CITY OF EL PASO, TEXAS
DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL ACTION (RCA)

DEPARTMENT: **AIRPORT**

AGENDA DATE: **March 29, 2005**

CONTACT PERSON/PHONE: **Patrick T. Abeln, A.A.E. – 780-4724**

DISTRICT(S) AFFECTED: 3

CITY CLERK DEPT.
05 MAR 21 AM 10:49

SUBJECT:
That the City Manager be authorized to sign an Airline Operating Agreement and Terminal Building Lease Between the City of El Paso and Northwest Airlines, Inc.

BACKGROUND / DISCUSSION:

In July 2001, City Council approved new Airline Operating Agreements for the existing eight airlines serving El Paso International Airport. We have now received a request from Northwest Airlines, Inc. to begin operations April 4, 2005 with two daily flights to Minneapolis/St. Paul. The term of the Agreement will be effective April 1, 2005 through August 31, 2007. The expiration date and the terms of the Agreement are the same as the standard Airline Operating Agreements previously signed and approved by City Council. Northwest will be leasing gate B-10 as preferential use, and has contracted out to America West to supply ticket counter and ground handling. The estimated income to be received by this Agreement will be $69,400.

PRIOR COUNCIL ACTION:
Has the Council previously considered this item or a closely related one? If so, when? **NO**

AMOUNT AND SOURCE OF FUNDING:
How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A

BOARD / COMMISSION ACTION:
Enter appropriate comments or N/A

Approved by Airport Board on February 24, 2005

**********REQUIRED AUTHORIZATION**********

LEGAL: (if required) Sylvia Borunda Firth, Asst. City Attorney **FINANCE:** (if required) _____

OTHER: Patrick T. Abeln, A. A. E., Director of Aviation _____
(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign an Airline Operating Agreement and Terminal Building Lease by and between the City of El Paso and Northwest Airlines, Inc. The term of the Agreement will be from April 1, 2005 through August 31, 2007.

ADOPTED this the 29th day of March 2005.

THE CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Sylvia Borunda Firth
Assistant City Attorney

APPROVED AS TO CONTENT:

Patrick T. Abeln, A. A. E.
Director of Aviation

ORIGINATING DEPARTMENT: AIRPORT

#10388/SFIR/Airport/1/Reso NW Airlines

EL PASO INTERNATIONAL AIRPORT

AIRLINE OPERATING AGREEMENT AND TERMINAL BUILDING LEASE

BY AND BETWEEN

CITY OF EL PASO

AND

NORTHWEST AIRLINES, INC.
AIRLINE

#9611/SFIR/Airport/Northwest Airlines, Inc.

AIRLINE OPERATING AGREEMENT AND TERMINAL BUILDING LEASE

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EXHIBITS

Exhibit A	Cost Center Plan
Exhibit B-1	Terminal Premises Level One
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EL PASO INTERNATIONAL AIRPORT
AIRLINE OPERATING AGREEMENT AND
TERMINAL BUILDING LEASE

THIS AGREEMENT AND LEASE (hereinafter referred to as the "Agreement"), entered into this 29th day of March 2005, by and between the **CITY OF EL PASO**, TEXAS ("City"), and **NORTHWEST AIRLINES, INC.**, a corporation organized and existing under the laws of the State of Delaware ("Airline").

W I T N E S S E T H:

WHEREAS, the Municipal Airports Act of the State of Texas (Article 46d, Vernon's Texas Civil Statutes) authorizes municipal airports, as governmental entities, to assess charges, rentals or fees for the privilege of supplying goods, commodities, things, services or facilities at municipal airports, with due regard to the property and improvements used and the expenses of operation to the municipality; and

WHEREAS, Airline is engaged in the business of transportation of persons, property, or mail by air and desires to use certain facilities at the El Paso International Airport and lease from City certain premises and facilities in connection with its use of the El Paso International Airport; and

WHEREAS, in furtherance of its authority, City desires to lease to Airline certain facilities located at said Airport in accordance with the terms, covenants, and conditions hereinafter set forth in this Agreement; and

WHEREAS, the City and Airline have the power and authority to enter into this Agreement;

NOW, THEREFORE, and in consideration of the mutual covenants, agreements, and conditions contained herein, the parties hereto agree as follows:

ARTICLE 1 - DEFINITIONS

SECTION 1.01 DEFINITIONS

The following words and phrases, wherever used in this Agreement, shall, for the purpose of this Agreement, have the following meanings:

"Affiliate" means any Air Transportation company that is (i) a parent or subsidiary of Airline, or (ii) shares flight codes or livery with Airline at the Airport, or (iii) otherwise operates under Airline's trade name at the Airport, provided that no major airline, as such term is defined by the FAA, shall be classified as an Affiliate of another major airline.

"Aircraft Arrival" means any aircraft arrival at the Airport, including, without limitation, scheduled, non-scheduled, diverted, training, testing, charter, or any other flight operated by an air transportation company. Aircraft Arrivals exclude flights which are forced to return and land at the Airport because of meteorological conditions, mechanical or operating causes, or emergency or precautionary reasons.

"Airline" means Northwest Airlines, Inc., a corporation organized and existing by virtue of the laws of Delaware.

"Airline Equipment or Improvement" means any item of equipment or any improvement to Airline's Leased Premises provided or installed at request by Airline.

"Airport" means El Paso International Airport, as shown in Exhibit A, Cost Center Plan, attached hereto and made a part hereof, as it may be modified or developed from time to time.

"Airport Cost Centers" means the cost centers to be used in accounting for Airport revenues and expenses and for calculating and adjusting certain rentals, fees, and charges described herein, as they now exist or may hereafter be modified, changed, or developed, as more particularly described below and depicted on Exhibit A as such Exhibit may be modified by the City from time to time:

1. Direct Cost Centers

   - "Terminal Building" means the passenger terminal building and associated curbside entrance areas and adjoining landscaped areas.
   - "Parking Areas" means public and employee vehicle parking areas; rental car, ready/return parking areas; commercial vehicle parking areas; terminal roadways; and associated landside support facilities and areas.

- "Landing Area" means the airfield at the Airport, including runways, taxiways, aprons at the Terminal Building and the Air Cargo Facilities, approach and runway protection zones, safety areas, infield areas, landing and navigational aids, and land areas required by or related to aircraft operations (landings, take-offs, and taxiing).
- "General and Commercial Aviation" means the hangars, buildings, and apron areas occupied by the Airport's fixed base operators, other commercial aviation operators, and corporate/private aircraft operators.
- "Air Cargo" means the air freight and cargo facilities located southwest of the Terminal Building on Convair Road and northeast of the Terminal Building on George Perry Boulevard.
- "Industrial Parks" means those portions of the Airport set aside for non-aviation related commercial and industrial uses, including but not limited to the El Paso International Airport Tracts, Butterfield Trail Industrial Park, and any non-aviation related areas located, now or as may be located in the future, in any portion of the Airport.
- "Golf Course" means the Lone Star Golf Club located south of Montana Avenue.

2. Indirect Cost Centers

- "Administration" means all personnel, services, supplies, equipment, and facilities used to provide administrative support to Airport operations.

"Airport Revenue Bonds" means any bonds issued by City for Airport purposes secured by a pledge of the revenues of the Airport except for any Special Facilities Revenue Bonds.

"Air Transportation" means the carriage of persons, property, cargo, or mail by aircraft.

"Airline Terminal Support System" means any system or service supporting airline operations in the Terminal Building, including but not limited to, telecommunications, security, access control, paging, flight or baggage information display or similar systems or services.

"Bond Ordinance" means any ordinance of City regulating or authorizing the issuance of bonds, other than Special Facilities Revenue Bonds, for Airport purposes, or payable from Airport revenues, as the same may from time to time be adopted, amended, or supplemented.

"Bonds" means Airport Revenue Bonds or any other similar or substitute financing instruments issued for Airport purposes under and pursuant to authorizing legislation.

"Capital Improvement Program" means the program of Capital Improvements as such program may be amended from time to time at City's sole discretion.

"Capital Improvement" means any single item or project costing more than $120,000 (net of PFC revenue and grants-in-aid) and having a useful life in excess of five years that is acquired, purchased, or constructed by City to improve, maintain, preserve, or develop the Airport. Capital Improvements shall include, but not be limited to (1) the acquisition of land or easements; (2) the purchase of machinery, equipment, or rolling stock; (3) the planning, engineering, design, and construction of new facilities; or (4) the performance of any extraordinary, non-recurring major maintenance or replacement of existing facilities. The cost of a Capital Improvement may be accounted for by amortizing the cost over the estimated useful life of the asset.

"Coverage" for any series of Airport Revenue Bonds means, for any Fiscal year, the dollar amount computed by multiplying the rate covenant percentage set forth in any Bond Ordinance adopted by City by the annual debt service requirement for such Fiscal Year.

"Department" means the Department of Aviation of City.

"Director" means the Director of Aviation of the Department of Aviation or other person properly authorized to act on behalf of Director.

"Enplaned Passengers" means all local, interline transfer, and intraline transfer passengers boarding flights of Airline, its Affiliates, or any other airlines using any of the Leased Premises of Airline at the Airport including revenue and non-revenue passengers but excluding airline employees.

"Environmental Laws" means all present or future local, state or federal statutes, ordinances, rules, regulations (proposed or adopted), permits, citations, orders, directives, or consent decrees or other enforceable requirement of any federal, state or local entity, agency or body, or subdivision thereof, (including specifically but without limitation, the City of El Paso, having governmental authority, relating to:

(1) the protection of health, safety and the indoor or outdoor environment;

(2) the conservation, management or use of natural resources and wildlife,

(3) the protection or use of surface water and ground water,

(4) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, release or threatened release, abatement, removal, remediation or handling of, or exposure to any Hazardous Materials (as defined below), or

(5) pollution (including any release or threatened release discharge or emission to air, land, surface water, or ground water),

including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.), the Hazardous Material Transportation Act (49 U.S.C. §18091 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901 et seq.), The Clean Water Act (33 U.S.C. §1251 et seq.), the Toxic Substances Control Act of 1976 (15 U.S.C. §2601 et seq.), the Safe Drinking Water Act (U.S.C. §300f-§300j-11 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. §11001 et seq.), the Occupational Safety and Health Act, the Clean Air Act, 42 U.S.C. Section 7401 et seq. and any state counterpart, each as heretofore and hereafter amended or supplemented, and any analogous future or present local, state or federal statutes, rules and regulations promulgated thereunder or pursuant thereto, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order, or directive regulating, relating to or imposing liability standards of conduct concerning any Hazardous Materials, or special wastes or by the federal government, any state or any political subdivision thereof, exercising executive, legislative, judicial, regulatory, or administrative functions. The reference to Hazardous Materials in the immediately preceding sentence shall not limit the application of this paragraph to laws dealing with Hazardous Materials, it being the intention of the parties that all environmental laws dealing with activities having an impact on the environment be included within the scope of this paragraph.

"Equipment and Capital Outlay" means any single item or project not included in Maintenance and Operating Expenses or defined as a Capital Improvement. The cost of an item of Equipment and Capital Outlay shall be accounted for as a current expense.

"FAA" means the Federal Aviation Administration of the U.S. Department of Transportation or any federal agency(s) succeeding to its jurisdiction.

"Fiscal Year" means City's fiscal year, which is the twelve-month period commencing September 1 and extending to August 31 of the following year, or such other twelve-month period as may be adopted for the operation of City or Airport.

"Hazardous Materials" means any hazardous or toxic substances, materials, or wastes, including, but not limited to, those substances, materials, and wastes listed in the U. S. Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as

hazardous substances (40 CFR Part 302) or as extremely hazardous substances under 40 CFR Part 355 and amendments thereto, or such substances, materials, and wastes that are or become regulated under any applicable Environmental Laws.

"International Arrivals Area" means that area in the Terminal Building at the Airport designated for federal inspection services.

"Leased Premises" means any areas on the Airport leased by City to Airline, whether on an Exclusive, Joint, Common, Shared, Preferential, non-preferential or temporary use basis, all as defined in Section 4.01 and depicted on Exhibits B-1 and B-2 as attached hereto and made a part hereof.

"Maintenance and Operating Expenses" (or "M&O Expenses") means, for any Fiscal Year, all expenses to maintain, repair, operate and administer the Airport, including, but not limited to, taxes and assessments, if any, and expenses for defending, settling, or satisfying litigation.

"Maximum Gross Landed Weight" means the maximum allowable landing weight of each aircraft operated by Airline at the Airport as authorized by the FAA and recited in Airline's flight manual governing that aircraft.

"Passenger Facility Charge" or "PFC" means the charge levied in accordance with the provisions of 14 CFR Part 158 (Passenger Facility Charges) as such authority may be amended, modified, or supplemented.

"Rules and Regulations" means those rules, regulations, policies, and procedures that have been established by City or the Department for the orderly and efficient use of the Airport by airlines and other tenants and users as the same may be amended, modified, or supplemented from time to time. Such Rules and Regulations shall be made available by City to Airline upon request of Airline.

"Signatory Airlines" means those airlines providing scheduled Air Transportation at the Airport that have executed agreements with City essentially identical to this Agreement covering the use of facilities at the Airport. "Signatory Airlines" specifically includes those airlines providing air cargo transportation services and that have executed an Air Cargo Use Agreement with City.

"Special Facilities" means capital improvements or facilities located on any property owned or leased by City and located at Airport which are financed by the issuance of Special Facilities Revenue Bonds.

"Special Facilities Revenue Bonds" means any debt of City which is permitted by, but not issued pursuant to, the terms of the Bond Ordinance and which is secured by and payable solely from rentals or other charges derived by

City under a lease, sale or other agreement (or any document securing the same) between City and the person, firm or corporation utilizing the Special Facilities financed thereby.

"Title 14" means that portion of the El Paso Municipal Code addressing aircraft and airports, as the same may be amended, modified, or supplemented from time to time.

"Total Airline Landed Weight" means the sum of the Maximum Certificated Gross Landing Weights for all Aircraft Arrivals of Airline over a stated period of time.

"Total Airline Landed Weight of Signatory Airlines" means the sum of the Maximum Certificated Gross Landing Weights for all Aircraft Arrivals of all Signatory Airlines over a stated period of time. Said sum shall be rounded to the nearest thousand (1,000) pounds for all landing fee computations.

"Usable Space" means the gross space in the Terminal Building at the Airport less mechanical and related storage space and service areas as identified on Exhibits B-1 and B-2.

Capitalized items used to describe rentals, charges, and fees and the calculation thereof, which are not defined above, shall be as defined in Articles 4, 6, and 7 hereof.

SECTION 1.02 CROSS-REFERENCES

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

ARTICLE 2 - TERM

SECTION 2.01 TERM

This Agreement shall become effective as of 12:01 a.m. on the first day of the month following the date of execution by City, and continue through midnight, August 31, 2007, subject to prior termination as provided in Article 14 herein.

SECTION 2.02 TERMINATION OF EXISTING AGREEMENTS

All terminal building leases and operating agreements heretofore executed between the parties covering or pertaining to the Airport are canceled and terminated as of the effective date of this Agreement, provided that such cancellation and termination shall not be construed as a waiver, relinquishment, or release of any claims, damages, liability, rights of action, or causes of action that either of the parties hereto

may have against the other under such existing leases and agreements and that have accrued before the effective date of this Agreement.

SECTION 2.03 HOLDING OVER

It is agreed and understood that any holding over by Airline of the Leased Premises at the expiration or cancellation of this Agreement shall operate and be construed as a tenancy from month to month at rates, fees, charges, and provisions as set forth in Title 14 and Airline shall be liable to City for any loss or damage on account of any holding over against City's will after the expiration or cancellation of this Agreement, whether such loss or damage may be contemplated or not.

ARTICLE 3 - RIGHTS AND SPECIFIC PRIVILEGES

SECTION 3.01 USE OF THE AIRPORT

Airline, its employees, passengers, guests, patrons, agents, independent contractors and invitees shall have the right to use, in common or jointly with other duly authorized users, those portions of the Airport, together with all facilities, improvements, equipment, and services that have been or may hereafter be provided for their common or joint use, subject to the Rules and Regulations.

SECTION 3.02 SPECIFIC RIGHTS OF AIRLINE AT THE AIRPORT

Airline shall have the right, subject to conditions contained herein and in addition to all rights elsewhere granted in this Agreement, to use the Airport for the following purposes, subject to the Rules and Regulations:

A. The operation of a public Air Transportation system by aircraft for the carriage of persons, property, cargo, and mail, including all activities reasonably necessary to such operation.

B. The landing, taking off, flying over, taxiing, pushing, towing, loading, unloading, repairing, maintaining, conditioning, servicing, parking, storing, or testing of aircraft or other equipment of or operated by Airline.

C. The sale of tickets, documentation of shipments, handling of reservations, and the loading and unloading of persons, property, cargo, and mail at the Airport by such motor vehicles or other means of conveyance as Airline may desire to use in the operation of its Air Transportation system. City reserves the right to require any ground transportation commercial carrier, including Airline, transporting persons to and from the Airport to first secure and thereafter hold a valid lease, license, or other agreement with City for the right to carry persons to and from the Airport and to pay City such rentals, fees and/or percentages of the fares charged by such ground transportation commercial carrier for such right as City may set. City agrees not to require such agreement or payments for such courtesy,

free ground transportation as Airline or its authorized contractor may provide solely for the benefit of Airline's employees.

D. The training of persons and testing of aircraft and other equipment at the Airport, such training and testing to be limited to that incidental to Airline's Air Transportation business. Flight training and aircraft testing shall be undertaken by Airline only to the extent permitted by and subject to the Rules and Regulations and in only those areas designated by Director.

E. The purchase of Airline's requirements of personal property or services, including fuel, lubricants, food, beverage, and other passenger supplies, and any other materials and supplies used by Airline from any person or company of Airline's choice for services to be performed for Airline that are incidental to the operation of Airline's Air Transportation business. Nothing herein shall restrict City from levying nondiscriminatory concession or privilege fees or charges on any person or company conducting business at the Airport other than Air Transportation.

F. The sale, disposal, and exchange of Airline's aircraft, engines, accessories, fuel, oil, lubricants, other equipment, and materials or supplies to other Air Transportation companies subject to City's right to charge and collect fees or commissions for such sales or exchanges as provided in Section 3.04 (H). Such right shall not be construed as authorizing the conduct of a separate regular business by Airline, but as permitting Airline to perform only those functions that are incidental to the operation of its Air Transportation business.

G. The servicing by Airline, or by its suppliers of materials or its furnishers of services, of aircraft and other equipment operated by Airline with line maintenance or other materials or supplies, at its Preferentially Assigned Aircraft Parking Areas or other aircraft parking positions designated by Director subject to the Rules and Regulations. Director reserves the right, at any time, to designate other locations reasonably accessible from the Terminal Building for the performance of aircraft maintenance and service activities if Director believes that such activities would interfere with aircraft operations of other airlines at the Terminal Building.

H. The installation and operation of identifying signs and graphics on Airline's Leased Premises, subject to the prior written approval of Director, provided that such signs shall be: (1) substantially uniform in size, type, and location with those of other airlines; (2) consistent with Department's graphics standards as established from time to time by Director; (3) in compliance with the Rules and Regulations; and (4) in compliance with Municipal Code and all local laws and ordinances.

I. The installation, maintenance, and operation of such radio, communication, meteorological, and aerial navigation equipment and facilities at suitable locations on the Airport, including computer equipment at passenger check-in counters in the Terminal Building, as may be necessary for Airline's operations; provided that such equipment and facilities do not interfere with other Airport communication, meteorological, or aerial navigation systems. The location of such equipment and facilities, method of installation and type of equipment shall require the prior written approval of Director and shall conform with all applicable federal, state, and local requirements. Airline is required to use the City's Multi-user Flight Information Display System (MUFIDS) and agrees to abide by the rules established by City for its use. Airline may use its own FIDS in its Leased Premises subject to the prior written consent of Director and subject to such reasonable conditions as Director may require.

J. The provision of baggage porter, skycap, or curbside airline baggage check-in services. Airline may arrange with other airlines to provide such services or may provide such services on its own behalf.

K. The use of the International Arrivals Area, depicted on Exhibits B-1 and B-2, in common with other authorized users, subject to availability and payment of then current use charges.

L. The installation of loading bridge(s) at Airline's Preferentially Assigned Aircraft Parking Areas, subject to the following:

1. The requirement to permit the use of such loading bridge(s) by other Air Transportation companies which may be assigned the use of Airline's gate(s) pursuant to Section 4.02 during periods when such gate(s) is not in use by Airline.

2. The right to assess and collect charges, as defined in Section 4.02A, from others for the use of such loading bridge(s) and any associated systems, equipment, or furnishings purchased and installed by Airline.

3. The requirement that any loading bridge(s) owned by Airline but not installed at Airline's Preferentially Assigned Aircraft Parking Area(s) shall, upon sixty (60) days advance written notice from Director, be removed from the Airport at the Airline's expense unless Airline agrees to a sale to City. Any loading bridge not removed by Airline prior to the expiration of the aforesaid sixty (60) day period, shall thereupon become a part of the land upon which it is located and title thereto shall thereupon vest in City. Airline agrees to reimburse City for any costs incurred by City if City elects to

remove or dispose of Airline's loading bridge(s) after such sixty (60) day period.

M. The right to erect, maintain, and station security screening devices and to conduct a security check operation of passengers, baggage, and packages in the Airline's Exclusive Use Space or Joint Use Space at a location approved by Director in his or her reasonable discretion.

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

SECTION 3.03 EMPLOYEE PARKING FACILITIES

Airline's employees working at the Terminal Building will be provided vehicular parking facilities, if available, in common with other employees. Such facilities shall be located in an area designated by Director. City reserves the right to assess a reasonable charge to Airline or its employees for such parking facilities.

SECTION 3.04 LIMITATION ON USE BY AIRLINE

In connection with the exercise of its rights under this Agreement, Airline:

A. Shall not do or permit to be done anything at or about the Airport that may interfere with the use, operation, or maintenance of the Airport, including but not limited to effectiveness or accessibility of the water system, drainage and sewage system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, heating or ventilation system, air conditioning system, electrical system, natural gas, or other Airport systems installed or located on or within the Leased Premises or the Airport.

B. Shall not do or permit to be done anything, either by act or failure to act, that shall cause the cancellation or violation of the provisions, or any part thereof, of any policy of insurance for the Airport, or that shall cause a hazardous condition so as to increase the risks normally attendant upon operations permitted by this Agreement. If Airline shall do or permit to be done any act not permitted under this Agreement, or fail to do any act required under this Agreement, regardless of whether such act shall constitute a breach of this Agreement, which act or failure, in and of itself, causes an increase in City's insurance premiums, Airline shall immediately remedy such actions and/or pay the increase in premiums, upon notice from Director to do so.

C. Shall not dispose of or permit any employee, agent or contractor to dispose of any waste material taken from, or products used with respect to, its aircraft into the sanitary or storm sewers at the Airport or any other location on the Airport (whether liquid or solid), including but not limited to

Hazardous Materials, unless such waste material or products first be properly treated by equipment installed with the approval of City and any other administrative body having appropriate jurisdiction.

D. Shall not keep or store any Hazardous Materials such as flammable liquids and solids, corrosive liquids, compressed gases, or magnetized or radioactive materials on the Airport except when all the following conditions are met: (1) in accordance with standards established by the National Board of Fire Underwriters, any liquids having a flash point of less than one hundred degrees (100°) Fahrenheit shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories; (2) said materials shall be under the control and care of designated and properly qualified Airline personnel; (3) said materials shall be packaged, handled and stored in compliance with applicable U.S. Department of Transportation, Environmental Protection Agency, and other applicable regulations for transport, pre-transport and storage of hazardous articles and materials; and (4) said materials shall be only stored in such storage areas as are designated and approved by Director.

E. Shall not install fuel storage tanks or pumping facilities for use in fueling any aircraft at the Airport without prior written approval of City. The granting of the right to store aviation fuels shall be subject to the execution of a separate agreement between Airline and City.

F. Shall not maintain or operate in the Terminal Building or elsewhere at the Airport, a cafeteria, restaurant, bar or cocktail lounge for the purpose of selling or dispensing food or beverages to the public, its employees, or passengers; nor shall Airline in any manner otherwise provide for the sale or dispensing of food and beverages at the Airport except that Airline may dispense food and beverages on board Airline's aircraft or to passengers boarding Airline's aircraft for consumption on board and provide vending machines solely for the sale of hot and cold beverages, food, and confections to Airline employees in areas not accessible to the general public. Airline may, by separate agreement with the City and to the extent it does not conflict with any terminal concession agreements, engage in the provision or sale of food or beverages at any airline club room or similar private facility at the Airport.

G. Agrees to comply with all security measures required of Airline or City by the FAA or contained in City's FAA-approved Master Security Plan for the Airport, as such plan may be amended from time to time, or in any Airport Tenant Security Program as outlined in FAR Part 107 with respect to Airline's Exclusive Use premises. Any fines and/or penalties levied against City for security violations at the Airport resulting from any non-compliance of Airline, its employees, officers, agents, affiliates, or

suppliers while under its control, shall be immediately due and payable to City by Airline.

H. The rights and privileges granted Airline under this Agreement with respect to the performance of ground services and activities in connection with its Air Transportation operations at the Airport may be exercised by Airline for and on behalf of Airline's regularly scheduled or unscheduled services and those of its Affiliates. Airline may, subject to the prior written approval of Director, and, where applicable, the payment of fees or commissions as provided for in this Agreement, perform ground services for any other Air Transportation company using the Airport provided that Airline shall be solely responsible for the reporting to City of all such Air Transportation company's landings, landed weights, and passengers and for the payment of all fees and amounts payable excluding PFCs, by or on account of such Air Transportation company to City under this Agreement or under Title 14 unless such Air Transportation Company is a Signatory Airline. It is understood and agreed that City reserves the right to control access to restricted areas and to collect reasonable fees or commissions for the provision of inflight catering, vending, ground transportation, ground support, or other services by Airline for any Air Transportation company other than Airline and for any services or facilities provided by or for Airline in competition with concessionaires and operators operating under an agreement with City.

I. Shall park ground service or other equipment on the Terminal Building aircraft apron only at areas designated on Exhibit B-1 or otherwise designated by Director.

J. Shall not install any coin-operated or card operated machine(s) or device(s), except for (1) machines for the sale of Airline's tickets or issuance of boarding passes located on Airline's Leased Premises or other areas approved in writing by Director, or (2) beverage or snack machines as provided in F above.

SECTION 3.05 AIRPORT USE SUMMARY

Airline shall file with Director an Airport Use Summary, in a form acceptable to Director, providing the information specified below and such other information as Director may reasonably request regarding Airline's operation at the Airport. Airline shall, at all times, maintain a current version of such Airport Use Summary on file with Director:

- Names, addresses, and telephone numbers of Airline officials responsible for station operations, flight operations, properties, and facilities.

- The current and proposed schedules of Airline's flight activity at the Airport. Airline shall notify Director of schedule changes or the addition or deletion of flights at the Airport prior to or no later than the public announcement thereof.

- The description of Airline's fleet and identification of the type of Airline's aircraft that are serving or will serve the Airport. Airline shall provide notice of the introduction of any aircraft that is not being operated by Airline at the Airport as of the date of this Agreement.

- Airline's aircraft recovery plan for disabled aircraft.

Such Airport Use Summary shall be updated and re-filed with Director whenever there is a change to the nature of Airline's operations at the Airport or whenever Director shall reasonably request.

ARTICLE 4 - PREMISES

SECTION 4.01 PREMISES

A. Categories of Space.

Airline shall lease areas in or adjacent to the Terminal Building on an Exclusive Use, Joint Use, Common Use, Shared Use, or Preferentially Assigned basis (or combination thereof) as follows and as more particularly delineated on Exhibits B-1 and B-2, as such exhibits may be modified.

1. Exclusive Use Space

   - Ticket Counter
   - Office
   - Outbound Baggage Area
   - Baggage Service Office
   - Airline Operations Area

2. Joint Use Space

   - Concourse Circulation Area
   - Hold Room
   - Equipment Service Area
   - Security Screening Area

3. Common Use Space

   - Baggage Claim Area
   - Inbound Baggage Area

4. Shared Use Space

- Hallways and other facilities or space serving Exclusive Use Space

5. Preferentially Assigned Areas

- Equipment Parking Area
- Aircraft Parking Area

B. Space in Terminal Building

At the effective date of this Agreement, Airline shall lease or use the areas in or adjacent to the Terminal Building shown on Exhibits B-1 and B-2. Airline's Leased Premises in the Terminal Building shall be subject to change from time to time by Director, after consultation with Airline. Any such changes shall be incorporated herein by Director transmitting to Airline replacement Exhibits B-1 and B-2.

C. City may, during the term of this Agreement, expand or modify the leasehold dimensions or location of Joint Use Space or Common Use Space. If City elects to expand or modify the dimensions or location of such space, Director shall consult with and consider any suggestions of Airline, but the approval of Airline shall not be required for any expansion or modification by Director.

D. The dimensions on Exhibits B-1 and B-2, as such exhibits may be modified, shall be the basis for determining the amount of the rentals payable pursuant to Articles 6 and 7. Director shall issue new Exhibits B-1 and B-2 after any Terminal Building expansion or modification.

SECTION 4.02 EQUIPMENT AND AIRCRAFT PARKING AREAS AND HOLDROOMS

A. Aircraft Parking Areas, including associated aircraft loading positions, apron areas and loading bridges ("gates") as shown on Exhibit "B-2" as such exhibit may be amended from time to time by Director, and associated Joint Use Space in the Terminal Building ("holdrooms") shall be assigned to Airline by Director on a preferential, nonexclusive use basis. Airline shall have priority in using gate(s) and holdroom(s) assigned to it on a preferential use basis to accommodate its flights provided that Director may authorize other airlines to use such gate(s) and holdroom(s) in accordance with the provision of Section 4.03.

B. City reserves the right to reassign or recapture possession of one or more of Airline's preferentially assigned gate(s) and holdroom(s) if: (1) Airline's scheduled overall gate utilization falls below four (4) flights per gate per

weekday and (2) Director determines that other suitable gate(s) are not available and there is a need for the use of such gate(s) by another Signatory Airline. Notice of such recapture or reassignment will be provided to Airline by written notice from Director requesting discussions with Airline and transmitting a revised Exhibit B-1 and B-2. Airline shall then have fifteen (15) days from receipt of said notice to respond to Director's notice either by accepting it or offering alternatives for consideration by the Director. At the end of this fifteen (15) day period, the Director may, at his discretion, accept the alternative, if any, or proceed with the plan contained in the original notice. In the event of any reassignment or recapture, Airline will be entitled to payment by the Signatory Airline accommodated for the unamortized book value of any Airline-owned loading bridge or tenant improvements, and for any reasonable relocation costs. Accommodating Airline shall not be required to relocate until such time as this payment has been made.

C. Airline shall park all its ground service equipment in its preferentially assigned Equipment Parking Area as set forth on Exhibit B-1. In the event Airline requires additional equipment parking, such parking shall be subject to availability, the written approval of Director, and applicable Rules and Regulations.

D. Airline shall have the right to park overnight one aircraft per preferentially assigned gate. Airline may park overnight more than one aircraft per preferentially assigned gate subject to the prior approval of Director and subject to payment of the overnight gate charge set forth in Section 6.04.

E. During any construction or remodeling at the Terminal Building, City reserves the right, after consultation with a committee of local station managers selected by the Signatory Airlines, to temporarily reassign preferential use gates.

F. Airline shall cooperate with City to accommodate other Air Transportation companies from time to time, as deemed necessary by Director for situations including, but not limited to, unscheduled flights (including charters), mechanical problems, and diversions due to weather.

SECTION 4.03 ACCOMMODATION OF AIRLINE AND OTHER AIRLINES

To maximize the use of terminal facilities at the Airport, to facilitate the entry of new airlines, and to accommodate the expansion plans of present airlines, Airline agrees, upon the request of Director, to accommodate in its Leased Premises any Airline requesting facilities ("requesting airline") in accordance with the following procedure:

A. In order to secure the use of terminal facilities, a requesting airline may:

1. Arrange to use City-controlled terminal space and gates not preferentially assigned on a permit basis, or

2. Contact Airline and other Signatory Airlines to request the use of such airline's Leased Premises.

B. In the event the requesting airline demonstrates to the satisfaction of Director that it has made all reasonable efforts to secure facilities without success, Director shall then notify all Signatory Airlines in writing that, if requesting airline is not accommodated within fifteen (15) days from the date of said notice, Director shall select one of the Signatory Airlines to comply with the request for accommodation.

C. At the end of said fifteen (15) day period, if requesting Airline has not been accommodated, Director shall select Airline or another Signatory Airline to accommodate the requesting airline, taking into consideration such factors as current utilization of terminal facilities, schedule compatibility, union work rules, competitive relationships, and other relevant factors. Director shall send written notice to such selected airline (the "accommodating airline") requiring such airline to begin accommodating the requesting airline within thirty (30) days from the date of said notice. Director shall include in such notice the reason or reasons why such accommodating airline was selected.

D. Upon receipt of said notice, the selected accommodating airline may submit written comments to Director contesting its selection and Director shall consider such comments before confirming or rescinding such selection. However, the decision of Director shall be final.

E. Unless Director rescinds such selection within the thirty (30) day period specified in Section 4.03 (C), the accommodating airline shall accommodate the requesting airline by sharing its Leased Premises and aircraft parking positions on a timely, good faith basis and in a reasonable and equitable manner, subject to the following conditions:

1. In case of a conflict between schedules of the accommodating airline and the requesting airline, the accommodating airline shall have preferential use of its Leased Premises and preferentially assigned Aircraft Parking Areas.

2. The accommodating airline shall not require that the requesting airline obtain ground handling or other services from the accommodating airline.

3. The accommodating airline may assess the requesting airline reasonable and non-discriminatory fees and charges for services

rendered to, or Leased Premises shared with, requesting airline, which fees and charges shall be limited to Airline's actual direct and indirect costs of providing, maintaining, and operating the shared facilities and equipment plus a reasonable allowance for administration and profit not to exceed 15% of such costs. Airline may further require a payment bond or other third party guarantee from the requesting airline.

4. The accommodating airline may require the requesting airline to insure and indemnify the accommodating airline against liability arising out of the use of its facilities and equipment.

SECTION 4.04 USE OF CITY LOADING BRIDGES

A. Any loading bridges financed and maintained by City shall be made available to all airlines serving the Airport on a common use basis unless assigned for preferential use.

B. The use of City-owned loading bridges by Airline shall be subject to the following terms and conditions:

1. The loading bridges shall be operated only by employees, contractors, or agents of Airline, who to Director's satisfaction, are approved and qualified to operate the loading bridges.

2. Airline shall be solely responsible for any and all damages, claims, or injuries which may be caused by the operation of the loading bridges by its employees, contractors, or agents, and shall indemnify and hold harmless City for such operation in accordance with Section 11.02.

3. Airline shall be solely responsible for the costs to replace or repair any damage to loading bridges caused by the operation of the loading bridges by its employees, contractors, or agents .

4. City, during the term of this Agreement, shall reasonably maintain and keep in good repair the City-owned loading bridges referred to herein.

5. Airline shall pay the loading bridge charge as provided in Section 6.12.

SECTION 4.05 REQUIREMENT TO REMAIN IN CONFINES OF EXCLUSIVE USE SPACE

Airline shall, at all times, occupy and use only that space within the confines of its Exclusive Use Space. Failure of Airline to remain within the confines of its Exclusive Use Space shall be a breach of this Agreement. Director shall notify Airline in writing of

any infraction of this provision and, upon any continued infraction, City shall charge Airline double the normal specified monthly rent for the unauthorized occupancy or use of such terminal space. Airline further agrees that it will, at all times, occupy and use the Joint Use Space so that its operations and passengers do not impede or inconvenience the operations or passengers of other airlines.

SECTION 4.06 REASSIGNMENT OF LEASED SPACE DURING CONSTRUCTION

Director may temporarily reassign any Leased Premises or Aircraft Parking Area during any construction after reasonable written notice is provided to Airline. The cost for any temporary relocation resulting from construction shall, at the discretion of City, be either borne by the airline necessitating the relocation or shall be included as part of the project cost. During the period when Airline is temporarily relocated, appropriate adjustments to rentals shall be made to reflect any differences between the area of the Leased Premises and the area of temporarily assigned premises.

SECTION 4.07 SURRENDER OF THE PREMISES

A. Airline covenants and agrees that on expiration of the term of this Agreement, or on earlier termination as hereinafter provided, or on reassignment of the Leased Premises as heretofore provided, it will peaceably surrender possession of the Leased Premises hereunder in good condition, reasonable wear and tear excepted, and City shall have the right to take possession of the Leased Premises. City shall not be required to give notice to quit possession at the expiration of the term of this Agreement.

B. Airline shall have the right, on expiration or early termination and within thirty (30) calendar days thereafter, at its expense to remove or dispose of all trade fixtures and equipment and other personal property installed or placed by Airline in, on, or about the Airport, subject to any valid lien that City may have thereon for unpaid rents or fees

C. Any and all property not removed by Airline within the said thirty (30) day period shall, at the option of City, thereupon become a part of the property on which it is located, and title thereto shall thereupon vest in City. Airline agrees to reimburse City for any costs incurred by City if City elects to remove or dispose of any remaining Airline property after such thirty (30) day period.

SECTION 4.08 ACCESS

A. Subject to the provisions herein, Title 14, the Rules and Regulations, and such other restrictions as City may impose with respect to Airline's use of Leased Premises, City hereby grants to Airline, its agents, suppliers, employees, contractors, passengers, guests, and invitees, the right and privilege of free and unrestricted access, ingress, and egress to Airline's

Leased Premises and to public areas and public facilities of the Terminal Building.

B. The ingress and egress provided for in Section 4.08(A) shall not be used, enjoyed, or extended to any person engaging in any activity or performing any act or furnishing any service for or on behalf of Airline that Airline is not authorized to engage in or perform under the provisions hereof unless expressly authorized in writing by Director.

C. City shall have the right at any time or times to close, relocate, reconstruct, change, alter, or modify any such means of access provided for Airline's use pursuant to this Agreement or otherwise, either temporarily or permanently, provided that reasonable notice to Airline and a reasonably convenient and adequate means of access, ingress, and egress shall exist or be provided in lieu thereof. City shall suffer no liability by reason thereof and such action shall in no way alter or affect any of Airline's obligations under this Agreement.

D. Airline agrees that all of its tenants, subtenants, patrons, invitees, agents, employees, or independent contractors must be authorized by the City to enter restricted areas as defined in Chapter 14.16 of the El Paso Municipal Code. Airline agrees that no person authorized to enter a restricted area by virtue of this Agreement shall permit any person who is not otherwise authorized to enter a restricted area unless such unauthorized person is, at all times while in the restricted area, in the company of an authorized person.

E. Airline understands and agrees that, in the event the Federal Aviation Administration assesses a civil penalty against the City or Department for any violation of 49 CFR Part 1542 or any successor or additional regulation pertaining to security at the Airport, as a result of any act or failure to act on part of Airline, its tenants, subtenants, patrons, agents, servants, employees, invitees, or independent contractors, Airline shall, upon demand of City, immediately reimburse the City in the amount of the civil penalty assessed.

SECTION 4.09 COMPETITIVE ACCESS TO PFC-FUNDED FACILITIES

Should Airline not fully utilize any portion of its Exclusive Use, Joint Use, Shared Use, or preferentially assigned Leased Premises or equipment, Airline agrees to make such facilities available for use by any Air Transportation company in accordance with the provisions of this Agreement. In accordance with 14 CFR Part 158, failure to make such facilities available shall be grounds for immediate termination of this Agreement pursuant to Section 14.03. Failure to make such preferentially assigned facilities available shall be grounds for reassignment of Airline's preferential rights to such facilities.

ARTICLE 5 - CAPITAL IMPROVEMENTS AND EQUIPMENT AND CAPITAL OUTLAYS

SECTION 5.01 CAPITAL IMPROVEMENTS

From time to time during the term of this Agreement, City may, at its sole discretion, undertake Capital Improvements to the Airport. The costs of such Capital Improvements are not included, and for the term of this Agreement, shall not be included, in the calculation of rentals, charges, and fees pursuant to Article 7 except that for purposes of calculation of rentals, fees and charges to Airline, the expenses for Airline Terminal Support Systems, Airline Equipment and Improvement, and Maintenance and Operating Expenses shall never be considered Capital Improvements, regardless of the size of the expenditures or the useful life of the assets purchased and will be charged as provided for in Articles 6 and 7. Upon request of Airline, Director shall provide a copy of the most recent Capital Improvement Program.

SECTION 5.02 EQUIPMENT AND CAPITAL OUTLAYS

On or before July 15 of each year, Director shall, as part of the annual budget process, prepare an estimate of the purchase or construction cost of Equipment and Capital Outlays to be purchased or constructed and the estimated costs for such Equipment and Capital Outlays that are to be included in the calculation of the required next year's rentals, charges, and fees pursuant to Article 7. Upon request of Airline, Director shall provide a listing of such budgeted Equipment and Capital Outlays.

ARTICLE 6 - REPORTS, RENTALS, CHARGES, AND FEES

SECTION 6.01 GENERAL

A. In consideration for use of the Leased Premises and for the various rights, licenses, and privileges granted hereunder and for the undertakings of City, Airline agrees to pay City, during the term of this Agreement, without deduction or set-off, rentals, charges, and fees to be calculated as set forth herein. City shall invoice Airline monthly for all such rentals, charges, and fees except landing fees, which shall be payable by Airline without invoice. Payment shall be made by Airline in accordance with Section 6.13 hereof.

B. Airline understands and agrees that rentals, charges, and fees calculated as set forth herein will be payable by all other Signatory Airlines and all other airlines providing regularly scheduled service at the Airport, provided that, in the case of an airline beginning regularly scheduled service at the Airport, such airline shall make all undertakings and execute all documents required to allow it to become a Signatory Airline within six (6) months of its beginning service at the Airport. Within such six-month period, any such new entrant airline shall be treated as a Signatory Airline for the purposes of calculating rentals, charges, and fees hereunder. If

such new entrant airline shall not have made all undertakings and executed all documents required to allow it to become a Signatory Airline by the end of such six-month period, then it shall thereafter be required to pay rentals, charges, and fees at the non-signatory rates as specified in Title 14.

SECTION 6.02 MONTHLY ACTIVITY REPORT

A. Airline shall furnish to Director, on or before the tenth (10th) day of each month, an accurate report of Airline's operations at the Airport during the preceding month, setting forth all data necessary to calculate the rentals, fees, and charges due under this Agreement. Said report shall include, but shall not necessarily be limited to: (1) Airline's total number of Aircraft Arrivals for the month by type of aircraft, the Maximum Gross Landed Weight of each aircraft, and the Total Airline Landed Weight for the month to include any non-scheduled and charter operations; (2) the total number of Enplaned Passengers and deplaned passengers to include any non-scheduled and charter operations; (3) the number of Enplaned Passengers who are originating their air journeys at the Airport (rather than transferring from other flights of Airline or other airlines at the Airport); (4) the number of Enplaned Passengers who are non-revenue passengers or frequent flier award coupon passengers as such terms are defined in 14 CFR Part 158, as amended; (5) the total number of Aircraft Arrivals and departures from non-preferentially assigned gates or City-owned loading bridges; (6) the number of arriving international passengers using the International Arrivals Area; (7) the weight of cargo, freight, mail, and express for such month; and (8) any other data needed to establish and assess rates and charges. Airline shall also report the activities set forth herein for any Affiliate or other airline or charter which is handled by or uses the Leased Premises of Airline.

B. If Airline fails to furnish Director with the report required by Section 6.02(A), it shall be considered in default under this Agreement and Airline's rentals, fees, and charges, as provided for hereafter, shall be determined by assuming that Airline's Total Airline Landed Weight and Enplaned Passengers for such month was one hundred fifty percent (150%) of its Total Airline Landed Weight and Enplaned Passengers during the most recent month for which such data are available for Airline and by applying the rates specified in Title 14. Any necessary adjustment in such rentals, fees, and charges shall be calculated after an accurate report is delivered to Director by Airline for the month in question. Resulting surpluses or deficits shall be applied as credits or charges to the appropriate invoices in the succeeding month.

SECTION 6.03 TERMINAL BUILDING RENTALS

A. Airline shall pay to City for its Exclusive Use, Joint Use, Common Use, and Shared Use space in the Terminal Building, as set forth on Exhibits B-1 and B-2, monthly rentals based on annual rental rates to be calculated each Fiscal Year, as set forth in Section 7.04.

B. Rentals for Joint Use space shall be prorated among the Signatory Airlines in accordance with a formula that prorates 50% of the cost of the space on the basis of the number of gates preferentially assigned to each Signatory Airline and its Affiliates as a proportion of the total number of preferentially assigned gates and 50% of the cost on the basis of that proportion which the number of each Signatory Airline's Enplaned Passengers bears to the total number of Enplaned Passengers using such space. For the purposes of such calculation, a gate serving the International Arrivals Area shall be deemed not to be preferentially assigned to a Signatory Airline and shall not be counted in such calculation if such Signatory Airline exclusively deplanes its passengers at the apron level of the Terminal Building.

C. Rentals for Common Use space shall be prorated among airlines at the Airport on the basis of: (a) 20% of the total monthly rental apportioned evenly among all Signatory Airlines using such space, and (b) the remaining 80% of the total monthly rental apportioned among all Signatory Airlines using such space on the ratio of each airline's Enplaned Passengers to the total number of Enplaned Passengers of all such airlines. The Airline shall be grouped with its Affiliates as a single entity for apportioning the 20% amount under (a) above. Any airline accounting for less that 1,200 monthly Enplaned Passengers shall be exempt from the calculation of the 20% amount under (a) above. Enplaned Passengers shall include any passengers handled by Airline for non-signatory airlines. If the Airline ceases service at the Airport before the expiration of the term of this Agreement, Airline shall remain responsible for paying its pro rata share of the 20% Common Use formula apportionment throughout the remainder of the term of this Agreement.

D. Rentals for Joint Use space and Common Use space shall be prorated among the Signatory Airlines on or about October 1 and April 1 of each year according to the respective formulas set forth in Paragraphs B and C herein. The formulas shall be determined using Enplaned Passenger statistics for the most recent and readily available six-month period. Such formulas shall remain in effect throughout the ensuing six (6) month period; however, the City may, at its sole discretion, revise the proration at any time if a new airline begins service to the Airport or if an airline ceases serving the Airport.

E. Rentals for Shared Use space shall be prorated among Airport tenants in proportion to the leased area of each tenant's Exclusive Use space relative to the total area of leased Exclusive Use space served by such Shared Use space.

SECTION 6.04 APRON USE FEES

Airline shall pay City a Apron Use Fee of $12,000 per year in equal monthly installments for the use of each Aircraft Parking Area preferentially assigned to Airline. In addition, Airline shall pay City use fee on a per-use basis for the use of common-use aircraft parking areas at the rate set forth in Title 14. Airline shall, in addition, pay an apron use fee for each additional aircraft parked at Airline's preferentially assigned gate overnight at the rate set forth in Title 14.

SECTION 6.05 ELECTRICITY CHARGES

Airline shall pay City charges for electrical power used in its Shared Use and Exclusive Use space and preferentially assigned gates based on the cost, without mark-up, to City for electricity used by Airline as arrived at through separate metering or computation by City. Airline shall report to Director any plans to decrease or increase its use of electrical equipment or electricity.

SECTION 6.06 LANDING FEES

Airline shall pay to City monthly Landing Fees to be determined by multiplying the number of one thousand (1,000) pound units of Total Airline Landed Weight for Airline during the month by the then-current Landing Fee Rate established pursuant to Section 7.05 herein.

SECTION 6.07 AIRLINE TERMINAL SUPPORT SYSTEM CHARGES

Upon the installation or provision by City of any Airline Terminal Support System, Airline shall pay for the use of such system, amounts sufficient to amortize its share of the cost of the system or services paid for City, including applicable maintenance and operating expenses, all as determined by City.

SECTION 6.08 EQUIPMENT PARKING RENTALS

Airline shall pay City, as rent for its preferentially assigned Equipment Parking Area, a monthly rental computed at the rate of $2.50 per square foot per year.

SECTION 6.09 SECURITY SCREENING FEE

Airline shall pay City amounts sufficient to reimburse City for its share of City's actual cost, plus a 15% allowance for administrative overhead, of providing armed law enforcement support for the security screening operation as required by FAR Parts 107 and 108. The cost of such support shall be apportioned by City among airlines using

the secured passenger boarding areas on the basis of the share of each airline's Enplaned Passengers relative to the total Enplaned Passengers of all such airlines.

SECTION 6.10 AIRLINE EQUIPMENT OR IMPROVEMENT CHARGES

Upon the installation or provision by City of any Airline Equipment or Improvement, Airline shall pay for the use of such equipment or improvement amounts sufficient to amortize the cost paid by City, including applicable maintenance and operating expenses, all as determined by City.

SECTION 6.11 INTERNATIONAL ARRIVALS AREA CHARGES

Airlines shall pay amounts for the use of the common-use International Arrivals Area as set forth in Title 14.

SECTION 6.12 CITY-OWNED LOADING BRIDGE CHARGE

A. Airline shall pay City a loading bridge charge for each use (arrival plus departure) of City-owned loading bridges at common use gates at the rate set forth in Title 14.

B. Airline shall pay City a loading bridge charge on a monthly basis for the use of City-owned loading bridges preferentially assigned to Airline at a rate determined by City. Director may revise such loading bridge charge rate at the beginning of each Fiscal Year.

SECTION 6.13 PAYMENT PROVISIONS/INTEREST ON OVERDUE AMOUNTS

A. All Apron Use Fees, Airline Support Services Charges, Equipment Parking Rentals, Airline Equipment and Tenant Finish Charges and any City-owned loading bridge charges on preferentially assigned gates shall be due and payable the first day of each month, in advance, without invoice.

B. Landing Fees shall be due and payable on or before the twentieth (20th) day of each month, without invoice.

C. All Terminal Building rentals and other fees and charges shall be due and payable on invoice within thirty (30) days of the date of invoice.

D. The acceptance by City of any payment made by Airline shall not preclude City from identifying the accuracy of computations in Airline's Monthly Activity Report, submitted to Director as provided in Section 6.02, or from recovering any additional payment actually due from Airline.

E. If any payment is not received by City by the due date, City may, at its discretion, charge Airline interest at the rate of eighteen percent (18%) per year calculated on a daily basis at the rate of five-hundredths of a percent

(0.05%) per day from the due date until paid in full. Nothing in this provision is intended to create a situation whereby the City shall be deemed to have charged an interest rate which exceeds the highest interest rate allowed by applicable law. If the imposition of the late fee as calculated herein will result in such a situation, this provision will be modified to reduce the amount to be charged to a lawful amount. If a late fee in excess of the lawful interest is erroneously collected by the City, the amount which exceeds the lawful amount will promptly be refunded to the Airline.

F. All payments due and payable herein shall be paid in lawful money of the United States of America, without set-off, by check made payable to City and delivered or wired, as applicable, to the following address or account, or to such other address or account as City may notify Airline in writing from time to time:

Via Mail Express

Director of Aviation
El Paso International Airport
6701 Convair Road
El Paso, Texas 79925-1091

SECTION 6.14 TAXES AND OTHER CHARGES

Airline shall pay all taxes and governmental charges of any kind whatsoever that may be lawfully assessed against Airline or City, with respect to the Premises, Airline's use and/or occupancy of the Premises, or any improvements thereon, during the term of this Lease including any extensions or options periods granted thereto.

Airline in good faith may contest any tax or governmental charge; provided that Airline may not permit such tax or governmental charge to remain unpaid during the period of such contest and any appeal therefrom unless, in the opinion of counsel satisfactory to the City, such action will not adversely affect any right or interest of the City.

SECTION 6.15 PASSENGER FACILITY CHARGE

A. City shall have the right to assess Airline's passengers a PFC for the use of the Airport in accordance with the requirements of 14 CFR Part 158, as amended ("PFC Regulations"). Airline shall collect on behalf of and remit to City any such charges in accordance with the requirements of the PFC Regulations. Any charges collected by Airline shall, pending remittance to City, be held in trust for the benefit of City. City shall have the right to use all PFC revenue collected in any lawful manner.

B. Airline and City shall be bound by and shall observe all of the provisions of the PFC Regulations as they apply to either or both parties.

C. If any extension of this Agreement makes its term five (5) years or more, any part of the Airport funded in whole or in part with PFC revenue and exclusively leased to Airline shall be subject to a separate agreement of less than five (5) years in length.

D. If Airline fails to remit PFC revenue to City within the time limits established by federal regulation, Airline shall be deemed to be in default pursuant to Section 13.01.

SECTION 6.16 RECORDS OF AIRLINE

Airline shall keep and maintain a complete and adequate set of records of all landing weights and other information specified in Section 6.02 hereof or otherwise required for the calculation or payment of fees required under this Agreement for the current Fiscal Year and the three (3) immediately preceding Fiscal Years, and shall make such records available for inspection by Director at any and all reasonable hours and times.

SECTION 6.17 NO OTHER FEES AND CHARGES

Except as provided in this Agreement, no further rentals, fees, or charges shall be charged against or collected from Airline, its passengers, employees, shippers or receivers of freight or express, suppliers of materials, contractors or furnishers of services, by City for the premises, facilities, rights, licenses, and privileges granted to Airline under this Agreement. However, City expressly reserves the right to assess and collect reasonable fees for inflight catering, vending, ground transportation, and other services provided (1) by Airline for another airline (other than an Affiliate) and (2) for Airline by other concessionaires and operators (other than an Affiliate), if such services are provided in competition with any concessionaire or operator operating under an agreement with City.

Anything in this Agreement to the contrary notwithstanding, this Section 6.17 shall not be interpreted or understood as contracting away the City's governmental authority and shall not be construed to waive any lawfully assessed taxes or any governmental charges.

SECTION 6.18 RIGHT OF SET OFF

City shall have the right to set off any past due amount(s) by applying all or a portion of current payments to such past due amount(s). Past due amounts may include sums due under prior agreements, this Agreement, or for usage of the Airport as a non-signatory airline. In the event City exercises the right of set off it shall notify Airline. Airline shall be responsible for immediately submitting such a sum as will reflect the total amount needed to satisfy current amounts due.

SECTION 6.19 SECURITY DEPOSIT

If, at any time during the term of this Agreement, Airline shall commit an Event of Default under Section 13.01 of this Agreement, City shall thereupon have the right, by written notice to Airline, to require Airline to provide to City an irrevocable letter of credit ("Security Deposit") in an amount equal to three (3) months fees and charges payable by Airline under Article 6 of this Agreement, to guarantee the faithful performance by Airline of its obligations under this Agreement and the payment of all fees and charges due hereunder. Airline shall be obligated to maintain such Security Deposit in effect until the expiration of this Agreement. Airline shall, within ten (10) days from its receipt of any such written notice, provide City with the required Security Deposit. Such Security Deposit shall be in such form and issued by a bank or other entity licensed to do business in the State of Texas as shall be acceptable to City in its reasonable discretion. In the event that any such Security Deposit shall be for a period of less than the full period required by this Agreement, or if such Security Deposit is canceled, Airline shall provide a renewal or replacement Security Deposit for the period following the expiration or cancellation of such Security Deposit previously provided at least sixty (60) days prior to the date on which such previous Security Deposit expires or at least sixty (60) days prior to the effective date of such cancellation. City's rights under this Section 6.19 shall be in addition to all other rights and remedies provided to the City under this Agreement.

ARTICLE 7 - CALCULATION OF RENTALS, CHARGES, AND FEES

SECTION 7.01 RENTALS, CHARGES, AND FEES

Rentals, charges, and fees shall, subject to the provisions of Section 7.06 hereof, be reviewed and recalculated annually based on the principles and procedures set forth in this Article 7, and shall become effective on the effective date of this lease and each September 1st thereafter of each year of the Agreement.

SECTION 7.02 ACCOUNTING RECORDS

A. City shall establish, and thereafter maintain, accounting records that will document the following items for each of the Airport Cost Centers: (1) revenues, (2) Maintenance and Operating Expenses, (3) annual debt service on Bonds, (4) amortization of the cost of Capital Improvements financed by City from other than Bonds or grants-in-aid, (5) Equipment and Capital Outlays, (6) any annual funding requirements pursuant to the Bond Ordinance, and (7) any other funding requirements imposed by law or judgments.

B. At the request of Airline, City shall provide to Airline its annual budget and financial statements as well as any supplemental financial data reasonably required to assess the adequacy of rates and charges established under this Agreement.

SECTION 7.03 COORDINATION PROCEDURES - BUDGET REVIEW AND CALCULATION OF RENTALS, CHARGES, AND FEES

A. On or before the June 1 prior to the beginning of each Fiscal Year, Airline shall submit to Director, in writing, its Total Airline Landed Weight forecast for that Fiscal Year. City shall combine Airline's forecast with the Landed Weight forecasts of all other Signatory Airlines and make such adjustments as City deems appropriate to arrive at an estimated Total Airline Landed Weight of all Signatory Airlines to be used in the calculation of Landing Fee Rates.

B. On or before the August 1 prior to the beginning of each Fiscal Year, or as soon thereafter as possible if the Mayor has not filed the proposed budget by that date, City shall make available upon request by Airline the following reports:

1. The Department's proposed annual budget for the Fiscal Year, including all estimated Maintenance and Operating Expenses, estimated annual debt service on Bonds, proposed expenditures for Equipment and Capital Outlays, and proposed expenditures for Capital Improvements for the Airport, all allocated to Airport Cost Centers on a consistent basis from year to year.

2. City's calculation of proposed airline rentals, charges, and fees for the Fiscal Year, based on the procedures set forth in this Agreement.

C. Within thirty (30) calendar days after receipt of the reports, a meeting, if requested by Airline or other Signatory Airline, shall be held between Director and the Signatory Airlines to discuss the proposed rentals, charges, and fees. Director shall give due consideration to any comments and suggestions of Airline regarding the proposed annual budget or the calculations of proposed rentals, charges, and fees.

D. The City shall adopt an annual budget, which includes the annual Department budget, which may, in the sole discretion of City, include revisions made as a result of Director's discussions with Signatory Airlines or otherwise. At the request of Airline, City shall promptly furnish Airline with a copy of the adopted annual Department budget, together with the calculation of rentals, charges, and fees that will become effective as of the first day of the Fiscal Year.

E. If, for any reason, the annual budget has not been adopted by City as of the first day of any Fiscal Year, the rentals, charges, and fees in effect during the preceding Fiscal Year shall continue in effect until (1) the new annual budget has been adopted by the City and (2) City has calculated the rentals, charges, and fees in accordance therewith. Once established,

the new rentals, charges, and fees shall then be made effective retroactive to the first day of such Fiscal Year.

SECTION 7.04 CALCULATION OF TERMINAL BUILDING RENTAL RATES

Terminal Building Rental Rates shall be calculated for each Fiscal Year in the following manner, as illustrated on Exhibit C-1 attached hereto and made a part hereof:

A. City's estimated total "Terminal Building Cost" shall be calculated by totaling the following amounts:

1. The total of estimated direct and indirect Maintenance and Operating Expenses, including any bad debt expense, allocable to the Terminal Building.

2. Equipment and Capital Outlays allocable to the Terminal Building.

3. The pro rata portion of annual debt service on Bonds, net of applicable PFC revenue received, plus Coverage allocable to the Terminal Building.

4. The estimated amount of any deficiency in the Renewal and Replacement Account as of the last day of the current Fiscal Year resulting from an expenditure allocable to the Terminal Building.

5. The pro rata portion allocable to the Terminal Building of deposits to the Maintenance and Operating Reserve Account required by Section 8.02 and Section 8.03.

6. The pro rata portion allocable to the Terminal Building of any other deposits to reserve accounts as set forth in Article 8 and established pursuant to the Bond Ordinance.

7. The estimated amount of any assessment, judgment, settlement, or charge to become payable by City and not covered by the proceeds of City's insurance relating directly to the Airport or its operations and allocable to the Terminal Building.

B. The estimated revenue from electricity charges, airline support services charges, security screening fees, and airline equipment and tenant finish charges shall be deducted from the estimated Terminal Building Cost to determine the estimated Terminal Building Requirement for the Fiscal Year.

C. The estimated Terminal Building Requirement for the Fiscal Year shall then be divided by the total amount of Usable Space in the Terminal

Building to determine an Average Terminal Building Rental Rate per square foot.

D. The Average Terminal Building Rental Rate per square foot shall be multiplied by the total square footage leased to Signatory Airlines to determine the annual Signatory Airline Rental Requirement.

E. As soon as practicable following the close of a Fiscal Year, the actual Terminal Building Requirement and Signatory Airline Rental Requirement shall be ascertained by City for such Fiscal Year and the difference between the actual Signatory Airline Rental Requirement and the annual Signatory Airline rentals paid shall be applied as direct credits against (or recovered through additional charges to) Terminal Building rentals over the remaining months of the current Fiscal Year. However, if the total adjustment for Airline is less than one thousand dollars ($1,000), the adjustment shall be made in one month.

SECTION 7.05 CALCULATION OF LANDING FEE RATES

A Landing Fee Rate per one thousand (1,000) pounds of landed weight shall be calculated in each Fiscal Year in the following manner, as illustrated on Exhibit C-2, attached hereto and made a part hereof.

A. City's estimated "Landing Area Cost" for the Fiscal Year shall be calculated by totaling the following amounts:

1. The total of estimated direct and indirect Maintenance and Operating Expenses including any allocable bad debt expense allocable to the Landing Area.

2. Equipment and Capital Outlays allocable to the Landing Area.

3. The pro rata portion of annual debt service on Bonds, net of applicable PFC revenue received, plus Coverage allocable to the Landing Area.

4. The estimated amount of any deficiency in the Renewal and Replacement Account as of the last day of the current Fiscal Year resulting from an expenditure allocable to the Landing Area.

5. The pro rata portion allocable to the Landing Area of deposits to the Maintenance and Operating Reserve Account required in Section 8.02 and Section 8.03.

6. The pro rata portion allocable to the Landing Area of any other deposits to reserve accounts as set forth in Article 8 and established pursuant to the Bond Ordinance.

7. The estimated amount of any assessment, judgment, or charge to become payable by City net of proceeds of City's insurance relating directly to the Airport or its operation and allocable to the Landing Area.

B. The Landing Area Cost shall then be credited with all revenues derived from the operation of the Landing Area (except revenues derived from Signatory Airline landing fees), as estimated by City, to determine the "Landing Fee Requirement."

C. The Landing Fee Requirement shall then be divided by the estimated Total Airline Landed Weight of all Signatory Airlines to determine the Landing Fee Rate per one thousand pound unit.

D. As soon as practicable following the close of each Fiscal Year, the actual Landing Fee Requirement, shall be ascertained by City for the Fiscal Year based on actual Landing Area Cost, Landing Area revenues, and Total Airline Landed Weight of the Signatory Airlines. The difference between the actual Landing Fee Requirement and the Airline landing fees paid shall be applied as direct credits against (or recovered through additional charges to) invoices over the remaining months of the current Fiscal Year. However, if the total adjustment for Airline is less than one thousand dollars ($1,000), the adjustment shall be made in one month.

SECTION 7.06 EXTRAORDINARY RATE ADJUSTMENTS

A. In the event that, at any time during a Fiscal Year, any of the components of Terminal Building Cost, Landing Area Cost, Landing Area revenues or the Total Airline Landed Weight of Aircraft Arrivals of all Signatory Airlines varies materially (upward or downward ten percent (10%) or more) from the estimates used in setting the Average Terminal Building Rental Rate or Landing Fee Rate, such rates may be adjusted either upward or downward for the balance of such Fiscal Year if such adjustment is deemed necessary by City to ensure that adequate revenues will be available to cover the estimated Terminal Building Requirement and Landing Area Requirement for the Fiscal Year.

B. In addition to the provisions of Section 7.06 (A), City reserves the right to adjust the Average Terminal Building Rental Rate or Landing Fee Rate or both in the event that a Signatory Airline is delinquent in the payment of such rentals and fees by more than sixty (60) days.

ARTICLE 8 - BOND ORDINANCE AND FLOW OF FUNDS

SECTION 8.01 SUBORDINATION TO BOND ORDINANCE

A. This Agreement and all rights of Airline hereunder are expressly subordinated and subject to the lien and provisions of any pledge, transfer, hypothecation, or assignment made at any time by City pursuant to the terms, covenants, and conditions of the Bond Ordinance.

B. In conflicts between this Agreement and the Bond Ordinance, the Bond Ordinance shall govern except that no change in the method of calculation of rentals and fees payable shall govern to the extent that it materially adversely affects the rights of Airline hereunder.

C. All definitional terms that are not specifically defined herein are to have the meanings set forth in the Bond Ordinance.

SECTION 8.02 CREATION OF AND FLOW OF FUNDS

A. Subject to the terms and provisions of the Bond Ordinance and other related instruments, it is mutually understood and agreed that, as long as any Bonds secured by the Bond Ordinance are outstanding, Bond proceeds and all Airport revenues shall be deposited, maintained, and paid as set forth in the Bond Ordinance, or if not specified in the Bond Ordinance, as set forth in Section 8.02(B). City shall maintain separate accounts as set forth in Section 8.02 (B), (C), (D), and (E) for the purposes of accounting for all Airport revenues and expenses.

B. Restricted Land Sales Fund. All revenues derived by City from activities conducted on property which was sold or leased to establish the Restricted Land Sales Fund shall be deposited in that fund. All such revenues (including interest earned on fund balances) shall remain in the fund unless expended for purposes deemed eligible by the FAA.

C. PFC Fund. In compliance with federal regulations, all PFC revenue shall be deposited in a separate fund to be used to pay the costs of approved PFC projects and associated debt service. All interest earned in the PFC Fund shall remain in the PFC Fund and be used solely for approved projects.

D. All other revenues derived from the Airport in each Fiscal Year shall be deposited, used, and applied in the following priority:

1. To the Maintenance and Operating Expense Account, an amount sufficient to increase the balance in the account to at least the amount in the annual operating budget for Maintenance and Operating Expenses. Amounts shall be paid out of the

Maintenance and Operating Account from time to time by City for the necessary expenses for the operation, maintenance, repairs, and ordinary replacement and reconstruction of the Airport.

2. To the Debt Service Account, an amount equal to the aggregate annual amount of principal, interest, and any sinking fund requirements on any outstanding Bonds payable from annual Airport revenues.

3. To the Debt Service Reserve Account, an amount required to maintain a balance at least equal to the maximum annual revenue bond debt service on all outstanding Airport Revenue Bonds issued by City. Amounts shall be paid out of the Debt Service Reserve Account, from time to time as necessary, to pay interest and principal due on any Bonds outstanding and payable from Airport revenue to the extent that other moneys are not available within the Debt Service Account. All interest earned in this account shall remain in the account until it is fully funded.

4. To the Maintenance and Operating Reserve Account, an amount required to maintain in such account a balance equal to three-twelfths (3/12) the amount in the annual operating budget for Maintenance and Operating Expenses for the current Fiscal Year. Amounts shall be accumulated or reaccumulated and maintained as a contingency reserve in the Maintenance and Operating Reserve Account to be used only to prevent deficiencies in the payment of Maintenance and Operating Expenses from the Maintenance and Operating Account. In this event, such moneys may be withdrawn from the Maintenance and Operating Reserve Account and transferred to the credit of the Maintenance and Operating Account.

5. To the Renewal and Replacement (R&R) Reserve Account, an amount required to maintain in such account a balance of no more than one million dollars ($1,000,000). Such amounts shall be accumulated or reaccumulated and maintained as a contingency reserve in the Renewal and Replacement Reserve Account to be used only for emergency repairs or emergency replacement for the Airport. All interest earned in this account shall remain in the account until it is fully funded.

6. To the Equipment and Capital Outlay Account, an amount to pay for all equipment purchases, repairs, renewals, and replacements to the Airport and for all Equipment and Capital Outlays.

7. To the Capital Improvement Account, all remaining revenues to be used by City for any lawful Airport purposes.

SECTION 8.03 INITIAL DEPOSITS INTO MAINTENANCE AND OPERATING RESERVE ACCOUNT AND RENEWAL AND REPLACEMENT RESERVE ACCOUNT

City has funded the initial deposits to the Maintenance and Operating Reserve Account and Renewal and Replacement Reserve Account through cash balances on hand. Subsequent deposit requirements shall be included in the calculations of Signatory Airline Terminal Building Rentals and Landing Fees as set forth in Sections 7.04 and 7.05.

ARTICLE 9 - MAINTENANCE AND OPERATION OF AIRPORT

SECTION 9.01 CITY'S RESPONSIBILITIES

A. City agrees that it will, with reasonable diligence, keep the Airport and its aerial approaches reasonably free from obstruction and interference for the safe and proper use thereof by Airline; and will develop, maintain, and operate the Airport in all respects in a manner at least equal to the standards or rating established by the FAA and any other governmental agency having jurisdiction thereof, except for conditions beyond the control of City. City shall not be liable to Airline for temporary failure to so perform, whether due to mechanical breakdown or for any other causes beyond the reasonable control of City.

B. City, with its own forces or by contract, shall operate and maintain and keep in good condition the Terminal Building and all additions, improvements, facilities, and equipment now or hereafter provided by City at or in connection with the Terminal Building, except any improvements, facilities, and equipment constructed or installed by Airline and any Exclusive Use Leased Premises hereunder. City shall keep the Terminal Building, except Airline's Exclusive Use Leased Premises (as shown on Exhibits B-1 and B-2), in a neat, orderly, sanitary, and presentable condition.

C. City, with its own forces or by contract, shall at all times maintain the public, Joint Use, Common Use, and Shared Use spaces of the Terminal Building so as to provide for reasonable unobstructed use thereof by passengers and invitees, and shall keep such area adequately supplied, equipped (including directional signs), furnished, and decorated.

D. City shall supply or cause to be supplied appropriate and adequate equipment and maintenance for air conditioning, lighting, ventilation, heating, electrical, water, and sewerage facilities for Terminal Building public use areas and Airline's Leased Premises; adequate illumination in

Common Use Space; and janitorial service in Terminal Building public use areas, Joint Use, Common Use, and Shared Use space.

E. City shall operate the Airport and shall exercise these rights in accordance with applicable laws and regulations.

SECTION 9.02 AIRLINE'S RESPONSIBILITIES

Subject to the provisions of Section 9.04:

A. Airline shall, at all times, keep its Leased Premises neat, orderly, sanitary, and presentable. Airline shall pay for all electric power used in its Exclusive Use Leased Premises and preferentially assigned gates as provided in Section 6.05; shall be responsible for relamping and shall furnish its own janitorial service for its Exclusive Use Leased Premises; and shall cause to be removed at Airline's own expense from its Leased Premises all waste, garbage, and rubbish, and agrees not to deposit the same on any part of the Airport, except that Airline may deposit same temporarily in its Exclusive Use Space or in space designated by Director in connection with collection for removal.

B. Airline shall maintain the apron area contiguous to its assigned gates in a neat, clean, and orderly condition, free from litter, debris, refuse, petroleum products, or grease, and immediately remove all oil and grease spillage from its aircraft parking positions that is attributable to Airline's activities, aircraft or equipment.

C. Airline shall perform, at its sole expense, ordinary preventive maintenance and ordinary upkeep and repair (except structural repairs and repairs necessitated by latent defects in facilities provided by City) of its Exclusive Use space including, but not limited to, all facilities, personal property, trade fixtures, and equipment. For purposes of this Section, structural repairs are defined as repairs to the roof, foundation and exterior walls of the terminal building.

D. Security screening and maintenance of necessary equipment shall be the responsibility of the airlines serving the Airport in accordance with applicable FAA Regulations.

E. Airline shall immediately repair any damage in any other space at the Airport occasioned by the activities, fault or negligence of Airline, its servants, agents, employees, licensees, passengers, and invitees.

F. Airline shall not erect, maintain, or display on its Leased Premises or anywhere in the Terminal Building in the public view any billboards, banners, advertising, promotional signs, or materials without the prior written approval of Director.

G. Airline expressly agrees that City shall not be liable to Airline, for bodily injury or for any loss or damage to real or personal property occasioned by flood, fire, earthquake, lightning, windstorm, hail, explosion, riot, strike, civil commotion, smoke, vandalism, malicious mischief, or acts of civil authority.

H. Airline shall provide and maintain hand fire extinguishers for the interior of its Exclusive Use space in accordance with applicable safety codes.

SECTION 9.03 CITY'S RIGHT OF ENTRY

City, by its Director or other authorized officers, employees, agents, contractors, subcontractors, or other representatives, shall have the right during normal business hours upon reasonable notice or, in the case of emergencies, without notice, to enter upon Airline's Leased Premises space, accompanied by an authorized Airline representative, if practicable, for the following purposes:

A. To inspect such space to determine whether Airline has complied and is in compliance with the terms and conditions of this Agreement.

B. Upon reasonable notice, except in emergencies, to perform such maintenance, cleaning, or repair as City reasonably deems necessary if Airline fails to perform its obligations under this Agreement, and to recover the actual cost of such maintenance, cleaning, or repair from Airline, plus a fifteen-percent (15%) administrative charge from Airline on the next rent due.

C. Upon reasonable notice, except in emergencies, to perform such maintenance, cleaning, or repair as City reasonably deems necessary and which is the responsibility of City under this Agreement.

D. For the purpose of exhibiting same to prospective tenants, purchasers or others.

The exercise of this right of entry shall not be deemed an eviction or disturbance of Airline's use or possession provided City shall exercise its best efforts not to interfere with Airline's normal operations in the Leased Premises.

SECTION 9.04 ALTERATIONS AND IMPROVEMENTS

A. Airline shall make no repairs, alterations, additions, improvements to, or installations on the Leased Premises without the prior written approval of Director.

B. Plans and specifications for any such work shall be filed with and subject to the approval of Director and all work shall be done in accordance with local ordinances and State and Federal laws and regulations.

C. All Airline alterations and improvements other than movable furniture, personal property, equipment, and trade fixtures shall become part of the realty and title shall vest with City upon expiration, or early termination, of this Agreement.

SECTION 9.05 ENVIRONMENTAL REGULATIONS

Airline shall comply with the following environmental regulations:

A. Airline shall not cause or permit any Hazardous Materials, as defined in Section 1.01 herein, to be stored or used on or about the Airport by Airline, its agents, or employees, except in compliance with Environmental Laws as described below and as permitted by City.

B. Airline shall, at all times and in all respects in connection with its use and occupancy of the airport, comply with all present and hereinafter enacted local, state, and federal laws, ordinances, regulations, orders, and any amendments thereto relating to industrial hygiene, environmental protection, or the use, generation, manufacture, storage, disposal, or transportation of Hazardous Materials on, about, or from the Airport. Without limiting the foregoing, Airline shall comply with Environmental Laws (as defined in Section 1.01 herein) at all times in connection with its use and occupancy of the airport. Airline shall also comply with permits held by City as and to the extent Airlines activities may impact City's ability to comply with such permits including, but not limited to, the Airport stormwater permit issued pursuant to the Clean Water Act, the Municipal Separate Storm Water permit issued pursuant to the Clean Water Act or any reissued version of either permit, whether issued by the US GPA or the Texas Natural Resource Conservation Commission (TNRCC). This list of permits is provided by way of example only and is not intended to be fully inclusive. During the term of this Agreement, if City becomes aware of other permits which are impacted by the Airlines activities, it will provide Airline with written notice of those permits.

C. Airline shall, at its sole expense, procure, maintain in effect, and comply with all conditions of any permits, licenses, and other governmental and regulatory approvals required for Airline's use of the Airport, including, without limitation, discharge of materials or wastes into or through any storm or sanitary sewer serving the Airport. Airline shall cause any and all Hazardous Materials removed from the Airport to be removed and transported solely by duly licensed haulers to duly licensed facilities for disposal. Airline shall in all respects handle, treat and manage any and all Hazardous Materials on or about the Airport in conformity with all

applicable Environmental Laws or any successor laws thereto and prudent industry practices regarding the management of such Hazardous Materials. Upon the expiration or earlier termination of the term of this Agreement, Airline shall cause all Hazardous Materials to be removed from the Airport and to be transported for use, storage, or disposal in accordance and compliance with all applicable Environmental Laws; provided, however, that Airline shall not take any remedial action in response to the presence of any Hazardous Materials on or about the Airport, nor enter into any settlement agreement, consent decree, or other compromise with respect to any claims relating to any Hazardous Materials in any way connected with the Airport without first notifying City in writing of Airline's intention to do so and affording City ample opportunity to appear, intervene, or otherwise appropriately assert and protect City's interest with respect thereto.

D. If at any time Airline shall become aware, or have reasonable cause to believe, that any Hazardous Material has come to be located on or about the Airport in violation or potential violation of Environmental Laws, Airline shall, immediately upon discovering such presence or suspected presence of the Hazardous Material, provide City with written notice of that condition. In addition, Airline shall immediately notify City in writing of (1) any enforcement, cleanup, removal, or other governmental or regulatory action instituted or threatened against Airline at the Airport pursuant to any Environmental Laws, (2) any claim made or threatened by any person against Airline or City relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from or claimed to result from any Hazardous Materials at the Airport, and (3) any reports made by Airline to any local, state, or federal environmental agency arising out of or in connection with any Hazardous Materials on or removed from the Airport, including any complaints, notices, warnings, or asserted violations in connection therewith.

Airline shall also supply to City as promptly as possible, and in any event within five (5) business days after Airline first receives or sends the same, copies of all claims, reports, complaints, notices, warnings, or asserted violations relating in any way to the Airport or Airline's use thereof. Airline shall promptly deliver to City copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Materials removed from the Airport by or on behalf of Airline.

ARTICLE 10 - DAMAGE OR DESTRUCTION OF PREMISES

SECTION 10.01 DAMAGE OR DESTRUCTION

A. If the Leased Premises or any portions thereof, or buildings or structures of which such space may be a part, be damaged by fire or other casualty not caused by Airline, Director shall notify Airline within sixty (60) days

whether the space shall be repaired. If the space is to be repaired, it shall be repaired with due diligence by City, and the rental allocable to the particular building, rooms, or other portion of the Leased Premises rendered untenantable shall be abated for the period from the occurrence of the damage to the completion of the repairs, provided that City shall exert its best effort to provide Airline with temporary substitute space, if available, at such rent as deemed necessary and reasonable by City, until such time as the repairs are completed.

B. If Director shall fail to notify Airline of its decision to repair any untenantable Leased Premises within sixty (60) days after the destruction, City shall be deemed to have elected to terminate this Agreement as to the space damaged and destroyed, and the Agreement shall automatically terminate as to such space as of the date of the damage or destruction.

ARTICLE 11 - INSURANCE AND INDEMNIFICATION

SECTION 11.01 INSURANCE

A. Airline shall, without expense to City, and upon commencement of the term hereof, obtain and cause to be kept in force liability insurance coverage, with limits as hereinafter stated, insuring against the liabilities set forth in this Section.

B. Such insurance shall include, by way of example but not by way of limitation, comprehensive general liability coverage and motor vehicle liability insurance coverage and shall not be in amounts less than hereinafter stated. Such insurance coverage shall be provided by policies issued by a company or companies of sound and adequate financial responsibility. Such insurance policies shall contain an endorsement providing that City will be given not less than sixty (60) calendar days written notice prior to the cancellation or material adverse change of the provisions or coverages affecting the interest of City provided by said policies. The comprehensive general liability policies shall include contractual liability coverage and shall make reference to this Agreement.

C. Airline shall cause a copy of the policy(s) of insurance to be furnished to City within thirty (30) days from the effective date of this Agreement, evidencing such insurance coverage. If City is notified that any of the coverage required herein is to be canceled or changed in such a manner as not to comply with the requirements of this Agreement, Airline shall, prior to the effective date of such cancellation or change, obtain and provide City with certificates evidencing the reestablishment of the insurance coverage required hereby. If Airline does not notify City by the effective date of such cancellation or change, this will constitute a breach

by Airline and permit City to terminate this Agreement pursuant to Section 14.03.

D. The minimum limits of coverage shall be as follows:

1. Airline, at its own expense, shall procure and maintain for the benefit of City and itself, as their respective interests shall appear, aviation general liability insurance with insurance underwriters authorized to do business in the State of Texas, satisfactory to City and with the following minimum limits:

   For Aviation General liability:

   $1,000,000 per occurrence/$2,000,000 general aggregate;
   $2,000,000 aggregate for products and completed operations;
   $1,000,000 personal and advertising injury;
   $ 50,000 fire legal liability;

   For Aircraft liability:

   $50,000,000 for all cargo operators and Airlines exclusively using aircraft with 25 or under passenger capacity;

   $100,000,000 for all others

2. Comprehensive motor vehicle liability policy in a minimum amount of one million dollars ($1,000,000) for both bodily injury and property damage.

3. Comprehensive general liability policy in minimum amount of one million dollars ($1,000,000) for bodily injury and five hundred thousand dollars ($500,000) for property damage, or combined single minimum amount of one and one-half million dollars ($1,500,000) for both bodily injury and property damage.

4. Workers' compensation insurance in a minimum amount as required by State law and employer's liability in a minimum amount of one hundred thousand dollars ($100,000).

E. Insofar as said insurance provides protection against liability for damages to third parties for personal injury, death, and property damage, City shall be included as an additional insured throughout the term of the Agreement; provided such liability insurance coverage shall also extend to damage, destruction, and injury to City-owned or City-leased property and City personnel, and caused by, or resulting from the negligent work, acts, operations, or omissions of Airline, its officers, agents, employees,

invitees, and independent contractors on the Airport. Airline may show City as an additional insured with respects to Airline's operation at the Airport, provided, that Airline shall then also show on the insurance policy that liability insurance coverage also includes contractual liability.

F. Any and all of the above insurance coverages shall be on an "occurrence" basis, not on a "claims made" basis.

G. City shall have no liability for any premiums charged for such coverage, and the inclusion of City as an additional insured is not intended to, and shall not, make City a partner or joint venturer with Airline in its operations at the Airport.

SECTION 11.02 INDEMNIFICATION

A. Airline shall indemnify, defend, and hold City and its officers, agents, and employees harmless from and against any and all liabilities, losses, suits, claims, judgments, fines, or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this Agreement and/or the use of, occupancy of, or operations of Airline at or about the Airport or the acts or omissions of Airline's officers, agents, employees, contractors, subcontractors, licensees, invitees, or affiliates, regardless of where the injury, death, or damage may occur, including claims and damages arising in whole or in part from the negligence of City. Director shall give to Airline prompt notice of any such claims or actions. Airline shall also use counsel reasonably acceptable to City in carrying out its obligations hereunder. The provisions of this Section shall survive the expiration or early termination of this Agreement with respect to matters arising before such expiration or early termination.

Furthermore and without limiting the foregoing, Airline shall indemnify, defend and hold harmless City, its officers, employees, successors and assigns, from and against any and all claims, liabilities, penalties, fines, judgments, forfeitures, losses, damages (including damages for the loss or restriction on use of rentable or usable space or of any amenity of the Leased Premises) costs, or expenses (including attorneys' fees, consultant fees, and expert fees) for the death of or injury to any person or damage to the Airport or any property what-so-ever, arising from or caused by the Airline's alleged failure to comply with any Environmental Laws in connection with the Airlines use and occupancy of the Airport or any covenants, terms or conditions relating to environmental matters in these

General Use Conditions. Airline's obligations under this paragraph shall include, without limitation any and all costs incurred in connection with any investigation of the condition of the Airport, and any and all costs of any required or necessary repair, cleanup, decontamination or remediation of the Airport and the preparation and implementation of any closure, remedial action, or other plans required by applicable Environmental Laws. Airline's obligation to indemnify City under this paragraph shall include the costs of defense of actions seeking injunctive relief related to Airline's failure to comply with Environmental Laws in connection with the Airlines use and occupancy of the Airport. Airline's obligations under this paragraph shall survive the expiration or earlier termination of the term of this Agreement.

B. Airline agrees to require all independent contractors that enter the Airport to perform work for, or to supply to, Airline to maintain liability insurance coverage.

C. Except as provided above, Airline agrees to assume all risks of loss to its property resulting from any fire, theft, and/or vandalism, occurring on the Leased Premises.

SECTION 11.03 NON-LIABILITY OF CITY

City shall not in any event be liable for any acts or omissions of Airline, its officers, agents, employees, invitees and independent contractors, or for any conditions resulting from the operations or activities of any such lessee, tenant, or concessionaire, Airline officers, agents, employees, invitees, or independent contractors, or for any conditions resulting from the operations or activities of Airline's officers, agents, employees, invitees or independent contractors either to Airline or to any other person.

City shall not be liable for Airline's failure to perform any of the obligations under this Agreement or for any delay in the performance thereof.

SECTION 11.04 RELEASE OF LIABILITY RE: CERTAIN DAMAGES

City shall not be liable for, and is hereby released from all liability to Airline, to Airline's insurance carrier, or to anyone claiming under or through Airline for any loss or damage whatsoever to the property or effects of Airline resulting from the accidental discharge or discharge beyond City's control, of water or other substances from pipes, sprinklers, or conduits, containers or appurtenances thereto, or for any damage resulting from the discharge or failure of electrical current regardless of cause or origin. The provisions of this Section 11.04 shall not be construed as a limitation of City's rights pursuant to Section 11.02, but are additional to the rights and exclusions from liability provided in Section 11.02.

ARTICLE 12 - ASSIGNMENT OR SUBLEASE

SECTION 12.01 GENERAL

Airline shall not at any time transfer, convey, sublet, mortgage, pledge, or encumber its interest under this Agreement or any part of the Leased Premises. Airline shall not assign its interest under this Agreement or any part of the Leased Premises to any party without prior written approval of City. Any failure of Airline to obtain City's prior approval shall be a material breach of this Agreement.

SECTION 12.02 BANKRUPTCY

Section 12.01 shall not apply to any valid assumption or assignment of this Agreement, the leased space, or any part thereof, by a trustee, or by Airline as a debtor in possession under the Bankruptcy Code of 1978, as amended, provided that adequate assurance of future performance as provided by the Bankruptcy Code of 1978, as amended, is to be provided, in writing, as a condition of the assumption or assignment of this Agreement. Such assurance shall include but shall not be limited to:

A. Adequate assurance of the reliability of the proposed source for the rentals, fees, and charges due under this Agreement upon the assumption or assignment of this Agreement.

B. Adequate assurance that all other consideration due under this Agreement shall be forthcoming after the assumption or assignment of this Agreement; and

C. The procurement of a bond from a financially reputable surety provider covering any costs or damages which City reasonably estimates City would incur in the event that City, within three (3) years following the assumption or assignment of this Agreement, becomes entitled to and exercises any right to reassign the lease space covered by this Agreement under Article 4.

SECTION 12.03 RELINQUISHMENT OF SPACE

If Airline desires to relinquish any of its Exclusive Use space or preferentially assigned areas, Airline will notify Director in writing of the space available, and Director shall use best efforts to reassign the space to another airline. No assignment, vacation, transfer, conveyance, or sublease by Airline shall relieve Airline of its responsibility for payment of rentals, fees, and charges and performance of all other obligations provided in this Agreement without specific written consent by City to such assignment, vacation, transfer, conveyance or sublease.

SECTION 12.04 CONSENT

Consent by City to any type of transfer provided for by this Article 12 shall not in any way be construed to relieve Airline from obtaining further consent for any subsequent transfer or assignment of any nature whatsoever.

SECTION 12.05 CORPORATE REORGANIZATION

Notwithstanding anything contained in this Article 12 to the contrary, no consent shall be required for any transfer or assignment of Airline's interest in this Agreement by operation of law or otherwise in connection with a merger, consolidation or other corporate reorganizations, or in connection with a sale of all or substantially all of Airline's assets.

ARTICLE 13 - DEFAULTS

SECTION 13.01 DEFAULT

If Airline (1) fails to pay rent or any other payment past due hereunder within ten (10) calendar days after receipt of written notice of a past due account, or (2) fails to commence immediately to keep and perform any of its other covenants and agreements within ten (10) calendar days after receipt of written notice of such failure, or (3) fails to continue to complete, in a timely manner, any of its covenants and agreements after performance is commenced, or after the filing of any petition, proceedings, or action by, for, or against Airline under any insolvency, bankruptcy, or reorganization act of law, then, at the election of City:

A. Without terminating this Agreement, City may reenter the Leased Premises and improve and relet all or any part of it to others at its sole discretion. Any costs of renovation necessitated by the neglect of Airline, its agents, or its employees and an administrative fee to City for all costs incurred, shall be set off against relet rentals received. Airline shall promptly reimburse City for any deficiency in rentals or other payments received under such reletting, as compared to Airline's obligations hereunder.

B. At any time before or after a reentry and reletting as provided in Section 13.01(A), City may terminate Airline's rights under this Agreement as provided in Section 14.03, without any restriction upon recovery by City for past due rentals and other obligations of Airline. City shall have all additional rights and remedies as may be provided to landlords by law.

C. Notwithstanding any of the provisions hereof, automatically and immediately upon the occurrence of an event of default by Airline, the term of this Agreement shall convert to month-to-month, commencing on the date of the automatic conversion and shall terminate upon thirty (30) days written notice from City to Airline. The conversion of the term of this Agreement pursuant to this Section shall not discharge any of Airline's

obligations hereunder nor affect any of City's other remedies set forth herein provided, however, that the termination of this Agreement shall discharge subsequent Airline obligations hereunder.

ARTICLE 14 - TERMINATION

SECTION 14.01 EVENTS PERMITTING TERMINATION BY AIRLINE

Airline may terminate this Agreement and all of its future obligations hereunder, at any time that Airline is not in default in its payments or other obligations to City hereunder, by giving City ninety (90) calendar days advance written notice only if (1) Airline is prohibited by lawful authority from using the Airport for a period exceeding sixty (60) consecutive calendar days because of any deficiency of the Airport or an unsafe operating condition existing at the Airport or (2) City is in breach of any of the covenants or agreements contained in this Agreement which materially affect the operation of Airline for a period exceeding sixty (60) consecutive calendar days after receipt of written notice of such breach from Airline and City's failure to cure such breach.

SECTION 14.02 CONDITIONS OF PREMISES AT TERMINATION

Upon termination of this Agreement, Airline shall yield and deliver to City the Leased Premises promptly and in a clean, sanitary condition, and, if necessary, restored to the satisfaction of Director, reasonable wear and tear excepted.

SECTION 14.03 EVENTS PERMITTING TERMINATION BY CITY

City may terminate this Agreement upon ninety (90) calendar days' written notice and all of its obligations hereunder and may exercise all rights of entry and reentry upon the Leased Premises, with or without process of law, upon or after the occurrence of any one of the following events:

A. Airline is in arrears in the payment of the whole or any part of the amounts agreed upon hereunder for a period of ten (10) days after Director has notified Airline in writing that payment was not received when due;

B. Airline files in any court a petition in bankruptcy or insolvency or for the appointment of a receiver or trustee of all or a portion of Airline's property;

C. Airline makes any general assignment for the benefit of creditors;

D. Airline abandons the Leased Premises;

E. Airline defaults in the performance of any of the covenants and conditions required herein (except rental payments) to be kept and performed by Airline, and such default continues for a period of thirty (30) days after receipt of written notice from Director to cure such default;

F. Airline is adjudged a bankrupt in involuntary bankruptcy procedures;

G. Airline is made a party to any receivership proceeding in which a receiver is appointed for the property or affairs of Airline where such receivership is not vacated within sixty (60) days after the appointment of such receiver;

H. Airline reduces its regularly scheduled service at the Airport to less than two (2) flights per week day unless such reduction of service is directly attributable to circumstances for which Airline is not responsible, and which are totally beyond its control; or

I. The abolition, limitation, or restriction by any act of the Texas Legislature or Law of Congress of the powers of City under which these premises are being leased, except with respect to legislation that grants authority to a successor.

J. Airline fails to remit PFC revenue to City within the time limits established by federal regulation.

K. Required redevelopment of the Airport caused by circumstances unplanned or uncontrolled by the Airport which necessitates relocation of Airline from Leased Premises.

L. Airline violates any local, state, or federal laws, rules or regulations that relate to the performance of this Agreement.

In any of the aforesaid events, City may take immediate possession of the Leased Premises including any and all improvements thereon and remove Airline's effects, forcibly if necessary, without being deemed guilty of trespassing.

Failure of City to declare this Agreement canceled upon the default of Airline for any of the reasons set out shall not operate to bar or destroy the right of City to cancel this Agreement by reason of any subsequent violation of the terms of this Agreement.

No receipt or acceptance of money by City from Airline after the expiration or cancellation of this Agreement, or after the service of any notice, or after the commencement of any suit, or after final judgment for possession of the Leased Premises, shall reinstate, continue, or extend the terms of this Agreement, or affect any such notice, demand or suit or imply consent for any action for which City's consent is required or operate as a waiver of any right of City to retake and resume possession of the Leased Premises.

ARTICLE 15 - -GENERAL PROVISIONS

SECTION 15.01 RULES AND REGULATIONS

A. Airline shall observe and obey all lawful Rules and Regulations established, promulgated, or adopted consistent with this Agreement from time to time during the term hereof, by City governing conduct on and operations at the Airport and use of its facilities. Copies of the Rules and Regulations shall be forwarded to Airline's local manager upon request of Airline.

B. Airline shall not violate, nor knowingly permit its officers, agents, employees, invitees or independent contractors acting on Airline's behalf to violate any such Rules and Regulations.

SECTION 15.02 COMPLIANCE WITH LAW

A. Airline shall not use the Leased Premises or any part thereof, or knowingly permit the same to be used by any of its employees, officers, agents, subtenants, invitees, or licensees for any illegal purposes and shall, at all times during the term of this Agreement, comply with all applicable ordinances and laws of any City, county, or state government or of the U.S. Government, and of any political division or subdivision or agency, authority, or commission thereof which may have jurisdiction to pass laws or ordinances or to make and enforce rules or regulations with respect to the uses hereunder or the Leased Premises.

B. At all times during the term of this Agreement, Airline shall, in connection with its activities and operations at the Airport:

1. Comply with and conform to all present and future statutes and ordinances, rules and regulations promulgated thereunder, of all federal, state, and other government bodies of competent jurisdiction that apply to or affect, either directly or indirectly, Airline or Airline's operations and activities under this Agreement.

2. Make, at its own expense, all nonstructural improvements, repairs, and alterations to its Exclusive Use space (subject to prior written approval of City), equipment, and personal property that are required to comply with or conform to any such statutes and ordinances, and regulations which are promulgated or enacted by City.

3. Be and remain an independent contractor with respect to all installations, construction, and services performed by the Airline or on behalf of Airline hereunder.

SECTION 15.03 NONDISCRIMINATION

Airline, for itself its heirs, personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree as follows:

A. That no person on the grounds of race, creed, color, sex, age, disability, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased Premises.

B. That in the construction of any improvements on, over, or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, creed, color, sex, age, disability, or national origin shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination.

C. That Airline shall use the Airport in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulation may be amended. Airline shall also comply with the applicable provisions of Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) and 49 CFR Part 27.

D. That, in the event of breach of any of the above nondiscrimination covenants, City shall have the right to terminate this Agreement and re-enter and repossess the Leased Premises and the improvements thereon, and hold the same as if said Agreement had never been made or issued.

SECTION 15.04 AFFIRMATIVE ACTION

Airline assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, and any amendments thereto, and any other federal statutes or regulations applicable to the receipt of federal assistance from the Department of Transportation by local governments for Airport use, or otherwise applicable to persons leasing premises from City , to insure that no person shall, on the grounds of race, creed, color, sex, age, disability, or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered by this Section. Airline assures that it will require that its covered suborganizations (sublessees) provide assurances to City, as set forth herein, that they similarly will undertake affirmative action programs, and that they will require assurance from their suborganizations (sublessees) to the same effect.

SECTION 15.05 NOTICES

A. Any notice under the terms of this Agreement shall be in writing. If such notice is given by Airline, it shall be submitted to Director of Aviation, El Paso International Airport, 6701 Convair Road, El Paso, Texas 79925-1091, or to such revised address as notified by Director. If given by Director, such notice shall be submitted to the address of Airline at the following address:

Northwest Airlines, Inc.
Department A1135
2700 Lone Oak Parkway
Eagan, MN 55121
ATTN: Vice President: Facilities and Airport Affairs
FAX: 612-727-6041

B. If notice is given in any other manner or at any other place, it will also be given at the place and in the manner specified above.

C. Any notice so given shall be deemed properly delivered, given, served, or received on the date shown for delivery or rejection on the return receipt. Either party may change the address to which notices shall thereafter be given upon five (5) days prior written notice to the other party in the manner set forth in this Section.

SECTION 15.06 SUBORDINATION TO AGREEMENTS WITH U. S. GOVERNMENT

This Agreement is subject and subordinate to the provisions of any agreements heretofore or hereafter made between City and the United States relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to City for Airport purposes, or to the expenditure of federal funds for the improvement or development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, as it has been amended from time to time.

SECTION 15.07 NONWAIVER OF RIGHTS

The non-enforcement by either party of the breach of any term, covenant or condition herein stipulated shall never be construed to be a waiver of any other or succeeding breach of any term, covenant or condition herein imposed upon the other party, and the acceptance of payments of any amounts due or to become due hereunder in any other way or manner, or at any other time than herein provided, shall never be construed as a waiver of the right of City of any of the provisions herein imposed upon Airline.

SECTION 15.08 FEDERAL AVIATION ACT, SECTION 308

Nothing herein contained shall be deemed to grant to Airline any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act, as amended or succeeded, for the conduct of any activity on the Airport, except that, subject to the terms and provisions hereof, Airline shall have the right to exclusive possession of the Exclusive Use space leased to Airline under the provisions of this Agreement.

SECTION 15.09 SEVERABILITY

If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement shall not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there shall be added as part of this Agreement a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

SECTION 15.10 HEADINGS

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

SECTION 15.11 ASSIGNMENT BY CITY OR OTHER SUCCESSOR IN INTEREST

City may assign or otherwise convey its interest, rights, duties and/or obligations hereunder to any airport authority or other successor in interest. City, airport authority, or other successor in interest may assign, pledge, or take other appropriate action with respect to this Agreement and their rights and interests hereunder for any purpose relating to the issuance of Bonds or other revenue generating devices.

SECTION 15.12 REDEVELOPMENT

If this Agreement is terminated as provided by Section 14.03 (K) as a result of physical changes associated with the development of the Airport, Airline waives any and all rights to reimbursements, allowances, loans, or other forms of payment for relocation, rental or any other costs which might apply to tenants in other locations who are required to relocate due to construction of public facilities.

SECTION 15.13 REMOVAL OF DISABLED AIRCRAFT

Airline shall promptly remove any of its disabled aircraft from any part of the Airport (including, without limitation, runways, taxiways, aprons, and aircraft parking positions) and place any such disabled aircraft in such storage area as may be designated by Director. Airline may store such disabled aircraft only for such length of

time and on such terms and conditions as may be established by City. If Airline fails to remove any of its disabled aircraft promptly, City may, but shall not be obligated to, cause the removal of such disabled aircraft, provided, however, the obligation to remove or store such disabled aircraft shall be consistent with federal laws and regulations, including those of the FAA and the National Transportation Safety Board (NTSB). Airline agrees to reimburse City for all costs of such removal; and Airline, furthermore, hereby releases City from any and all claims for damage to the disabled aircraft or otherwise arising from or in any connected with such removal by City.

SECTION 15.14 QUIET ENJOYMENT

City covenants and agrees that Airline on paying the rentals, fees and charges herein provided for and observing and keeping all the covenants, conditions, and terms of this Agreement, shall lawfully and quietly hold, occupy and enjoy the Leased Premises during the term of this Agreement without hindrance or molestation by City or any person claiming under City.

SECTION 15.15 AGREEMENT SUBJECT TO COVENANTS IN DEED

It is mutually agreed that this Agreement is made subject to the covenants, requirements, and restrictions contained in the Deed by which City obtained title to Airport from the Government of the United States.

SECTION 15.16 FORCE MAJEURE

No party to this Agreement is responsible to the other party for nonperformance or delay in performance of the terms and conditions herein due to acts of God, acts of government, wars, riots, strikes, accidents in transportation, fuel or materials shortages, or other causes beyond the control of the parties.

SECTION 15.17 ENTIRE AGREEMENT

This Agreement, together with all exhibits attached hereto, constitutes the entire agreement between the parties hereto, and all other representations or statements heretofore made, verbal or written, are merged herein, and this Agreement may be amended only in writing, and executed by duly authorized representatives of the parties hereto.

SECTION 15.18 TIME IS OF THE ESSENCE

Time is and shall be deemed of the essence in respect to the performance of each provision of this Agreement.

SECTION 15.19 ATTORNEY'S FEES

If either party brings any action or proceedings to enforce, protect, or establish any right or remedy under the terms and conditions of this Agreement, the prevailing

party shall be entitled to recover reasonable attorney's fees, as determined by a court of competent jurisdiction, in addition to any other relief awarded.

SECTION 15.20 AGREEMENT MADE IN TEXAS

The laws of the State of Texas and any applicable federal law shall govern the validity, interpretation, performance and enforcement of this Agreement. Venue shall be in the courts in El Paso County, Texas or in the federal district courts of the Western District of Texas or in the U.S. Department of Transportation, as applicable.

SECTION 15.21 CUMULATIVE RIGHTS AND REMEDIES

All rights and remedies of City here enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by City of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.

SECTION 15.22 INTERPRETATION

Words of gender used in this Agreement shall be held and construed to include any other gender, and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires.

SECTION 15.23 AGREEMENT MADE IN WRITING

This Agreement contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any manner other than by agreement in writing signed by the parties hereto or their respective successors in interest.

SECTION 15.24 SUCCESSORS AND ASSIGNS

All of the terms, provisions, covenants, and conditions of this Agreement shall inure to the benefit of and be binding upon City and Airline and their successors, assigns, legal representatives, heirs, executors and administrators.

SECTION 15.25 AUTHORIZATION TO ENTER LEASE

If Airline signs this Agreement as a corporation, each of the persons executing this Agreement on behalf of Airline warrants to City that Airline is a duly authorized and existing corporation, that Airline is qualified to do business in the State of Texas, that Airline has full right and authority to enter into this Agreement, and that each and every person signing on behalf of Airline is authorized to do so. Upon Director's request, Airline will provide evidence satisfactory to Director confirming these representations.

SECTION 15.26 COMPLIANCE WITH ADA AND OTHER DISABLED ACCESS LAWS

Airline agrees that with respect to the Leased Premises, Airline shall be responsible, at Airline's cost, for compliance with the Americans with Disabilities Act of 1990 ("ADA", 42 U.S.C. §§12101 et seq.) and the regulations and Accessibility Guidelines for Buildings and Facilities issued pursuant thereto. Airline recognizes that City is a public entity subject to Title II of the ADA. To the extent permitted by law, Airline shall assume and be obligated to comply with any obligations to which City may be subject to under Title II of the ADA with respect to any programs, services, activities, alterations, or construction conducted or undertaken by Airline in the Leased Premises. Airline shall also be responsible, at Airline's cost, for compliance with any other applicable disabled accessibility laws, including, but not limited to, the Air Carriers Access Act ("ACAA", 49 U.S.C. §41705), and regulations implementing the ACAA.

SECTION 15.27 MOST FAVORED NATIONS

Each Air Transportation company using the Airport shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rentals, charges, and fees with respect to facilities or equipment directly and substantially related to providing Air Transportation as are applicable to all Air Transportation companies which make similar use of the Airport and which use the same or similar facilities or equipment, subject to reasonable classifications such as tenants or non-tenants and Signatory Airlines or non-signatory airlines. Classification as a Signatory Airline shall not be unreasonably withheld by the City provided the Air Transportation company requesting such classification assumes obligations substantially similar to those imposed on other Signatory Airlines.

IN WITNESS WHEREOF, these presents have been executed, attested and ensealed by the parties hereto or their proper officials, pursuant to due and legal action authorizing the same to be done, the day and year first above written.

(SIGNATURES ON FOLLOWING PAGE)

CITY OF EL PASO

Joe Wardy
Mayor

Joyce Wilson
City Manager

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Sylvia Borunda Firth
Assistant City Attorney

APPROVED AS TO CONTENT:

Patrick T. Abeln, A.A.E.
Director of Aviation

ATTEST:

Signature
Printed Name: Linda Dorn
Title: Administrative Associate
Date: March 14, 2005

AIRLINE: NORTHWEST AIRLINES, INC.

Signature
Printed Name: JAMES M. GREENWALD, VP FACILITIES AND AIRPORT AFFAIRS
Title:
Date: March 14, 2005

(ACKNOWLEDGEMENTS ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____, 2005, by Joe Wardy, as Mayor of the City of El Paso, Texas.

_____
Notary Public, State of Texas

My Commission Expires:
_____

ACKNOWLEDGEMENT

THE STATE OF MINN)
COUNTY OF DAKOTA)

This instrument was acknowledged before me on this 15th day of March, 2005, by James M Greenwald as Vice Pres., of Northwest Airlines, Inc..

Eunice Burnham
Notary Public, State

My Commission Expires:
1-31-2010

EUNICE BURNHAM
Notary Public
Minnesota
My Commission Expires January 31, 2010

Exhibit C-1

CALCULATION OF TERMINAL BUILDING RENTAL RATE
El Paso International Airport
For Fiscal Year Ending August 31

	Exhibit reference	Projected (a) FY 2003	Projected (a) FY 2004
Terminal Building expenses			
Maintenance and Operating Expenses (direct and indirect)	*E-1*	$8,089,429	$8,322,007
Deposit to Maintenance & Operating Reserve (b)		179,088	58,145
Equipment and Capital Outlays	*D*	120,840	289,470
Debt service (net of PFC revenues, plus Coverage)		1,977,035	404,919
Deficiency in Renewal and Replacement Account		0	0
Deposits to other reserve accounts		0	0
Assessments, judgements, settlements		0	0
Terminal Building Cost		$10,366,392	$9,074,541
Less: Miscellaneous airline charges	*G-3*	(392,229)	(394,606)
Net Terminal Building Cost		$9,974,163	$8,679,935
Usable Space (square feet)	*B*	285,322	285,322
Cost recovery Average Rental Rate		$34.96	$30.42
Airline rented space (square feet)	*B*	129,414	129,414
Signatory Airline Rental Requirement		$4,524,313	$3,936,774

a. Projected based on the City of El Paso FY 2003 and FY 2004 budget for the Airport.

b. Estimated incremental deposit needed to maintain a balance in the reserve equivalent to 3-months of M&O expenses for the Terminal Building.

Exhibit C-2

CALCULATION OF LANDING FEE RATE
El Paso International Airport
For Fiscal Year Ending August 31

	Exhibit reference	Projected (a) FY 2003	Projected (a) FY 2004
Landing Area expenses			
Maintenance and Operating Expenses (direct and indirect)	*E-1*	$4,853,292	$4,966,135
Deposit to Maintenance and Operating Reserve(b)		108,278	28,211
Equipment and Capital Outlays	*D*	166,740	120,350
Debt service (net of PFC revenues, plus coverage)		0	0
Deficiency in Renewal and Replacement Account		0	0
Deposits to other reserve accounts		0	0
Assessments, judgements, settlements		0	0
Landing Area Cost		$5,128,310	$5,114,696
Credit for other Landing Area revenues			
Miscellaneous airline charges (Landing Area)	*G-3*	($620,000)	($620,000)
Landing fees/non-Signatory Airlines	*F*	(150,000)	($150,000)
Fuel flowage fees	*F*	(450,000)	(450,000)
Other miscellaneous (Landing Area)	*F*	(45,000)	(56,000)
		($1,265,000)	($1,276,000)
Landing Fee Requirement		$3,863,310	$3,838,696
Signatory Airline landed weight (1,000 lb units)			
Passenger airlines	*A*	3,290,000	2,483,584
Cargo airlines	*A*	575,000	563,000
		3,865,000	3,046,584
Cost recovery Landing Fee Rate (per 1,000 lb)		$1.00	$1.26
Signatory Airline landing fee revenues		$3,865,000	$3,838,696

a. Projected based on the City of El Paso FY 2003 and FY 2004 budget for the Airport.
b. Incremental deposit needed to maintain a balance in the reserve equivalent to 3-months of M&O expenses for the Landing Area.