIRLINE. At AIRLINE's request, DOT&PF will split samples with AIRLINE. AIRLINE

shall promptly undertake all necessary corrective actions and required reporting to comply with Environmental Laws and the requirements of DOT&PF. In the event a violation of Environmental Law is found and requires resolving action, AIRLINE shall be responsible to reimburse all of DOT&PF's reasonable costs and expenses relating to the Audit and any subsequent oversight and other actions taken in relation to the violation, and shall pay within thirty (30) days after an invoice is provided by DOT&PF to AIRLINE.

I. Survival of Environmental Obligations: Article 16 shall survive the termination or expiration of this Agreement.

J. Environmental Indemnity: Without limiting any other indemnities or remedies available to DOT&PF under this Agreement or at law, and except for Excluded Environmental Claims, as defined below, AIRLINE agrees to defend, indemnify and hold harmless DOT&PF, its employees, agents, contractors, and other representatives, from and against any and all claims, complaints, causes of action, regulatory agency actions, demands, liabilities, damages, fines, penalties, losses and costs and expenses of any nature or kind, including, without limitation, all damages for personal injury, death, or property damage; containment, clean up or other remedial or restoration costs; costs of inspection, site assessment, testing and monitoring; and legal expenses including reasonable consultants', experts', and attorneys' fees and other litigation costs and expenses (when incurred and whether incurred in defense of actual litigation or in reasonable anticipation of litigation) arising from the existence or discovery of any Hazardous Substance on the Premises or at the Airport, or the Release of any Hazardous Substance on or into the Premises or other Airport property or on or into the surrounding environment, or from any other violation of an Environmental Law, whether made, commenced or incurred during the term of this Agreement, or made, commenced or incurred after the expiration or termination of this Agreement, directly attributable to AIRLINE's actions during the Term or any holdover period. For purposes of this paragraph, "Excluded Environmental Claims" shall mean any claims, causes of action, demands, damages, liabilities, fines penalties, losses, and costs or expenses of any kind, to the extent caused by or arising from: (i) the migration of a Hazardous Substance Release, where the initial Release is not in any way attributable to AIRLINE or any of AIRLINE's activities on or in the vicinity of the Airport; (ii) the movement of Hazardous Substances first released outside of the AIRLINE's Premises onto or under the AIRLINE's Premises due to leaching or the flow of groundwater, provided that the AIRLINE is not otherwise responsible for any of the off-AIRLINE-Premises Release that introduced the migrating Hazardous Substances into the environment; DOT&PF will use best efforts to notify AIRLINE of any such claim it becomes aware of. The provisions of this paragraph shall survive the expiration or termination of this Agreement.

**ARTICLE 17**  
**Effect on Other Agreements**

Section 17.01. Agreement Not to Grant More Favorable Terms

A. Except as allowed in Sections 17.01.B and 17.02, DOT&PF agrees not to charge any airline lower rates, fees and charges than are charged on a unit basis to AIRLINE under this Agreement, and agrees not to violate the non-discrimination requirements of the Federal Aviation Act of 1958, as amended, and grant assurances given the FAA by the State. This Section 17.01 shall not apply to any airline that operates only aircraft with Certificated Maximum Gross Takeoff Weight(s) less than thirty thousand (30,000) pounds.

B. Subject to the requirements of 17 AAC 42, and after Consultation with the Signatory Airlines, DOT&PF may use its prerogative to negotiate more favorable Fairbanks terminal rent if DOT&PF makes a written determination that such Fairbanks terminal space is otherwise unmarketable.

Section 17.02. Inducements Permitted

DOT&PF reserves the right to take reasonable measures to induce new or expanded service at, or use of, an Airport, including the offering and provision of reasonable service and financial advantages of limited duration. DOT&PF will provide the Signatory Airlines an opportunity to review and comment on any and all proposed inducements before implementation.

**ARTICLE 18**  
**General Provisions**

Section 18.01. Delivery of Notices

A. Required notices must be hand-delivered or sent by facsimile (but only if followed by a confirmation copy sent by one of the other methods of delivery), registered or certified mail, or by a nationally or internationally recognized private courier service to the addresses below:

1. DOT&PF: As applicable to each respective Airport:

Ted Stevens Anchorage International Airport  
Leasing & Property Management  
P.O. Box 196960  
Anchorage, Alaska 99519-6960  
Facsimile number: 907-266-2458

Fairbanks International Airport  
Leasing & Property Management  
6450 Airport Way, Suite 1  
Fairbanks, Alaska 99709  
Facsimile number: 907-474-2570

2. AIRLINE: address:

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B. If notice is given in any other manner or at any other place, notice must also be given in writing at the place and in the manner specified in this Section in order to be effective under this Agreement. All notice periods begin on the date of receipt of written notice at the address listed in Section 18.01.A except as provided elsewhere in this Agreement.

C. Either party may change the address in this Section by written notice to the other party.

Section 18.02. Severability

If any part of this Agreement is declared to be invalid by a court of competent jurisdiction, the other parts of the Agreement remain in full force.

Section 18.03. Officers, Agents, and Employees

No commissioner, director, officer, agent, employee, or other representative of either party may be charged personally nor held contractually liable by the other party for the enforcement, attempted enforcement, or breach of this Agreement if acting within the scope of their duties. This provision shall have no effect upon any liability of DOT&PF or AIRLINE for the acts of these persons that are within the scope of their duties.

Section 18.04. Subordination to Agreements with the U.S. Government and to Emergency Declarations

This Agreement is subject to any present or future agreement between DOT&PF and the United States of America concerning the operation or maintenance of the Airport System. AIRLINE may not hold DOT&PF liable for any failure to perform any part of this Agreement as a result of any national emergency declared by the federal government or any state of emergency declared by the State.

#### Section 18.05. Incorporation of Required Provisions

The parties agree to incorporate into this Agreement any provision required by any governmental agency, including DOT&PF acting in its nonproprietary capacity, now or in the future.

#### Section 18.06. Non-waiver of Rights

No failure to enforce any provision of this Agreement shall be construed to be a waiver of that provision, except as stated in writing. No waiver of default of any part of this Agreement by either party shall operate as a waiver of any subsequent default of any part of this Agreement that is to be performed by the other party. No instance of consent or notice by either party shall be construed to be consent or notice of any independent matter or event.

#### Section 18.07. Force Majeure

Neither DOT&PF nor AIRLINE shall be deemed to be in violation of this Agreement if it is prevented from performing any of the obligations imposed under this Agreement by reason of Force Majeure; provided, however, that this Section shall not excuse AIRLINE from paying the rentals, fees and charges specified in this Agreement. DOT&PF shall be under no obligation to furnish any service or supply any utility if and to the extent and during any period that the furnishing of any such service or the supplying of any such utility, or the use of any device or component necessary therefore, shall be prohibited or rationed by any federal or state law, rule, regulation, requirement, order or directive.

#### Section 18.08. Contract Interpretation

The headings of articles and sections are used only for convenience and reference, and may not be used to define or interpret the scope or intent of this Agreement. Words denoting the singular shall include the plural and vice versa. The language in all parts of this Agreement must be construed according to its fair meaning and not strictly for or against either DOT&PF or AIRLINE.

#### Section 18.09. Contract Amendment.

Other than the self-effective supplements described Section 4.04, this Agreement may only be amended in writing through a supplement that is signed by the authorized representatives of both parties. A master supplement that has been executed by DOT&PF and not less than an Airline Majority not then in default under this Agreement may become a self-effective supplement as to all Signatory Airlines upon written notice by DOT&PF. A self-effective supplement under the previous sentence may not modify the AIRLINE's Exclusive Use or Preferential Use Premises under this Agreement.

Section 18.10. Federal Aviation Act, Section 308

Nothing in this Agreement shall be deemed to grant to AIRLINE any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act of 1958, as amended, for the conduct of any activity at the Airport.

Section 18.11. Radio Interference

At DOT&PF's request, AIRLINE will stop using any machine or device that interferes with any government operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

Section 18.12. Obtaining Federal and State Funds

DOT&PF will use its best efforts to obtain maximum entitlement grants from federal, state, or other sources when consistent with prudent management of the Airport System.

Section 18.13. Management Audits

DOT&PF will conduct periodic management and operation audits of the Airport System and the IARF. DOT&PF will use its best efforts to implement the reasonable recommendations of the audits.

Section 18.14. Project Management

DOT&PF will use its best efforts to implement Capital Projects with efficient and responsive project management.

Section 18.15. PFCs

DOT&PF reserves the right to institute and to adjust a PFC in accordance with 49 U.S.C. § 40117 and applicable implementing regulations adopted by the FAA, 14 CFR Part 158, as they may be amended from time to time (the "PFC Regulations"), if DOT&PF desires and if the FAA approves. If a PFC is instituted, its proceeds will, for the purposes of this Agreement, not be included in Revenue but will be dedicated to funding, directly or indirectly, Airport System Capital Projects. Proceeds of such a charge collected by AIRLINE from passengers or third-party ticket sellers by AIRLINE and other passenger airlines serving the Airport System will be deemed the property of DOT&PF, held in trust for the State pending remittance to DOT&PF. AIRLINE shall not commingle PFCs with its revenues and shall not pledge PFCs as collateral in any financial transaction.

Section 18.16. Governing Law

This Agreement is governed by the laws of the State of Alaska. Legal actions filed, if any, shall be filed in the Third Judicial District at Anchorage unless DOT&PF requests or consents in writing to venue in the Fourth Judicial District at Fairbanks.

Section 18.17. Dispute Resolution

Unless otherwise governed by federal law, questions or disputes relating to the interpretation or implementation or enforcement of this Agreement shall be jointly negotiated between the AIRLINE and the Airport Director. Final decisions of the Airport Director are subject to the protest and appeal provisions of 17 AAC 42.

Section 18.18. Inspection of Books and Records

At its own expense and upon reasonable notice, each party has the right from time-to-time to inspect the books, records, or other data of the other party relating to this Agreement. Inspections must be conducted during regular business hours.

Section 18.19. Generally Accepted Accounting Principles

Any report or disclosure referred to in this Agreement that contains financial information must be prepared in accordance with applicable generally accepted accounting principles unless otherwise noted in this Agreement.

Section 18.20. Modification Necessary for Grant of FAA Funds

A. If the FAA requires that this Agreement be amended as a condition precedent to the granting of funds for the improvement of the Airport, AIRLINE agrees to consent to any amendment that is reasonably required in order to enable DOT&PF to obtain the grant of funds.

B. If any FAA required amendment impairs AIRLINE's rights under this Agreement or causes AIRLINE any unreasonable expense, AIRLINE may terminate this Agreement within sixty (60) days by notice to DOT&PF.

Section 18.21. Consent Not to be Unreasonably Withheld

Neither DOT&PF nor AIRLINE will unreasonably withhold any consent or approval required by this Agreement.

Section 18.22. Prudent Operations

DOT&PF will manage the Airport System in a prudent and reasonable manner.

Section 18.23. Independent Contractor

AIRLINE is neither an agent nor an employee of DOT&PF but is an independent contractor with respect to all AIRLINE's activities on the Airport, including any installation, construction, or service provided.

Section 18.24. Entire Agreement

Except as described in Section 18.27, this Agreement with all attached exhibits constitutes the entire agreement between DOT&PF and AIRLINE at the Airport. Statements previously made, verbal or written, are merged in this Agreement.

Section 18.25. Condemnation

If any of AIRLINE's rights and privileges under this Agreement are condemned by any proper authority, including the State of Alaska, this Agreement terminates automatically on the date AIRLINE is required to surrender possession of the property. DOT&PF is entitled to all the condemnation proceeds except AIRLINE will be paid only the portion of the proceeds attributable to the fair market value of any improvements placed on the Premises by AIRLINE according to the provisions of 17 AAC 42.255 or as amended, and not any compensation for consequential or severance damages including business damage, lost profits, or leasehold advantage. Rent will be adjusted according to the provisions of 17 AAC 42.255 or as amended.

Section 18.26. Incorporation of Exhibits

Exhibits "A" through "S" are fully incorporated into and are a part of this Agreement.

Section 18.27. Preexisting Agreements

A. The following agreements between AIRLINE and DOT&PF at the Airport are terminated by the execution and delivery of this Agreement:

DOT&PF FILE NO.

SPACE OR PROPERTY LEASED

@ \_\_\_\_\_

Per Agreement

B. AIRLINE and DOT&PF agree that the only agreements in existence at the Airport between AIRLINE and DOT&PF on the effective date of this Agreement are this Agreement and those listed below:

DOT&PF FILE NO.

SPACE OR PROPERTY LEASED

@ \_\_\_\_\_

Per Agreement

Section 18.28. Electronic Funds Transfers

DOT&PF reserves the right to require by written notice that AIRLINE make all payments of a specified amount or greater by electronic funds transfer, and AIRLINE agrees to make all payments subject to that requirement in the manner directed in the notice. For payment to be submitted with a CAR under Section 11.01.C.3, a copy of a receipt or other evidence of the fund transfer request must accompany the submittal of the report.

Section 18.29. Designation of Authorized Representative

AIRLINE shall appoint and designate a representative to act on its behalf with respect to all matters required or permitted under this Agreement to be approved or undertaken by the Signatory Airlines or an Airline Majority, and with respect to all other matters arising under this Agreement. AIRLINE shall notify DOT&PF as to AIRLINE's designation, and as to any change in designation, by written notice under Section 18.01 of this Agreement. The person so designated shall be AIRLINE's authorized representative on the AAAC.

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## Exhibits

- Exhibit "A" Property drawing of ANC showing boundaries and essential facilities, and Lake Hood Airport Complex.
- Exhibit "B" Property drawing of FAI showing boundaries and essential facilities.
- Exhibit "C" Five Year Capital Improvement Program, including project descriptions, cost estimates, and scheduling.
- Exhibit "D" Minimum Utilization Rate minimum criteria for ANC and FAI.
- Exhibit "E" Description of uses applicable to and a description of any space for Exclusive, Preferential, Common, and Preferential Use Aircraft Parking Position(s) specific to AIRLINE at ANC.
- Exhibit "F" Description of uses applicable to and a description of any space for Exclusive, Preferential, Common Use Premises, and Preferential Use Aircraft Parking Position(s) specific to AIRLINE at FAI.
- Exhibit "G" ANC Cost Center drawing.
- Exhibit "H" FAI Cost Center drawing.
- Exhibit "I" Drawing showing all Aircraft Parking Positions and any Preferential Use Aircraft Parking Position(s) specific to AIRLINE at ANC.
- Exhibit "J" Drawing showing all Aircraft Parking Positions and any Preferential Use Aircraft Parking Position(s) specific to AIRLINE at FAI.
- Exhibit "K" Drawing showing any space for Exclusive, Preferential, and Common Use Premises specific to AIRLINE at ANC.
- Exhibit "L" Drawing showing any space for Exclusive, Preferential, and Common Use Premises specific to AIRLINE at FAI.
- Exhibit "M" Cost Allocation Methodology.
- Exhibit "N" General Category Projects Allowances Descriptions, Pre-Balloting, Project Nomination Form and Sample Capital Project Ballot
- Exhibit "O" North Terminal Common Use Premises – ANC
- Exhibit "P" South Terminal Common Use Premises – ANC
- Exhibit "Q" FAI Common Use Exhibit.
- Exhibit "R" DOT&PF Modification and Relocation Terms and Responsibilities
- Exhibit "S" AIRLINE and DOT&PF Maintenance Responsibilities Matrix

The Parties have executed this Agreement on the dates below:

@ \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_) ss.  
\_\_\_\_\_) )  
(Judicial District or County)

Signature: \_\_\_\_\_

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, a Notary Public in and for the State of \_\_\_\_\_, duly commissioned and sworn, personally appeared \_\_\_\_\_, known to me and to me known to be the \_\_\_\_\_ of and for AIRLINE, a party named in the foregoing instrument, and who acknowledged to me that the same was freely and voluntarily executed and entered into on behalf of AIRLINE with full knowledge of its contents, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Notary Public in and for: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

Entered into on behalf of the State of Alaska, Department of Transportation and Public Facilities.

By: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF ALASKA )  
\_\_\_\_\_) ss.  
3<sup>rd</sup> JUDICIAL DISTRICT )

Signature: \_\_\_\_\_

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared \_\_\_\_\_, known to me and to me known to be the \_\_\_\_\_ of and for the Department of Transportation and Public Facilities, State of Alaska, a party named in the foregoing instrument and who acknowledged to me that the same was freely and voluntarily executed on behalf of the State of Alaska, Department of Transportation and Public Facilities, for the uses and purposes therein set forth and who is authorized by said State of Alaska so to do.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, the day and year written above.

Notary Public in and for Alaska  
My Commission Expires: \_\_\_\_\_