

AIRLINE OPERATING AGREEMENT

AND

TERMINAL BUILDING LEASE

by and between

THE CITY OF SAN ANTONIO, TEXAS

and

SOUTHWEST AIRLINES CO.

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PREAMBLE
AIRLINE OPERATING AGREEMENT AND
TERMINAL BUILDING LEASE

THE STATE OF TEXAS)(

COUNTY OF BEXAR)(

This Airline Operating Agreement and Terminal Building Lease ("the Agreement") is made and entered into by and between the City of San Antonio, Texas, a municipal corporation and home-rule city principally situated in Bexar County (hereinafter defined and referred to as "City") and Southwest Airlines Co., a corporation doing business in the State of Texas (hereinafter defined and referred to as "Airline").

WITNESSETH:

WHEREAS, City is the owner of San Antonio International Airport (hereinafter defined and referred to as "Airport" and more completely identified on Exhibit A attached hereto and made a part hereof), which is located in the City of San Antonio, Bexar County, Texas; and

WHEREAS, Airline is engaged in the business of commercial air transportation of persons, property, cargo, or mail as a scheduled air carrier and is certificated or otherwise authorized by the United States Government to engage in such business; and

WHEREAS, Airline has requested that City grant it certain rights, privileges, and services in connection with the use of said Airport and its facilities in the conduct of Airline's business as a scheduled air carrier; and

WHEREAS, City is willing to grant Airline such rights, privileges, and services upon the terms and conditions and for the consideration hereinafter stated; and

WHEREAS, City and Airline deem it desirable to enter into a written agreement setting forth the respective rights, privileges, obligations, and duties of the parties hereto and defining the rights, services, and privileges granted and the terms, conditions, and consideration on which they are granted;

NOW, THEREFORE, for and in consideration of the Leased Premises and the mutual covenants herein contained and the rents, fees, and charges to be paid by Airline, it is agreed and understood by and between City and Airline as follows.

ARTICLE 1. DEFINITIONS

1.1 DEFINITIONS

The terms used in this Agreement shall have the meanings indicated in this Article 1 unless the context clearly indicates otherwise. Words used in this Agreement in the present tense include the future as well as the present. Words used in the masculine gender include the feminine and neuter. The singular number includes the plural and the plural includes the singular. The word "person" means a business or corporation as well as a natural person. Additional words and phrases used in this Agreement shall have the meanings set forth in the Bond Ordinances (as defined below) or, if not so set forth, shall have their usual and customary meanings.

- 1.01 **"Activity Report"** means the reporting form required to be submitted by Airline to City each month attached hereto as Exhibit I.
- 1.02 **"Affiliate"** means any air carrier that (a) is wholly owned by Airline, or any parent airline that wholly owns Airline, or any sister airline wholly owned by the same company that wholly owns Airline provided that Airline shall be responsible for the operations at the Airport of such Affiliate, including payment of all related rents, fees, and charges incurred by such Affiliate; (b) shares an IATA code with the Airline; or (c) conducts all of its air carrier operations at the Airport during the Term of this Agreement solely under Airline's name, tradename, or a derivative thereof, any of the foregoing only with respect to such operations conducted under Airline's name, tradename, or a derivative thereof, and only if Airline shall have agreed, in writing with the City, to be responsible for such Affiliate's operations, including payment of all related rents, fees, and charges and such Affiliate operates aircraft in Airline's livery and has Airline's flight numbers. An Affiliate shall further be prohibited from the sale of tickets in its own name while operating at the Airport.
- 1.03 **"Airfield Cost Center"** has the meaning set forth in the Rates and Fees Schedule.
- 1.04 **"Airline"** means the Air Transportation Company identified in the preamble of this Agreement, and includes any Affiliates of Airline.
- 1.05 **"Air Transportation"** means the carriage of persons, property, cargo, or mail by aircraft to and from the Airport.
- 1.06 **"Air Transportation Company"** means an air carrier providing carriage by air of passengers, property, parcels, cargo, or mail.

- 1.07 **“Air Transportation Service(s)”** means those service(s) and operation(s) related to or provided by Airline at the Airport for the commercial transportation of passengers, property, parcels, cargo, or mail by air, including services and operations necessary and incidental thereto.
- 1.08 **“Aircraft Arrivals”** means any and all landings by aircraft of all airlines at the Airport, but shall exclude any landings by general aviation aircraft or by aircraft owned or operated by the U.S. Government or any landings by aircraft that return after take-off for emergency or precautionary reasons.
- 1.09 **“Airport”** means San Antonio International Airport as it now exists or as it shall be or may be modified in the future, as shown on Exhibit A.
- 1.10 **“Airport Budget”** has the meaning set forth in the Rates and Fees Schedule..
- 1.11 **“Airport Cost Centers”** has the meaning set forth in the Rates and Fees Schedule.
- 1.12 **“Airport Revenue”** has the meaning set forth in the Rates and Fees Schedule.
- 1.13 **“Airport System”** means all airport and aviation facilities, or any interest therein, now or from time to time hereafter owned, operated or controlled in whole or in part by the City, together with all properties, facilities and services thereof, and all additions, extensions, replacements and improvements thereto, and all services provided or to be provided by the City in connection therewith, but expressly excluding Special Facilities. The Airport System currently includes San Antonio International Airport and Stinson Municipal Airport.
- 1.14 **“Bond Ordinance”** has the meaning set forth in the Rates and Fees Schedule.
- 1.15 **“Bonds”** has the meaning set forth in the Rates and Fees Schedule.
- 1.16 **“Capital Improvement”** has the meaning set forth in the Rates and Fees Schedule.
- 1.17 **“Capital Improvement Fund”** has the meaning set forth in the Rates and Fees Schedule.
- 1.18 **“Joint Use Formula”** has the meaning set forth in the Rates and Fees Schedule.
- 1.19 **“Competitive Credit”** has the meaning set forth in the Rates and Fees Schedule.
- 1.20 **“Common Use Passenger Processing System (CUPPS)”** means City-owned systems and equipment provided, operated or maintained by the City for use by Airline in common with other Air Transportation Companies, including but not limited to systems and equipment for passenger processing, flight and baggage information display, and baggage handling.

- 1.21 **“Director”** means the person holding the position of Aviation Director of the City or any other person designated by the Director, the City Manager, or the City Council to exercise functions with respect to the rights and obligations of the Director.
- 1.22 **“Enplaned Passenger”** has the meaning set forth in the Rates and Fees Schedule.
- 1.23 **“Environmental Audit”** has the meaning as set forth in Section 14.4.1.
- 1.24 **“Environmental Costs”** has the meaning as set forth in Section 14.4.1.
- 1.25 **“Environmental Laws”** has the meaning as set forth in Section 14.4.1.
- 1.26 **“Exclusive Use” or “Exclusive Use Space” or “Exclusive Use Premises”** means the space in the Terminal Building at the Airport assigned by the Director to Airline for its use and occupancy to the exclusion of all others.
- 1.27 **“FAA”** means the Federal Aviation Administration of the United States Government or any federal agency or agencies succeeding to its jurisdiction.
- 1.28 **“FIS”** has the meaning set forth in the Rates and Fees Schedule.
- 1.29 **“Fiscal Year”** means the twelve (12) month period beginning October 1 of any year and ending September 30 of the following year, or any other period adopted by City for its financial affairs.
- 1.30 **“Gates”** has the meaning set forth in the Rates and Fees Schedule.
- 1.31 **“Hazardous Materials”** has the meaning as set forth in Section 14.4.1.
- 1.32 **“International Air Transport Association (IATA) Code”** means a three-letter code designating an airport and metropolitan area as defined by the (IATA).
- 1.33 **“Joint Use” or “Joint Use Space”** means space managed by City that may be made available to Airline from time to time for use in common with other airlines, as assigned by the Director, subject to applicable Rules and Regulations.
- 1.34 **“Landed Weight”** has the meaning set forth in the Rates and Fees Schedule.
- 1.35 **“Leased Premises”** mean the Exclusive Use Space, Preferential Use Space, Joint Use Space, and Loading Bridges leased by Airline.
- 1.36 **“Maintenance and Operating Expenses”** has the meaning set forth in the Rates and Fees Schedule.
- 1.37 **“Maintenance and Operating Reserve”** has the meaning set forth in the Rates and Fees Schedule.
- 1.38 **“Majority In Interest of Airlines” (“MII”)** means: (1) for the Terminal Building Cost Center, sixty percent (60%) or more in number of the Signatory Airlines who together

had greater than sixty percent (60%) of total Airport Enplaned Passengers, including those carried by the Signatory Airlines' Affiliates, during the immediately preceding Fiscal Year; and (2) for the Airfield Cost Center, sixty percent (60%) or more in number of the Signatory Airlines who together had greater than sixty percent (60%) of the total Airport Landed Weight, including the Landed Weight of the Signatory Airlines' Affiliates, during the immediately preceding Fiscal Year.

- 1.39 **"Net Revenues"** has the meaning set forth in the Rates and Fee Schedule presented in Exhibit D.
- 1.40 **"Non-Signatory Airline"** means any Air Transportation Company providing service at the Airport that is not a Signatory Airline. Non-Signatory Airlines shall pay the Non-Signatory Airline rates, fees and charges presented in the Rates and Fee Schedule, which will include a fifteen percent (15%) premium over the rates, fees and charges charged to Signatory Airlines.
- 1.41 **"Obligations"** means any obligation of the Airport System, including any Bonds issued pursuant to the Bond Ordinance or other issuing instrument, as applicable.
- 1.42 **"Passenger Facility Charges" or "PFCs"** has the meaning set forth in the Rates and Fees Schedule.
- 1.43 **"Performance Guarantee"** as described in Section 5.14.
- 1.44 **"Preferential Use" or "Preferential Use Space" or "Preferential Use Premises"** means the nonexclusive use, to which an airline has priority over all other users, subject to the provisions of this Agreement as applicable, in common with others and subject to applicable Rules and Regulations. Preferential Use Space means that space that is not Exclusive Use Space or Joint Use Space to which Airline has been given the privilege of preferential use.
- 1.45 **"Prior Period Debt Service Coverage"** has the meaning set forth in the Rates and Fees Schedule.
- 1.46 **"Rates and Fees Schedule"** means the Rates and Fees Schedule attached hereto as Exhibit D.
- 1.47 **"Remote Parking Area" or "RON"** means those aircraft parking positions designated for the parking of aircraft that cannot be accommodated at Gates.
- 1.48 **"Rules and Regulations"** has the meaning set forth in Section 14.1.

- 1.49 **“San Antonio Airline Consortium” or “SAAC”** means the San Antonio Airline Consortium, Incorporated (SAAC), a Texas not-for-profit limited liability corporation, formed by certain airlines operating at the Airport to provide services within the Leased Premises and certain other areas of the Terminal Building assigned to the airlines and to operate and maintain certain systems, equipment, and facilities in and about the Terminal Building on behalf of SAAC member and nonmember airlines and the City. The City’s Minimum Operating Standards for SAAC are described in Exhibit H.
- 1.50 **“San Antonio International Airport”** means San Antonio International Airport as it presently exists and as it may be changed from time to time in the future.
- 1.51 **“Settlement”** has the meaning set forth in in the Rates and Fees Schedule.
- 1.52 **“Settlement Amount”** has the meaning set forth in in the Rates and Fees Schedule.
- 1.53 **“Signatory Airline”** means either: (1) an Air Transportation Company that has the right to operate at the Airport pursuant to an agreement with City substantially similar to this Agreement and is obligated to pay City fixed terminal rents in the amount of at least \$750,000 per year; or (2) an all-cargo Air Transportation Company that has the right to operate at the Airport pursuant to an agreement with City substantially similar to this Agreement and has been granted leased premises by the City consisting of an air cargo building and apron.
- 1.54 **“Special Facilities”** means any property, real or personal, incident or related to the Airport, which is financed by the issuance of Obligations that are not directly or indirectly secured or payable from Net Revenues.
- 1.55 **“Term”** has the meaning set forth in Article 2.
- 1.56 **“Terminal Building”** has the meaning set forth in the Rates and Fees Schedule.
- 1.57 **“TSA”** means the Transportation Security Administration of the United States Government or any federal agency or agencies succeeding to its jurisdiction.

1.2 CROSS-REFERENCES

All references in the text of this Agreement to articles, sections, and exhibits pertain to articles, sections, and exhibits of this Agreement, unless otherwise specified.

ARTICLE 2. TERM

2.1 EFFECTIVE DATE

This Agreement shall become effective upon execution by both Airline and City (“Effective Date”).

2.2 INITIAL TERM

The term of this Agreement shall commence on October 1, 2020 and shall end on September 30, 2021 (the “Term”) unless the Term is extended or sooner terminated as hereinafter provided.

2.3 TERM EXTENSIONS

Provided Airline is not in default of any of the terms and conditions of this Agreement beyond the expiration of any applicable notice and cure period, this Agreement shall be automatically extended for two separate periods (the first extension period beginning October 1, 2021 and ending September 30, 2022 [“First Term Extension”] and the second extension period beginning October 1, 2022 and ending September 30, 2027 [“Second Term Extension”]), unless:

- a. Seventy-five percent (75%) or more of Signatory Airlines operating at the Airport provide written notice to City on or before March 1, 2021 for the First Term Extension or on or before March 1, 2022 for the Second Term Extension, of their intent to terminate their individual Signatory Airline Agreements with City; or
- b. City provides written notice to all Signatory Airlines no later than March 1, 2021 for the First Term Extension or on or before March 1, 2022 for the Second Term Extension, of City’s intent to terminate this Agreement.

The parties acknowledge and agree that if Airline provides notice on or before March 1, 2021, or March 1, 2022 of its intent to terminate this Agreement, the term shall not be extended with respect to Airline, irrespective of whether the Signatory Airline Agreements are extended with other Signatory Airlines. Except as otherwise provided for herein, the same terms and conditions set forth herein shall be applicable during the First Extension Term and Second Extension Term. It is agreed and understood that Airline is under no obligation to remain a Signatory Airline during any Term Extension as provided herein provided Airline notifies City of its decision to no longer

remain a Signatory Airline on or before March 1, 2021, or March 1, 2022. No further action shall be required by Airline or City for the extension to take effect.

2.4 HOLDING OVER

Holding over by Airline after the expiration of this Agreement without the consent of City shall not operate to extend or renew this Agreement. Any such holding over shall be construed as a tenancy from month-to-month and Airline will pay the then applicable rentals, rates and charges for Signatory Airlines provided negotiations for a new substitute agreement have not reached an impasse. If such negotiations are at an impasse, Airline shall pay Non-Signatory Airline rentals, fees, and charges until a new agreement is executed.

2.5 SURRENDER OF LEASED PREMISES

Should this Agreement be extended in accordance with Section 2.3, Airline shall be entitled to return a portion of Exclusive Use Space or Preferential Use Space, provided that Airline shall maintain sufficient Exclusive Use Space or Preferential Use Space to continue to pay fixed terminal rents in the amount of at least \$750,000 per year to retain Signatory Airline status pursuant to Section 1.53 above. In addition, should this Agreement be extended in accordance with Section 2.3, City may request that Airline relocate to alternative Exclusive Use Space or Preferential Use Space, in whole or in part, provided such relocation shall not result in Airline occupying Exclusive Use Space or Preferential Use Space that will result in Airline paying fixed terminal rents in the amount of less than \$750,000 per year pursuant to Section 1.53 above.

Should this Agreement be extended in accordance with Section 2.3, Airline shall be entitled to return a portion of Exclusive Use Space or Preferential Use Space, provided that Airline shall maintain sufficient Exclusive Use Space or Preferential Use Space to continue to pay fixed terminal rents in the amount of at least \$750,000 per year to retain Signatory Airline status pursuant to Section 1.53 above.

Each party shall notify the other of its desire to return or relocate to alternative Exclusive Use Space or Preferential Use Space on or before March 1, 2021, or March 1, 2022. In the event such notification is made and this Agreement is extended as provided herein, the parties shall enter into an amendment providing for the return or relocation of Exclusive Use Space or Preferential Use Space, which shall become effective on October 1, 2021 or October 1, 2022. Both parties

further acknowledge and agree that each shall have the right to deny any requested relocation in their sole and absolute discretion.

2.6 AIRLINE'S RIGHTS UPON EXPIRATION OR EARLY TERMINATION OF AGREEMENT

Upon expiration or early termination of this Agreement, all of Airline's rights, authority, and privileges to use the Leased Premises, services, and facilities of the Airport as herein granted shall cease.

2.7 SURRENDER OF LEASED PREMISES

Upon expiration or early termination of this Agreement, Airline shall surrender the Leased Premises to City in similar condition as such Leased Premises were in at the time of the original occupancy by Airline, excepting, however, (a) reasonable wear and tear that could not be prevented through routine maintenance required to be performed by Airline, (b) damage by fire or other casualty, (c) conditions existing prior to Airline's occupancy of Leased Premises, and (d) acts of God or the public enemy. Airline shall provide the environmental demonstrations concerning the Leased Premises set out in Section 14.4.4 below.

Except as otherwise provided in this Article, all equipment, trade fixtures, and other personal property installed or placed by Airline in the Leased Premises or on or about the Airport and which can be removed without structural damage to the Leased Premises or any other City-owned property shall remain the property of Airline unless otherwise provided in subsequent agreements between Airline and City, and Airline shall have the right at any time during the Term of this Agreement and prior to its expiration or early termination to remove any and all of said property from the Airport provided Airline is not in default in its payments hereunder (beyond all applicable notices and opportunity to cure periods). Airline agrees to repair or pay for all damages, if any, resulting from such removal. All City property damaged by or as a result of the removal of Airline's property shall be restored at Airline's expense to the same condition as, or better condition than, it was prior to such damage.

Any and all property not removed by Airline within thirty (30) days after the expiration or earlier termination of this Agreement and the cessation of operations from all or a portion of the Leased Premises is deemed to be abandoned property. Airline hereby authorizes City to remove and dispose of its abandoned property. Airline agrees to reimburse City for the cost of removing and disposing of its abandoned property.

ARTICLE 3. LEASED PREMISES

Airline hereby leases from City and City hereby leases to Airline the areas of the Terminal Building shown on Exhibit C ("Leased Premises"), attached hereto and by reference made a part hereof for all purposes, which areas are to be used for the general purposes summarized below. Exhibit C can be changed from time-to-time based on changes to the Leased Premises made in accordance with Section 3.6 of this Agreement.

3.1 EXCLUSIVE USE SPACE

- a. Ticket Offices
- b. Operations
- c. Baggage Services Offices
- d. Airline Passenger Clubs or Lounges

3.2 PREFERENTIAL USE SPACE/EQUIPMENT

- a. Ticketing
- b. Curbside Baggage Check-in
- c. Holdrooms/Gates
- d. Apron Area
- e. Loading Bridges

3.3 JOINT USE SPACE, SYSTEMS, AND EQUIPMENT

- a. Baggage Claim Area
- b. Passenger Screening Area
- c. Baggage Makeup
- d. Tug Lane
- e. Baggage Handling System

3.4 TRANSITION SPACE

Airline acknowledges and agrees that at various times during the Term of this Agreement, Airline may be required, upon no less than thirty (30) days' written notice from the Director, to

relocate to and operate out of space different from that shown in Exhibit C to facilitate the construction of projects or installation of fixtures and equipment. Such relocation shall be at the cost of the requesting party. If Airline is required to temporarily relocate to and operate out of different space, Airline's Exhibit C will be temporarily modified to reflect such transition change in square footage and space location in writing. All efforts will be made to relocate Airline to space of a comparable size and finish. If Airline did not request the transition move, Airline shall not pay for more square footage than what is leased under this Agreement during the transition period.

3.5 "AS-IS" CONDITION OF AIRLINE LEASED PREMISES AND GENERAL ENVIRONMENTAL OBLIGATIONS OF AIRLINE

With the exception of those facilities and fixtures that City is required to maintain and repair hereunder and any other covenants or obligations of City herein and any releases of Airline herein, Airline expressly acknowledges that it has inspected or had the opportunity to inspect the Airline Leased Premises, including, but not limited to, all finishes, furniture, fixtures, and equipment and environmental conditions therein and accepts the same "As Is" in the condition existing as of the Effective Date. Airline further acknowledges that, except as expressly set forth herein, City has made no representations or warranties of any nature whatsoever regarding the Airport or the Airline Leased Premises including, but not limited to, the physical and/or environmental condition of the Airline Leased Premises, or any improvements located thereon, or the value of the Airline Leased Premises or improvements thereto, their zoning, or the suitability of the Airline Leased Premises, or any improvements thereto, or Airline's legal ability to use the Airline Leased Premises or Airport for Airline's intended use.

At its option, prior to occupying the Airline Leased Premises, Airline may conduct an environmental audit for the purposes described in Section 14.4.4 below. Airline shall manage and conduct all of its activities on or relating to Airline's Leased Premises:

- a. in compliance with applicable Environmental Laws and the environmental provisions of this Agreement;
- b. in cooperation with the Airport in the Airport's efforts to comply with applicable Environmental Laws; and
- c. in adherence with Best Management Practices (as defined below) applicable to Airline's use of the Leased Premises.

Airline shall take immediate steps to correct any non-compliance by Airline with applicable Environmental Laws or the environmental provisions of this Agreement. Airline shall manage and, to the extent within the control of Airline, secure the Leased Premises and its occupation or use of the Leased Premises so as to prevent any violation of applicable Environmental Laws by any person on the Leased Premises in connection with Airline's use of the Leased Premises hereunder.

3.6 REASSIGNMENT OF LEASED PREMISES

Airline and City recognize that, from time to time during the Term of this Agreement, it may become necessary to reassign, reallocate, or relocate part or all of the Leased Premises. City may only make such reassignment, reallocation, or relocation for the following reasons:

- a. To comply with a rule, regulation, or order of any federal, State, or other governmental agency (other than City) that has jurisdiction over the Airport.
- b. To implement a Capital Improvement at the Airport that is a part of City's formal Airport Capital Improvement Program.
- c. To meet what the Director has determined to be a compelling necessity to resolve unforeseen and unforeseeable situations.

If it becomes necessary to adjust Airline's Leased Premises, the Director shall arrange for all parties holding affected Leased Premises to discuss reassignment, reallocation, or relocation of their space among themselves. If the parties do not reach agreement within thirty (30) days from the time the Director requests such discussions, the Director is authorized to make such decisions regarding reassignment, reallocation, or relocation for each of the parties (including Airline) in accordance with the below procedures.

If, at the expiration of the thirty (30) day negotiating period, the Director makes decisions regarding reassignment, reallocation, or relocation of Airline's Leased Premises, the Director shall give Airline notice of its intent to modify all or portions of Airline's Leased Premises. Within thirty (30) days of receipt of said notice, Airline may submit to City a written request summarizing its concerns, and Airline shall be given an opportunity to meet with the Director to show cause why the reassignment, reallocation, or relocation should not be made.

In any case Airline shall not be required to:

- a. Accept premises not reasonably adequate for its intended operations.
- b. Pay at its new location rental rates in excess of that amount it would have been required to pay in its original Leased Premises.

City shall:

- a. Give Airline sixty (60) days' notice of the reassignment, reallocation, or relocation unless otherwise agreed to by the parties.
- b. Reimburse Airline the undepreciated capital cost on a straight-line basis of Airline's improvements (excluding trade fixtures, furnishings, and other personal property) in the space vacated.
- c. Make improvements and alterations necessitated by the reassignment, reallocation, or relocation as mutually agreed upon by City and Airline, the cost of which shall not be the responsibility of Airline.
- d. Reassign or reallocate the space in question to another airline or relocate Airline's Leased Premises or hold space without lease commitment.
- e. Relocate Airline not at Airline's expense.
- f. Upon completion of reassignment, Exhibit C will be updated to reflect the final reassignment and relocation.

3.7 RIGHT TO PREFERENTIAL USE OF GATES

Airline is herein granted the Preferential Use, but not the Exclusive Use, of its assigned Gate(s). The preferential rights of Airline and other airlines to use Gates shall be governed by the provisions hereof and in accordance with the Rules and Regulations.

3.7.1 Minimum Activity Level

During the initial Term of this Agreement Airline shall not be required to maintain a minimum activity level threshold for the continued Preferential Use of a Gate.

Beginning with the First Extension Term and continuing through September 30, 2023, the average minimum level of use required for Airline's Preferential Use of a Gate (Preferential Gate Minimum Activity Level) shall be five (5) Flights per Gate per day or 700 seat departures per Gate per day during a twelve (12) month period (365 days). Effective October 1, 2023 and continuing through September 30, 2027, the average minimum level of use required for Airline's Preferential Use of a Gate is five and one-half (5.5) Flights per Gate per day or 750 seat departures per Gate per day during a twelve (12) month (365 days). For the purpose of this Section 3.7.1, a "Flight" is defined as two (2) scheduled flight segments (one arrival and one departure).

3.7.2 Preferential Gate Use

On or before October 1 of each year of this Agreement, City will provide Airline a Gate Use Analysis for the immediately preceding twelve (12) month, 365-day period. Airline's average Gate use will be calculated by dividing the total number of Airline's flights during a twelve-month (12) month, 365-day period by the total number of preferentially assigned Gate(s) assigned to Airline. Airline's average seats per Gate will be calculated by dividing the total number daily seats per Flight by the total number of preferentially assigned Gate(s) assigned to Airline. Charter(s), or other non-Airline operations will not be counted in this calculation. Gate use activity will be reviewed annually or as necessary by City to monitor current use of preferential Gates. Should the City determine that Airline has not met the Preferential Gate Minimum Activity Level as described herein, the City may, in its sole discretion and without any obligation to do so, issue notice to Airline that it has not met the Preferential Gate Minimum Activity Level.

3.7.3 Reassignment of Preferential Gate

Upon delivery of the City's notice to Airline that it has not met the Preferential Gate Minimum Activity Level, Airline shall be granted a Cure Period of four (4) months by City. Should Airline fail to consistently meet the applicable Preferential Use Gate Minimum Activity Level during the four (4) month Cure Period, the City may, at its sole option and in order to accommodate the needs of other Air Transportation Companies operating at the Airport, require that Airline for the remainder of the Term to: (a) relinquish a proportionate number of its Gate(s) such that, on a pro forma basis, excluding such relinquished Gate(s), the remaining Gates assigned to Airline demonstrate that Airline meets the applicable Preferential Use Gate Minimum Activity Level during the four (4) month cure period and (b) relinquish a substantially identical

proportionate amount of holdroom, ticket counter, ticket office, and other such Airline space to support Airline's operations.

The effective date of Airline's relinquishment of Preferential Use Gate(s), and other portions of the Leased Premises, shall not be less than sixty (60) days following the date of City's notice in described in this Section 3.7.3. At such time, Airline shall vacate the relinquished Leased Premises in accordance with the City's requirements and the Airport Rules and Regulations. During the course of vacating the relinquished Leased Premises, Airline shall minimize disruptions to other Airlines' operations and preserve the operational integrity of the relinquished Leased Premises.

3.8 CITY RIGHT OF ENTRY

Authorized representative(s) of City shall have the right to enter the Leased Premises, including the non-public areas of the Preferential Use and Exclusive Use Premises, at any and all reasonable times for the purpose of inspection, including inspecting compliance with environmental laws as provided in Section 14.4.5 and inspection of all City-owned equipment for compliance with manufacturer's specifications regarding servicing and preventive maintenance, or for any other purpose incident to the performance of City's obligations hereunder or in the exercise of any of its governmental functions. City shall use its good faith efforts to avoid disruption of Airline's operations and, except in the event of an emergency, shall provide Airline reasonable notice prior to entering the non-public areas of the Preferential Use or Exclusive Use Premises and Airline shall have the right to have an Airline employee accompany City's representative(s) when entering the non-public areas of the Preferential Use or Exclusive Use Premises.

3.9 QUIET ENJOYMENT

Upon payment by Airline of the rents, fees, and charges as herein required and subject to performance and compliance by Airline of the covenants, conditions, and agreements on the part of Airline to be performed and complied with hereunder, Airline shall peaceably have and enjoy the rights, uses, and privileges of the Airport, its appurtenances, and facilities as granted herein.

ARTICLE 4. USES OF AIRPORT

4.1 PERMISSIBLE USES

Subject to the terms and provisions of this Agreement and the Rules and Regulations, Airline, by paying all rents, fees, and charges due, shall be entitled to the use, in common with other duly authorized users, of the Airport for the sole purpose of providing Air Transportation. Such use may include, without limitation, the following purposes:

- a. The operation of an Air Transportation business, including all activities reasonably necessary to such operation.
- b. The landing, taking off, flying over, taxiing, pushing, towing, loading, unloading, delivering fuel to aircraft, repairing, maintaining, conditioning, servicing, parking, storing, and testing of aircraft or other equipment of or operated by Airline or others, including the right to provide or handle all or part of the operations or services of such others. For operations handled by Airline on behalf of others or service provided to others, Airline shall pay City a nondiscriminatory fee as established by the Director based on the gross revenues derived by Airline from such others. Services provided by third-party contractors will be subject to the nondiscriminatory fee. This fee, however, shall not apply to an Airline providing services to its Affiliates.
- c. The sale of tickets, documentation of shipments, handling of reservations, and loading and unloading of persons, property, cargo, baggage, and mail at the Airport in the operation of Airline's Air Transportation business.
- d. The training at the Airport of employees of Airline. Training is to be limited to that incidental to Airline's Air Transportation business at the Airport. Flight training and testing of aircraft and other equipment shall be undertaken by Airline only with the prior written approval of the Director, and to the extent permitted by, and subject to, the Rules and Regulations.
- e. The purchase of Airline's requirements of fuel, lubricants, propellants, personal property, services, food, beverage, catering services, other passenger supplies, and any other materials and supplies used by Airline that are incidental to the operation of Airline's Air Transportation business. Nothing herein shall restrict City from requiring a permit and

levying a charge on any person or company for conducting non-Air Transportation business (food, beverage, commissary supplies, services) at the Airport.

- f. The sale, disposal, and exchange of Airline's aircraft, engines, accessories and other equipment, and materials or supplies, provided that such right shall not be construed as authorizing the conduct of a separate regular business by Airline, but as permitting Airline to perform only such functions as are incidental to the operation of its Air Transportation business at the Airport.
- g. The servicing by Airline, or by its suppliers of materials or furnishers of services, of aircraft and other equipment operated by Airline, including the provision of line maintenance or other materials or supplies, on Exclusive Use Space or Preferential Use Space or at assigned Gates or other locations designated by the Director.
- h. The installation and operation of identifying signs, posters, and graphics on Airline's Leased Premises, subject to the prior written approval of the Director. Such signs shall be substantially uniform in size, type, and location with those of other airlines, consistent with City's graphic standards and the Rules and Regulations, and in compliance with all applicable laws and ordinances.
- i. The installation, maintenance, and operation of such radio, meteorological, and aerial navigation equipment and facilities at suitable locations on the Airport as may be necessary or convenient in the opinion of Airline for its operations; provided that: (i) the location of such equipment and facilities shall be subject to the prior written approval of the Director; (ii) the use and location of such equipment and facilities shall not conflict with other similar equipment and facilities at the Airport; and (iii) the use and location of such equipment and facilities on the Airport shall be subject to the payment of standard rental rates established for such use.
- j. The installation, maintenance, and operation of Airline Passenger Clubs or Lounges in Airline's Exclusive Use Space, provided that such right shall not be construed as authorizing the conduct of a separate regular business by Airline, but as permitting Airline to perform only such functions as are incidental to the operation of its Air Transportation business.

- k. The installation, maintenance, and operation of computer data lines, non-revenue generating wi-fi networks, telephone communications equipment, associated cables, associated conduits, and telephone communications switchgear and support computers at suitable locations on the Airport as may be necessary or convenient in the opinion of Airline for its operations; provided that: (i) the location of such equipment shall be subject to the prior written approval of the Director; (ii) the use and location of such equipment shall not interfere with the use of other similar equipment on the Airport; (iii) the use and location of such equipment, except for cables, on the Airport shall be only in Exclusive Use Space, Preferential Use Space, or Joint Use Space for which rents, fees and charges are being timely paid by Airline pursuant to this Agreement; (iv) all cables are installed in conduits, and when such cables are no longer needed, they are promptly removed by Airline without damage to the space and the conduits are also promptly removed by Airline if so required by the Director; and (v) all installation or removal is performed in accordance with the Airport's Physical Telecommunications Infrastructure & Security Policy and the Premises Distribution System Policy for the Terminal Building, as each may be amended from time to time.
- l. Nothing herein shall restrict City from requiring a permit and levying a charge on any person or company for conducting business at the Airport. Furthermore, City intends to levy a charge for business conducted at the Airport, including Airline's provision of non-Air Transportation services to others, except for ground transportation services provided free of any fee or charge.
- m. The storage and parking of equipment, cargo, and vehicles, but only at such locations as specifically designated by the Director.
- n. The maintenance and repair of equipment and vehicles, but only at such locations as specifically designated by the Director.

4.2 INGRESS AND EGRESS

Subject to the other provisions hereof and to the Rules and Regulations adopted by City, the following privileges of ingress and egress with respect to the Airport are hereby granted:

- a. For Airline, its agents, employees, contractors, subcontractors, and permitted sublessees and assigns, access to the public areas of the Airport and to those areas and facilities designated herein for Exclusive Use, Preferential Use, or Joint Use by Airline or by Airline in common with other airlines. This right shall extend to Airline's aircraft, vehicles, machinery, and equipment used in its Air Transportation business.
- b. For Airline's passengers, guests, and invitees, access to areas leased exclusively or preferentially to Airline and to areas provided for the use of Airline's passengers, guests, and invitees in common with those of other airlines and to public areas and public facilities. This privilege shall extend to vehicles of such passengers, guests, and invitees.
- c. For Airline's suppliers of materials and furnishers of service, access to the public areas of the Airport and to areas and facilities leased exclusively or preferentially to Airline and to areas and facilities provided for the Joint Use by Airline or its suppliers of materials and furnishers of services. This privilege shall extend to vehicles, machinery, or equipment of such suppliers and furnishers used in their business of furnishing such supplies and services to Airline.

The ingress and egress provided for above shall not be used, enjoyed, or extended to any person, airline, or vehicle 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 by the Director.

4.3 RESTRICTIONS

In connection with the exercise of Airline's rights under this Agreement, Airline or any of its agents, employees, directors, officers, contractors, invitees, licensees, or representatives shall not do any of the following:

- a. Do anything that may interfere with the effectiveness or accessibility of the drainage and sewage system, electrical system, air conditioning system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located on or within the premises of the Airport.
- b. Do anything that may invalidate or conflict with any fire or other casualty insurance policies covering the Airport or any part thereof.

- c. Keep or store, at any time, flammable or combustible liquids except in storage facilities especially constructed for such purposes in accordance with federal, State, and City laws, including the Uniform Fire Code and the Uniform Building Code. For purposes of this Agreement, flammable or combustible liquids shall have the same definitions as set forth in the Uniform Fire Code, as that Code may be amended from time to time.
- d. Do anything that may be in conflict with 14 CFR Part 139 Airport Certification as that regulation may be amended from time to time, or jeopardize the operating certificate of the Airport.
- e. Do anything that may be in conflict with 49 CFR Part 1542 Airport Security or the TSA-approved security plan for the Airport.
- f. Permit any amusement machine, vending machine, public pay telephone, facsimile machine, copy machine, or other machine operated by coins, tokens, or credit cards to be installed or maintained in any publicly accessible area without the express written determination of the Director. Airline or its nominee may, however, install, maintain, and operate vending machines in Airline's Exclusive Use Space not accessible to the public for the purpose of providing and making available foods, beverages, and sundry food items to Airline's employees only.
- g. Provide commercial ground transportation services to any person upon payment of any fee or charge. However, Airline is expressly excluded from the requirements of any Rules and Regulations promulgated, so long as this ground transportation is provided free of any fee or charge to any passenger (as a result of irregular operations) or employee.
- h. Perform aircraft engine run-ups, except at locations and during time periods approved in writing in advance by the Director.
- i. Airline shall not enter into activities that compete with City in City's development of any non-airline revenue from Airport passengers, tenants, and other users. Should Airline engage in non-airline business activities not specifically permitted in this Agreement, City may levy a non-discriminatory fee.

4.4 CONCESSION SERVICES RIGHTS RESERVED BY CITY

Except as otherwise provided herein, City reserves the exclusive right to itself, its agents, and its franchisees to operate all concession services (including, but not limited to, food/beverage and news/gift concessions, specialty retail shops and carts, vending machines, pay telephones, facsimile machines, and other voice and data telecommunications systems, advertising displays, baggage lockers, and baggage carts) in the Terminal Building and the Federal Inspection Services (FIS), including the Leased Premises, such as holdrooms and loading bridge exterior areas, and to retain the revenue there from; provided, however, that City agrees that no concession services shall be located or operated by City or its nominees in any non-public Preferential Use Space or Exclusive Use Space without Airline's prior consent and providing that City shall not exercise such right in a manner that will materially impede passenger ingress or egress or Airline's business operations. Any concession services in public use Leased Premises must be approved by Airline.

City shall operate all concessions and provide such other services (with reasonable due consideration to requests made by Airline) for scheduled airline passenger operations at the Airport as it deems necessary or appropriate. Nothing herein shall limit or preclude City from operating whatever concessions or providing whatever services it may desire at any and all airports and other facilities owned by City.

The distribution, serving or sale of food and/or beverages (including alcoholic beverages) meant to be consumed aboard Airline's aircraft by Airline or its in-flight catering provider shall be limited to Airline's passengers who are in the passenger loading bridge or entrance to the passenger loading bridge and in the process of boarding Airline's aircraft, unless otherwise agreed in writing by the Director. The provisions of this section notwithstanding, all distribution of alcoholic beverages shall comply with applicable laws.

Airline shall be allowed to provide water and typical on-board snacks (such as peanuts, pretzels, etc.) in passenger holdrooms at no cost to Airline's passengers in the event of originating flights with delays greater than 2 hours, diverted flights or originating flights that have returned to the Gate. All such food and/or beverages shall be purchased only from City's food and beverage concessionaires operating at the Airport or others that pay permit fees to the City or used from Airline's provisional flight supplies. Otherwise, distribution of food and/or beverages at no cost to Airline's passengers by Airline shall be permitted only with advance written approval of the Director.

Airline shall have the right to utilize the Leased Premises for the purpose of maintaining and operating Airline Passenger Clubs or Lounges for its guests, invitees, and passengers and may serve beverages, including alcoholic beverages, and appetizers therein with or without charge and subject to all applicable laws, regulations and ordinances; provided, however, that the City reserves the right to charge Airline applicable percentages of its gross revenues from the sale of food and beverages consistent with the percentages charged to its food and beverage concessionaires at the Airport, not to exceed 14% on the sale of food and nonalcoholic beverages and 18% on the sale of alcoholic beverages, provided that no such payment shall be required with respect to items obtained from concessionaires already obligated to make such payments to City with respect to such obtained items.

Except as allowed herein or approved in writing by the Director, all other serving, distribution or sale of food or beverages by Airline at the Airport is prohibited.

4.5 GROUND HANDLING SERVICES BY AIRLINE OR OTHERS

Airline may contract with, or receive from other airlines serving the Airport or other companies, ground handling services (both above and below the wing services) for Airline's aircraft, provided that Airline provides advance written notice to the Director (or his designated representative) of such arrangements and uses reasonable efforts to ensure that such other airline or other company shall have entered into an operating permit or agreement or other similar contract with City prior to commencing ground handling services with Airline. Nothing herein shall restrict City from levying a nondiscriminatory concession fee for ground handling services on any person or company (including Airline when Airline is providing these services to other non-Affiliate airlines). Airline's insurance, as required in this Agreement, shall provide insurance coverage for such ground handling services to the extent it is not covered by ground handling services company's own insurance.

4.6 SECURITY OF EXCLUSIVE USE SPACE, JOINT USE SPACE, AND PREFERENTIAL USE SPACE

Airline understands and agrees that it shall fully indemnify, defend, and hold harmless City, its elected representatives, officers, agents, volunteers, and employees from and against all penalties, fines, or demands of any kind (including, but not limited to, costs of investigation, attorney fees, court costs, and expert fees) to the extent arising out of Airline's acts or omissions resulting in alleged violations of 49 CFR Part 1542 Airport Security or any successor regulations

related to airport security. If Airline, its officers, employees, agents, or those persons under Airline's control; not including Airline's passengers, shall fail or refuse to comply with the aforementioned security requirements and such non-compliance results in a monetary penalty being assessed against City, Airline shall be responsible for the costs thereof and shall reimburse City in the full amount of any such monetary penalty.

4.7 REMOVAL OF DISABLED AIRCRAFT

Upon release of Airline's disabled aircraft by the proper authorities, Airline shall promptly remove any such disabled aircraft from any part of the Airport (including, without limitation, runways, taxiways, aprons, and Gate positions) and place any such disabled aircraft in such storage area as may be designated by the 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 in accordance with this paragraph, the Director may, but shall not be obligated to, cause the removal of such disabled aircraft. However, City's obligation to remove or store such disabled aircraft shall not be inconsistent with federal laws and regulations. Airline agrees to reimburse City for all costs of such removal.

4.8 EMPLOYEE PARKING FACILITIES

Airline and its Airport employees shall have the right to use the vehicular parking facilities at the Airport, in common with employees of other airlines, tenants, and Airport-related services. Use of the employee parking facilities is subject to the payment of such employee parking fees as established from time to time by City. Such facilities shall be located in an area designated by the Director. Airline shall, on request of the Director, provide verification that it is only providing parking for its on-Airport employees or non-based employees at the specific locations where these employees park their vehicles at the Airport.

ARTICLE 5. RENTS, FEES, AND OTHER CHARGES

In consideration for use of the Leased Premises, facilities, rights, 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, certain rents, fees, and other charges as set forth in this Article 5 and as recalculated according to the procedures of the Rates and Fees Schedule.

5.1 TERMINAL BUILDING RENTS

Airline shall pay the City for its Exclusive Use Space, Preferential Use Space and Joint Use Space in the Terminal Building monthly rent based on the annual rental rates for areas calculated each Fiscal Year in accordance with the Rates and Fees Schedule.

5.2 LOADING BRIDGE FEES

Airline shall pay City a monthly fee for its Preferential Use of City-owned passenger Loading Bridges at the Terminal Building. Such fee shall be calculated each Fiscal Year in accordance with the Rates and Fees Schedule.

5.3 BAGGAGE HANDLING SYSTEM FEES

Airline shall pay City a monthly fee for its use, in common with other airlines, of the Baggage Handling System in the Terminal Building. Such charges shall be calculated each Fiscal Year in accordance with the Rates and Fees Schedule.

5.4 APRON AREA FEES

Airline shall pay City for its Preferential Use of the Apron Area, a monthly fee based on the annual rental rates for such areas calculated each Fiscal Year in accordance with the Rates and Fees Schedule.

5.5 LANDING FEES

Airline shall pay City for its use of the Airfield Area monthly Landing Fees based on the annual Landing Fee rate calculated each Fiscal Year in accordance with the Rates and Fees Schedule. City will use its best efforts to charge and collect Landing Fees from all commercial Air Transportation users of the Airfield Area as the Director may reasonably determine.

5.6 PER USE FEES

Airline shall pay City for its use of the CUPPS, City Gates, and non-preferential use of other airlines' Gates, unless otherwise agreed to by the parties, as well as ticket counters based on the annual per use charges calculated each Fiscal Year in accordance with the Rates and Fees Schedule.

5.7 FIS CHARGES

Airline shall pay City for its use of the City FIS as established annually by City in accordance with the Rates and Fees Schedule.

5.8 NON-TERMINAL RON PARKING FEES

Airline shall pay City for RON parking in accordance with the Rates and Fees Schedule.

5.9 OTHER CHARGES

City reserves the right to assess, and Airline agrees to pay, reasonable charges for the use of City-provided facilities and equipment, including, but not limited to, telecommunications trunk equipment, employee parking facilities, and the issuance of security identification badges.

5.10 NO FURTHER FEES AND CHARGES

Following the effective date of this Agreement, except as provided elsewhere herein, upon the payment of the rents, fees, and charges described herein, no additional charges shall be levied against Airline for the use and occupancy of the Leased Premises as described herein and use of the Airfield Area for the landing and taking off of aircraft, except as provided by separate agreement between the parties.

5.11 TIME OF PAYMENT

The following sets forth the time of Airline payments of rents, fees, and charges to City.

- a. Rents and fees for Exclusive Use Space, Preferential Use Space, Preferential Loading Bridge Fees, and Preferential Apron Area Fees shall be due and payable, without deduction or setoff, in monthly installments in advance on or before the first day of each month.
- b. Landing Fees, Joint Use Charges, City Gate Charges, Baggage Handling System Fees, Per Use Fees – Gate, Per Use Fees – Ticket Counter, FIS Fees, and Non-Terminal RON Parking

Fees for each month of operations shall be due and payable without deduction or setoff within fifteen (15) days after transmittal of an invoice, given that Airline's monthly statistical report as required in Article 7.1 shall be received by the City within ten (10) days after the last day of the month after such month of operations.

- c. Airline shall faithfully collect and promptly remit to City (without notice or demand by City and in accordance with 14 CFR 158 Passenger Facility Charges as this regulation may be amended from time to time) the proceeds of the City's Passenger Facility Charge so long as the City has an approved Passenger Facility Charge in effect.
- d. Rents, fees, and charges not described in paragraphs (a), (b), and (c) above shall be due and payable within thirty (30) days after transmittal of a monthly invoice therefore by City. City will provide such invoice within thirty (30) days of activity for which charge is generated.
- e. The acceptance of any payment made by Airline shall not preclude City from verifying the accuracy of Airline's report and computations or from recovering any additional payment actually due from Airline or preclude Airline from later demonstrating that Airline's report was inaccurate and that a lesser amount was properly owed (and to recover any such overpayment).
- f. In establishing the rents, fees, and charges set forth in this Agreement, City is anticipating timely payment of such rents, fees, and charges. Untimely payment of these rents, fees, and charges jeopardizes the operation of the Airport. Therefore, in the event that rents, fees, and charges are not paid timely by Airline, the Director is authorized and directed to seek any necessary legal and administrative remedy to obtain collection of the unpaid rents, fees, and charges and to assure timely payment of future rents, fees, and charges. These remedies shall be in addition to late fees required herein and may include any of the following:
 - 1. Seeking administrative relief through appropriate federal agencies, including the FAA.
 - 2. Equitable and judicial remedies.
 - 3. Such other legal and administrative remedies as permitted by law.

- g. Failure to send a timely invoice does not relieve Airline from any obligation of payment.

5.12 PAYMENTS

Rents, fees, and charges shall be paid in United States Dollars by wire, electronic funds transfer, or check payable to San Antonio International Airport the City of San Antonio, which shall be delivered or mailed, postage prepaid, to City of San Antonio, Aviation Department, Accounting Section, 457 Sandau Road, San Antonio, TX 78216 or which may be paid by wire transfers to accounts of the Airport designated in writing by the Director.

To arrange payment by wire or electronic funds transfer, Airline shall contact the Aviation Department's Accounting Section at (210) 207-7242 for further information.

5.13 LATE FEES ON OVERDUE PAYMENTS

Without waiving any other right available to City, in the event of a default in Airline's payment of any rents, fees, and charges under this Agreement, including Passenger Facility Charge proceeds, in the event that Airline is delinquent for a period of thirty (30) calendar days or more from the date when such payment is due to City, Airline shall pay City late fees thereon, from the date such rents, fees, or charges become payable to the date of payment at the rate of one and one-half percent (1.5%) per month; provided, however, that if the maximum rate then provided by law is less than 1.5% per month, then the rate shall be such maximum legal rate. City may, but is not obligated to, provide Airline with a written reminder when invoiced rents, fees, or charges have not been received within thirty (30) calendar days of transmittal of the invoice therefore and prior to assessing late fees in accordance with this Section 5.13.

5.14 PERFORMANCE GUARANTEE

To guarantee Airline's faithful performance of all terms and conditions contained herein, including but not limited to the timely payment of all rents, fees, and charges, Airline shall remit to City prior to Airline's use of the space or the commencement of Airline's operations or activities in regard to the Airport and that in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect City, a Performance Guarantee in the amount of:

- a. Airline's estimated rents for Exclusive Use Space and Preferential Use Space for two (2) months
- b. Airline's estimated Loading Bridge Fee for two (2) months

- c. Airline's estimated Joint Use Charges for two (2) months (as determined using activity data for the most recent six (6) calendar months to determine Airline's obligation using the Joint Use Charges formula).
- d. Airline's estimated Landing Fees for two (2) months, (determined on the basis of Airline's estimated landed weight each year times two-twelfths at the actual Landing Fee rate effective for the Fiscal Year). Either Airline or its Affiliate will also include a Performance Guarantee for the Affiliate.

The Performance Guarantee may be adjusted by City annually, or more frequently, if there is a material change to the amount required in this Section 5.14 from the Airline. Such Performance Guarantee shall be in the form of a Letter of Credit, Bond, or other instrument satisfactory to City, in a form acceptable to the Director. The Performance Guarantee must provide that it shall remain in full force and effect for a period extending three (3) months following termination of this Agreement.

In the event City is required to draw down or collect against Airline's Performance Guarantee for any reason, Airline shall, within ten (10) business days after City's written demand, take such action as may be necessary to replenish the existing Performance Guarantee to its original value or to provide a replacement Performance Guarantee from another source so that the aggregate of the Performance Guarantee(s) is equal to two (2) months' estimated rents and landing fees payable by Airline as described above.

In the event that any such Performance Guarantee shall be for a period less than the full period required above or if the Performance Guarantee will be cancelled, Airline shall provide a renewal or replacement Performance Guarantee for the remaining required period so that there is no interruption in coverage.

Upon Airline's election to assume this Agreement under Federal Bankruptcy Rules and Regulations and the Federal Judgeship Act of 1984 or any successor statute, as such may be amended, supplemented, or replaced, City, by written notice to Airline given at any time within ninety (90) days of the date such event becomes known to City, may impose or re-impose the Performance Guarantee requirements on Airline. In such event, Airline shall provide City with the

required Performance Guarantee within ten (10) days from its receipt of such written notice and shall thereafter maintain such Bond in effect until the expiration or termination of this Agreement.

If Airline shall fail to obtain or keep in force such Performance Guarantee required hereunder, such failure shall be grounds for immediate termination of this Agreement. City's rights under this Article shall be in addition to all other rights and remedies provided to City under this Agreement.

Airline and City agree that this Agreement constitutes an 'unexpired lease' for the purposes of Section 365 of the United States Bankruptcy Code (Title 11 U.S.C.) subject to assumption or rejection, and subject to the terms and conditions of assumption or rejection, as provided in said Section 365. Furthermore, Airline and City agree that if Airline provides a Performance Guarantee in the form of a Contract Bond or irrevocable letter of credit, such Performance Guarantee provided by Airline is not 'property of the estate' for purposes of Section 541 of the United States Bankruptcy Code (Title 11 U.S.C.), it being understood that any Performance Guarantee is the property of the third (3rd) party providing it (subject to City's ability to draw against the Performance Guarantee) and that all PFCs, less the allowable collection fees, collected by Airline with respect to Enplaned Passengers at the Airport are the property of City.

ARTICLE 6. CALCULATION OF RENTS, FEES, AND OTHER CHARGES

6.1 ANNUAL CALCULATIONS

Each Fiscal Year, during the Term of the Agreement, the Director will calculate Terminal Building Rental Rates, the Apron Area Fee, the Loading Bridge Fee, the Baggage Handling System Use Fee, and the Landing Fee rate for the succeeding Fiscal Year as provided in the Rates and Fees Schedule. Any such calculation of rents, fees, and other charges will be effective on the first day of the applicable Fiscal Year. The Director will use the following process for the annual calculation of rents, fees, and other charges:

- a. By July 1 of each year, but no later than August 1, the Director will provide Airline with a complete copy of the proposed Airport Budget, capital improvement plan and exhibits showing proposed rents, fees, and charges, calculated in accordance with the Rates and Fees Schedule, for the succeeding Fiscal Year.
- b. By July 31 of each year, but no later than August 15, the Director will consult with the Signatory Airlines, including Airline, concerning the proposed Airport Budget and the proposed rents, fees, and charges.
- c. By September 1 of each year, but no later than October 1, the Director will make any revisions to the proposed rents, fees, and charges as the Director determines to be warranted as a result of consultation with the Signatory Airlines or otherwise, and will provide written notice to each airline then currently engaged in Air Transportation at the Airport of new rents, fees, and charges to be effective as of October 1 of that year.

6.2 ADJUSTMENTS

The adjustments are as described in the following paragraphs.

6.2.1 Midyear Adjustment

If it appears to City during the course of any Fiscal Year, that the budgeted expenses or projected levels of airline activity City used to calculate the rents, fees, and charges set forth in the Rates and Fees Schedule are likely to vary by more than ten percent (10%) from actual results, City may make adjustments to such rents, fees, and charges at midyear. City shall provide Airline with at least thirty (30) days' advance written notice of any adjustments to be made under this paragraph, which shall include accompanying budget variances and calculations to demonstrate

the need for adjustment and resulting change in rates, fees, and charges. Any such mid-year adjustment will be effective the first day of the month following the notification period.

6.2.2 Year-End Adjustment to Actual and Settlement

As soon as possible following the completion of the audit for each Fiscal Year, City shall furnish Airline with an accounting of the costs and expenses actually incurred, actual allocations for direct and indirect expenses, revenues and other credits actually realized (reconciled to the audited financial statements of the Airport System), and actual Enplaned Passengers and Landed Weight during such Fiscal Year with respect to each of the components of the calculation of the various rates, fees and charges identified in the Rates and Fees Schedule and shall recalculate the rates, fees, and charges required for the Fiscal Year based on those actual costs and revenues.

In the event that Airline's rentals, fees, and charges billed and paid during the prior Fiscal Year were more than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such excess amount shall be paid in a lump sum or issued as a credit to Airline within sixty (60) days of the calculation of such final settlement.

In the event that Airline's rentals, fees, and charges billed and paid during the prior Fiscal Year were less than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such deficiency shall be billed to Airline and payable by Airline within sixty (60) days of the date of invoice. However, in the event that the amount of the Airline deficiency is more than ten percent (10%) of total rentals, fees, and charges billed and paid by the Airline during the prior Fiscal Year (which deficiency must be at least \$50,000), Airline may pay the deficiency to City in equal monthly installments without interest over the remaining months of the current Fiscal Year.

6.2.3 Competitive Credit

The purpose of the Competitive Credit is to keep the cost per Enplaned Passenger competitive with that of other airports similarly situated for the development and retention of air service. The City's intent is to use the Competitive Credit to reduce, to the extent prudent, the cost per Enplaned Passenger and to prevent material year-to-year variations. The Competitive Credit will be calculated as shown in the Rates and Fees Schedule.

6.3 EXTRAORDINARY ADJUSTMENTS OF RENTS, FEES, AND CHARGES

Notwithstanding any other provisions hereof, if, at any time during the Term of this Agreement, Airport Revenue (and the reserves designated for such purposes) is not sufficient to pay when due Airport obligations, including, without limitation, emergency repairs or expenses that relate to the Airport or any aspect thereof, City may, with thirty (30) days' notice to and in consultation with Airline and other Signatory Airlines, recalculate the rents, fees, and charges in accordance with the Rates and Fees Schedule using revised Airport operating costs, expenses and projected Airport activity.

If such an extraordinary adjustment of rents, fees, and charges is necessary, the City will review operating costs and as a prudent airport operator make appropriate adjustments, if possible, to Airport operating expenses. Any adjustment to operating expenses would be reflected in the adjustment of rents, fees, and charges. Also, adjustments must be consistent with the requirements of the Bond Ordinance, FAA Sponsor's Assurances, requirements of the traveling public, and the needs of Airport users.

ARTICLE 7. MONTHLY ACTIVITY REPORTS

7.1 REQUIRED MONTHLY ACTIVITY REPORTS

Airline shall furnish to the Director, on or before the tenth (10th) day of each month, an accurate verified report detailing its operations for the previous month on forms prescribed by the Director. Said report shall include the information presented in Exhibit I and shall be submitted electronically at AirlineMonthlyReports@sanantonio.gov. The City reserves the right to periodically audit these reports to verify the accuracy of the information.

7.2 FAILURE TO FURNISH REPORT

If Airline fails to furnish City with the report described above, the City reserves the right to calculate Airline's Landing Fee by assuming that the total Landed Weight for Airline during the preceding month was one hundred twenty-five percent (125%) of the total Landed Weight for the most recent month for which such figure is available or other available data. Any necessary adjustment in such Landing Fee shall be calculated after an accurate report is delivered to the Director by Airline for the month in question, and resulting surpluses or deficits shall be applied to Airline's Landing Fee for the next succeeding month. An accounting fee of \$100 for each occurrence will be charged to Airline and shall be payable by Airline for the additional services required by City pursuant to this paragraph.

ARTICLE 8. AIRPORT IMPROVEMENTS

The parties hereto recognize that Capital Improvements to preserve, protect, enhance, expand, or otherwise improve the Airport, or any part thereof, will be required during the Term of this Agreement. Any such Capital Improvement shall be subject to the provisions of this Article 8.

8.1 CAPITAL IMPROVEMENT COORDINATION WITH AIRLINE

On or about July 1, or approximately ninety (90) days prior to the end of the then-current Fiscal Year, City shall notify Airline in writing of its proposed Capital Improvement program for the subsequent Fiscal Year, as contained in City's proposed Capital Improvement budget for the Fiscal Year. City further reserves the right to notify Airline in writing at any other time of proposed Capital Improvements.

The City agrees to provide Airline a written description of such Capital Improvements, such description to include the purpose, method of financing, and any reasonably anticipated effect on airline rents, fees, and charges hereunder and, to meet with Airline and other Signatory Airlines within thirty (30) days after notification to Airline of said Capital Improvement to further discuss the proposed Capital Improvement. Such meeting may occur concurrently with the airline consultation described in Article 6.

The City will give due consideration to the comments and recommendation of Airline with respect to the proposed Capital Improvements. Certain Capital Improvements are subject to deferral if Airline, together with other Signatory Airlines, requests a deferral of a proposed Capital Improvement.

Should the MII during the immediately preceding Fiscal Year request deferral of: (a) construction of the City's Gate Capacity Enhancement Project, as determined through the 2020 San Antonio International Airport Strategic Development Plan (Gate Enhancement Project), (b) a Terminal Building Cost Center Capital Improvement, or (c) an Airfield Cost Center Capital Improvement not excluded in Article 8.3, said project will be deferred for a period of twelve (12) months.

Any such request for deferral must be in writing and submitted to City by Airline within thirty (30) days following the meeting as described above in accordance with Section 17.5.

In the event of a Capital Improvement deferral, the Capital Improvement will be deferred for twelve (12) months following the deferral request. Following the twelve (12) months deferral period, the Capital Improvement may be constructed and the capital, operating, and maintenance costs and expenses will be included in the airlines' rents, fees, and charges upon the Capital Improvement's completion.

8.2 ADDITIONAL TERMINAL OR NEW CONCOURSE CONSTRUCTION

The planning of projects to construct new terminals or concourses will require close coordination between Airline, other airlines, and the City. The City will include Airline in the planning process. Airline will be provided opportunities to present planning input to the City planners to ensure that any new terminal or concourse project is properly scoped, necessary, operationally efficient, cost effective, and will meet the needs of the traveling public.

Notwithstanding the Gate Capacity Enhancement Project described above, should the City decide to construct new terminals or concourses, the costs of which are to be included in airlines' rents, fees, and charges during the Term hereof, the City shall submit a report to the Airline providing the following information on the proposed new terminals or concourses construction:

- a. A description of the proposed new terminals or concourses together with cost estimates and preliminary drawings (including alternatives considered by the City).
- b. A statement of the need for such expenditures.
- c. A statement of the benefits to be derived from such expenditure.
- d. The allocation of the cost thereof to the various Airport System Cost Centers.
- e. The City's preferred means of paying for or financing the cost.
- f. An analysis that shows the projected impact of the cost of the proposed new terminals or concourses on airline rents, fees, charges, and the cost per Enplaned Passenger at the Airport.

The report shall be submitted at least ninety (90) days before the expiration of the then-current Fiscal Year.

Within a reasonable time, but no sooner than thirty (30) days and no later than forty-five (45) days after distribution of the report, the Airline and other airlines serving the Airport, shall meet with the City to discuss salient factors and implications associated with the construction of the proposed new terminals or concourses. The City will provide Airline reasonable notice of the date, time, and place of the meeting.

A new terminal or new concourse construction project shall be deemed concurred with unless, within thirty (30) days after consultation, the MII during the immediately preceding Fiscal Year requests deferral. If deferral is requested by the MII during the immediately preceding Fiscal Year, the new terminal or concourse construction project will be deferred for a period of twelve (12) months. Any such request for deferral must be in writing and submitted to City by Airline within thirty (30) days following the meeting as described above in accordance with Section 17.5.

Ninety (90) days prior to the end of the initial twelve (12) month deferral period, if the City still desires to construct the new terminals or concourses the City shall repeat the Capital Improvement coordination process described above for the new terminals or concourses construction. If, concurrence on the previously deferred new terminals or concourses construction is again specifically withheld, in writing, by the MII during the immediately preceding Fiscal Year as above provided, the new terminals or concourses construction will be deferred an additional twelve (12) months.

After twenty-four months of deferral, the City may construct the new terminals or concourses. When such facilities are available for airline operations, the City may include all capital, operating and maintenance costs and expenses of such new terminals or concourses, in the rents, fees, and charges of Airline and other airlines using the facilities constructed. Nothing herein shall prohibit the City from:

- a. Developing preliminary plans, cost estimates, and preliminary financing plans for new terminals or concourses and including the cost of these items in the rents, fees, and charges paid by Airline and other airlines.
- b. Constructing projects or project elements involving the renovating, renewing, improving, and incrementally expanding the Terminal Building are not subject to the two-year deferral described in this Section 8.2.

- c. Constructing new terminals or concourses should the City have a request from a viable airline, not providing service to the Airport at the time and without available space in the facilities at the time, with a lease commitment for a concurrent term for a substantial portion of the new terminals or concourses. Such arrangement must be economically feasible without allocating costs to other airlines not occupying or using the facilities.

8.3 CAPITAL IMPROVEMENT NOT SUBJECT TO DEFERRAL

The following types of Capital Improvements are not subject to deferral by the airlines:

- a. Capital Improvements under way as of the Effective Date of this Agreement.
- b. Preliminary planning and design of the Gate Capacity Enhancement Project.
- c. Capital Improvement in Airport Cost Centers other than the Terminal Building, the Baggage Handling System, Loading Bridges, the Apron Area, and the Airfield Area, which do not impact airlines' rents and fees.
- d. Acquisition of land that is crucial for the Airport.
- e. Capital Improvements that are planning projects.
- f. Any Capital Improvements having a net cost to City of less than Two Million Dollars (\$2 million), provided that such Capital Improvement shall be for a functionally complete project. It is the intent of the parties hereto that a single project not be spread across multiple Fiscal Years solely to escape the provisions of this section. This provision shall not, however, act to preclude City from completing separate projects that are reasonably part of a multiyear program, and City will advise Airline of the general scope of the program encompassing such individual project elements. If a project originally not subject to deferral due to this Section 8.3 is reestimated to a cost in excess of said Two Million Dollars (\$2 million) prior to the construction solicitation process, the project will be subject to coordination with the airlines pursuant to Section 8.1 above.
- g. Projects required for public safety when directed by the governmental authority having jurisdiction over the Airport, Airline's operations, or the safety aspect of the Airport's operations.

- h. Casualty damage to the Airport that exceeds the proceeds of insurance, which property must be rebuilt in kind or replaced in kind to satisfy City's obligations or maintain a source of revenue.
- i. Special Facilities as defined herein. In all cases, the tenant or other users of such Special Facilities shall be required to pay directly or reimburse City for all costs associated with such Special Facilities.
- j. Capital Improvements or additions necessary to ensure compliance with lawful orders or requirements of other authorities and that are necessary for aircraft operations or are related to the issuance of federal or State grants to City.
- k. Capital Improvements or expenditures necessary to settle claims, satisfy judgments, or comply with orders against City by reason of its ownership, operation, maintenance, or use of the Airport.
- l. Capital Improvements or expenditures of an emergency nature, which, if not made, would result in the closing of the Airport.
- m. Any financially self-supporting projects, which will not impact airlines' rents and fees.
- n. Capital Improvements to the Airport necessitated by the unique requirements of Airline for which Airline has agreed to pay the costs thereof.
- o. Capital Improvements to be funded in whole or in part with the proceeds of the Passenger Facility Charge, which will be subject to the FAA required consultation and review process for application and use of such funds, as may be amended from time to time.

ARTICLE 9. BOND ORDINANCE SUBORDINATION AND APPLICATION OF REVENUES

9.1 SUBORDINATION TO BOND ORDINANCE

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 to secure Airport Bond financing. This Agreement is subject and subordinate to the terms, covenants, and conditions of the Bond Ordinance authorizing the issuance of Airport Bonds by the City of San Antonio. City may amend or modify the Bond Ordinance or make any change thereto that does not materially adversely affect Airline rights under this Agreement. Conflicts between this Agreement and the Bond Ordinance shall be resolved in favor of the Bond Ordinance.

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

ARTICLE 10. MAINTENANCE AND OPERATING RESPONSIBILITIES

10.1 DESIGNATION OF TERMINAL BUILDING MAINTENANCE RESPONSIBILITIES

The parties' responsibilities for maintenance, cleaning, and operation of the Leased Premises are set forth in the Maintenance Schedule presented in Exhibit E. Airline agrees to perform the obligations set forth in the Maintenance Schedule, which are assigned to Airline, and City agrees to perform the obligations set forth in the Maintenance Schedule, which are assigned to City.

10.2 AIRLINE-CONSTRUCTED IMPROVEMENTS

Airline shall cause all improvements and facilities, and additions thereto, constructed or installed by Airline, either alone or in conjunction with others, and all vehicles and equipment operated by Airline on the Airport to be kept and maintained in a safe condition and in good repair in accordance with uniform standards applicable to all similarly situated Airport tenants as established from time to time by the Director. Airline shall keep the Exclusive Use Space and Preferential Use Space and improvements thereon in a sanitary and neat condition.

10.3 MAINTENANCE RESPONSIBILITIES

Airline shall perform ordinary preventive maintenance and upkeep and nonstructural repair of all facilities located in its Exclusive Use Space and Preferential Use Space. Airline shall be responsible for interior window cleaning for its Exclusive Use Space and Preferential Use Space. Exhibit E shows a matrix of Airline and other airlines maintenance responsibilities and the City's responsibilities.

Nonstructural maintenance of Airline's Exclusive Use Space and Preferential Use Space, Loading Bridge(s), and Apron Area shall be at Airline's sole cost and expense. Nonstructural maintenance costs for Joint Use Space will be prorated among the airlines by SAAC using the Joint Use Charges formula.

Structural maintenance of the Leased Premises will be provided by City at the sole cost and expense of City so long as the need for structural maintenance was not caused by Airline or other airlines, in which case City shall be reimbursed for repair costs by the party or parties causing the need for structural maintenance.

10.4 PERFORMANCE BY CITY UPON FAILURE OF AIRLINE TO MAINTAIN

In the event Airline fails within thirty (30) days after receipt of written notice from City to perform any of its obligation required hereunder, City may enter the Leased Premises involved, without such entering causing or constituting a termination of this Agreement or an interference with the possession of said Leased Premises by Airline, and do all things reasonably necessary to perform such obligation. Director may charge Airline the City's cost of performing such maintenance or repair plus twenty-five percent (25%) for administration. Airline agrees to pay to City upon demand such charges in addition to any other amounts payable by Airline hereunder; provided, however, that if Airline's failure to perform any such obligation endangers the safety of the public, the employees or property of City, or other tenants of the Airport and Director so states in its written notice to Airline, City may perform such obligation of Airline at any time after the giving of such notice and charge to Airline the reasonable cost and expense of such performance which Airline shall pay as aforesaid.

10.5 ALTERATIONS AND IMPROVEMENTS

Airline shall make no alterations, additions, improvements, or installations on the space assigned or allocated to it by City without prior written approval from the Director and without obtaining all applicable permits.

ARTICLE 11. SAN ANTONIO AIRLINE CONSORTIUM

Certain airlines have come together and formed SAAC to perform certain maintenance, janitorial, and passenger services that are the responsibility of Airline and other airlines under the terms of this Agreement. Upon written request from the Director, Airline shall provide a copy of SAAC's articles of incorporation/formation and By-Laws and other documentation regarding SAAC to the Director. Airline understands that for SAAC to operate at Airport it must meet certain minimum operating standards and expectations as described in Exhibit H. If Airlines is a voting member or officer of SAAC, Airline will cast its vote (or use its position within SAAC) in support of SAAC's compliance with Exhibit H.

ARTICLE 12. DAMAGE OR DESTRUCTION OF LEASED PREMISES

12.1 LEASED PREMISES INHABITABLE

If any of the Leased Premises shall be partially damaged by fire or other casualty, but such Leased Premises remain inhabitable, same will be repaired with due diligence by City to the condition existing just prior to such casualty, but City's responsibility in this regard shall be limited to the extent of the proceeds of insurance received with respect to such premises and to the extent funds are appropriated for such repair by the City's governing body.

12.2 LEASED PREMISES UNINHABITABLE

If any of the Leased Premises shall be completely destroyed or partially damaged by fire or other casualty rendering all or a substantial portion of the Leased Premises uninhabitable and it is reasonably estimated by the Director that it will take more than one hundred eighty (180) days to repair, the Director will notify Airline in writing within ninety (90) days of such casualty whether the damaged or destroyed Leased Premises will be repaired. If any or all of the Leased Premises is to be repaired, it will be repaired with due diligence by City, and the rent allocable to the damaged or destroyed Leased Premises will be abated for the period from the occurrence of the damage to the substantial completion of the repairs. If the repair period is estimated to exceed 180 days, City will make good faith efforts to provide Airline with temporary substitute space, if available, during such period of repair, at a rental rate for comparable space based on the rents, fees, and charges principles set forth in this Agreement. If Airline's Leased Premises have been reduced due to City's election not to repair damaged premises, Airline shall be entitled to either (i) request, and City shall duly consider, further proportionate reductions in the Leased Premises so that Airline has use of an operative remainder or (ii) terminate this Agreement.

12.3 AUTOMATIC DELETION OF UNREPAIRED DAMAGED PREMISES

If City shall fail to notify Airline of its decision as set forth in the above paragraph (or gives written notice of its intent not to repair), City will be deemed to have elected to not repair the damaged premises, and the damaged premises shall be automatically deleted from the Leased Premises as of the date of the damage or destruction, with no further liability therefore by either City or Airline except those liabilities that accrued, including rent, prior to such damage or destruction. Airline shall reconstruct all its improvements in the damaged or destroyed Leased Premises necessary for the conduct of Airline's business operations in the manner existing just

prior to the casualty, consistent with the City's obligations set forth in the paragraphs above. Parties will negotiate in good faith if additional premises should be deleted.

12.4 CITY INSURANCE

The Terminal Building in which Airline's Exclusive Use and Preferential Use Space is located, exclusive of Airline's property, will be insured by City under a policy of fire and extended insurance coverage to the extent of not less than eighty percent (80%) of the insurable value of such property if such percentage of coverage is available. Insurance moneys and funds received on account of the damage to or destruction of such property will be applied by City to the repair, construction, or replacement of such damaged or destroyed property. Premiums paid by City for insurance provided in compliance herewith shall be included by City as part of Airport Maintenance and Operating Expenses

ARTICLE 13. INSURANCE

13.1 INSURANCE

By use and occupancy of Airport premises, Airline understands and agrees that it shall, at its sole expense and in a manner acceptable to City, purchase and maintain or caused to be maintained in force the following insurance coverage for itself and its officers, agents, employees, passengers, guests, patrons, contractors, subcontractors, licensees, subtenants, invitees, and suppliers. Airline shall maintain in full force and effect the forms of insurance specified in this Article 13. All such insurance hereunder shall be maintained with insurance underwriters with an AM Best rating of A- or better, or its international equivalent.

All liability insurance policies shall provide coverage that includes, or has the same substantive effect as, the following wording:

1. "The City of San Antonio its officers, employees, volunteers, and elected representatives are additional insured parties where required by written contract."
2. "Airline's insurance shall be primary insurance and non-contributory including a waiver of subrogation with respect to all other available sources."
3. "This insurance shall not be materially changed, altered, canceled, or non-renewed until after thirty (30) days advance written notice has been given to the City of San Antonio except that only ten (10) day notice shall be required in the event of cancellation due to non-payment of premium."

At least ten (10) calendar days prior to the Effective Date of this Agreement, Airline shall furnish City with evidence of all insurance policies required hereunder. Prior to the expiration of any then-current policy of insurance, Airline shall deliver to City evidence showing that such insurance coverage has been renewed. At least five (5) calendar days prior to the date of cancellation or reduction of coverage, as received in the written notice from the insurer, Airline shall deliver to the Director evidence showing reinstatement or other provision for the required insurance.

All such evidence shall be in the form of certificates of insurance satisfactory to the Director.

- a. Aviation liability insurance, covering bodily injury, personal injury, property damage, products/completed operations liability, premise liability, and contractual liability, with a liability limit of not less than Five Hundred Million Dollars (\$500,000,000.00) combined single limit per occurrence, on occurrence form policy. Said limit shall be reduced to Two Hundred Fifty Million Dollars (\$250,000,000.00) where Airline's maximum seating capacity on the largest aircraft operated at the Airport by Airline is thirty (30) or less. With respect to coverage for products/completed operations and personal injury, except with respect to passengers, a sublimit of not less than Twenty-Five Million Dollars (\$25,000,000.00) per occurrence, and in the annual aggregate, shall be permitted with the approval of the Director. Said aircraft liability shall be applicable to owned, non-owned, and hired aircraft.
- b. Automobile liability insurance with a liability limit of not less than Ten Million Dollars (\$10,000,000.00) for all owned, non-owned, and hired vehicles operated by or on behalf of Airline at the Airport, including any additional or replacement vehicles.
- c. Liquor liability insurance for Airline serving alcoholic beverages in an amount not less than Ten Million Dollars (\$10,000,000.00) per occurrence.
- e. Employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence.
- f. Environmental impairment liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence. In lieu of environmental impairment liability insurance, Airline may submit proof of self-insurance by submitting a letter to City attesting to the limit and extent of coverage.
- g. Airline shall likewise maintain workers' compensation insurance or evidence of self-insurance, in accordance with the laws of the State of Texas, covering all of its employees who may from time to time be at the Airport in such capacity. Airline shall require each of its agents, licensees, subcontractors, and suppliers of the Leased Premises to maintain such workers' compensation insurance covering their employees coming on Airport premises in connection with Airline's operations hereunder. The workers' compensation policy(s) required hereunder shall be endorsed to state that the workers' compensation carrier waives

its right of subrogation against City, its officers, agents, elected representatives, volunteers, and employees. Upon request by the Director, Airline shall furnish the Director with evidence of such workers' compensation insurance in a form acceptable to City.

- h. The minimum limits of the insurance herein required may become inadequate during the Term of this Agreement and that, in any way, directly or indirectly, contingently, or otherwise, affect or might reasonably affect the City. City hereby reserves the right to review all coverages and amounts and request adjustments as necessary in City's reasonable discretion.
- i. If, at any time, Airline fails to obtain or maintain in force the insurance required herein, such failure, if not cured within 48 hours, shall constitute a default permitting City, upon prior reasonable written notice to Airline, to terminate Airline's use of the space or Airline's operations or activities in regard to the Airport and that, in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect City. Notice shall be deemed prompt and timely if given within thirty (30) days following the date of receipt of a claim or ten (10) days following the date of service of process of a lawsuit. Accident or property damage claims in an amount less than One Thousand Dollars (\$1,000.00) shall be excluded from the requirements of this paragraph.
- j. If any claim for damages is filed with Airline or if any lawsuit is instituted against Airline, Airline shall give prompt and timely notice thereof to the Director, provided that claims and lawsuits subject to such notice are only those that arise out of or are in any way connected with Airline's or its officers', representatives', agents', employees', passengers', guests', patrons', contractors', subcontractors', licensees', subtenants', invitees', or suppliers' use of the Leased Premises or Airline's operations or activities in regard to the Airport and that, in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect City. Notice shall be deemed prompt and timely if given within thirty (30) calendar days following the date of receipt of a claim or ten (10) calendar days following the date of service of process of a lawsuit. Accident or property damage claims in an amount less than One Thousand Dollars (\$1,000.00) shall be excluded from the requirements of this paragraph.

- k. If any claim for damages is filed with City or if any lawsuit is instituted against City, City shall give prompt and timely notice thereof to Airline, provided that claims and lawsuits subject to such notice are only those that arise out of or are in any way connected with the operation of the Airport by City and that, in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect Airline. Notice shall be deemed prompt and timely if given within thirty (30) calendar days following the date of receipt of a claim or ten (10) calendar days following the date of service of process of a lawsuit. Accident or property damage claims in an amount less than One Thousand Dollars (\$1,000.00) shall be excluded from the requirements of this paragraph.
- l. The time limitations set forth above are directory. If the notice required to be given by these paragraphs is not given within the time limitations set forth herein, then the party giving the notice shall not be precluded from establishing that the notice actually given was timely under the circumstances of the particular claim or lawsuit, unless by the failure to give such notice within the applicable time period, the other party has been prejudiced in its ability to consider such claim or to respond to, or properly defend, such lawsuit. If the other party is so prejudiced by a late notice, then the late notice shall not be deemed to be prompt and timely.

13.2 INDEMNIFICATION

Airline covenants and agrees to fully indemnify, defend, and hold harmless, the City and the elected officials, employees, officers, directors, volunteers and representatives of the City, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to Airline's activities under this Agreement, including any acts or omissions of Airline, any agent, officer, director, representative, employee, Airline or subcontractor of Airline, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of City, or its elected officials, employees, officers, directors, volunteers, contractors, agents, or representatives, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT AIRLINE AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

The provisions of this Article 13. are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Airline shall promptly advise the City in writing of any claim or demand against the City or Airline known to Airline related to or arising out of Airline's activities under this Agreement and shall see to the investigation and defense of such claim or demand at Airline's cost. The City shall have the right, at its option and at its own expense, to participate in such defense without relieving Airline of any of its obligations under this paragraph.

ARTICLE 14. FEDERAL, STATE, AND LOCAL REGULATIONS

14.1 RULES AND REGULATIONS

City, in its governmental capacity, has adopted and will enforce “Rules and Regulations” which are the laws, rules, regulations, policies, and other written guidance documents respecting the occupancy and use of the Airport, its services, and facilities by persons, vehicles, aircraft, and equipment that in the City’s opinion will reasonably ensure the safe, efficient, and economically practicable operation of the Airport and provide for the safety and convenience of those using the Airport, as well as protect the Airport and its facilities and the public from damage or injury resulting from operations on, into, and from the Airport. The Rules and Regulations include the rules and regulations adopted in the City’s Code of Ordinances, Chapter 3, Airports.

The Director is authorized to enforce the Rules and Regulations and promulgate other rules and regulations, from time to time, in furtherance of said purposes and/or that the Director deems are necessary to implement the intent and express terms of this Agreement. All such Rules and Regulations, promulgated through the Director’s authority but without governmental action or mandate, shall be reasonable and not unjustly discriminatory and shall not be inconsistent with any legally authorized rule or regulation of the FAA, or any other federal or State agency that is binding in law on Airline or City, as the same now are or may from time to time be amended or supplemented nor inconsistent with the reasonable exercise by Airline of any right or privilege granted under this Agreement.

City shall provide Airline with reasonable notice prior to adoption of any new or amended Rules or Regulations in order to provide Airline with the opportunity to comment on same prior to adoption. Airline, upon written request to the Director, shall be furnished (at the notice address provided herein and to Airline’s on-Airport manager) a current copy of any such Airport rules or regulations and any amendments thereto.

Airline agrees to observe and obey all Rules and Regulations as are currently in place and as may be reasonably established from time to time, and to require its officers, agents, employees, contractors, and suppliers to observe and obey the same. It shall be a violation of this Agreement for Airline, or any of its officers, representatives, agents, employees, guests, contractors, subcontractors, licensees, subtenants, invitees, or suppliers to violate, or to cause another person to violate, any Rule or Regulation promulgated by the Director regarding operation of the Airport.

City reserves the right to deny access to the Airport or its facilities to any person, firm, or corporation that fails or refuses to obey and comply with the Rules and Regulations.

14.2 COMPLIANCE WITH LAW

Airline shall not use the Airport or any part thereof, or knowingly permit the same to be used by any of its employees, officers, agents, subtenants, contractors, invitees, or licensees for any illegal purposes and shall, at all times during the Term of this Agreement, comply with all applicable regulations, ordinances, and laws of the City, the State of Texas, and the federal government, and of any governmental bodies that have jurisdiction over the Airport.

14.3 COMPLIANCE WITH STATUTES, ORDINANCES, AND REGULATIONS

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

- a. Comply with and conform to all applicable present and future statutes and ordinances, 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. Airline shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101), as may be amended from time to time, and federal regulations promulgated there under that may be made applicable as a result of construction activities conducted by Airline.
- b. Make, at its own expense, all non-structural improvements, repairs, and alterations to its Exclusive Use Space, equipment, and personal property that are required to comply with or conform to any of such statutes, ordinances, or regulations. Airline shall secure the written approval of the Director before proceeding under this Section 14.3.

14.4 COMPLIANCE WITH ENVIRONMENTAL LAWS

14.4.1 Environmental Definitions

"AST Facility" means aboveground storage tanks, piping, dispensers, related underground and aboveground structures and equipment, including without limitation associated spill containment features and oil/water separators, and the surrounding area used in connection with the operation for fueling and other management of Hazardous Substances.

“Best Management Practices” or “BMPs” means the schedules of activities, prohibitions of practices, maintenance procedures, and other techniques to control, prevent or reduce the discharge of pollutants. BMPs shall include those environmental or operational standards or guidelines specifying common and accepted practices appropriate for Airline’s and its representatives use of the Leased Premises, and such standards or guidelines as have been articulated by pertinent trade associations, professional associations, or regulatory agencies.

"Environmental Audit" means a systematic voluntary evaluation, review, or assessment of compliance with environmental or health and safety laws, with any permit issued under an environmental law, and with the requirements of this Article 14.4, conducted under ASTM Standard E2107-00 (Standard Practice for Environmental Regulatory Compliance Audits) or other standard relevant and appropriate to Airline’s use of the Leased Premises.

"Environmental Costs" means damages, fines, costs and fees arising from any violation of or noncompliance in any material respect with: (a) any applicable Environmental Laws; or (b) any of the environmental provisions of this Agreement, and includes costs of immediate response, remediation, and restoration actions, natural resources damage, Self Help (defined in Section 14.4.6), oversight and participation costs of governmental agencies, including natural resource trustees; reasonable and documented fees and costs of project managers, attorneys, legal assistants, engineers, consultants, accountants, and experts, whether or not employees of the damaged party and whether or not taxable as costs, incurred prior to, at or after any administrative or judicial proceeding, including appeals and other forms of judicial review; and diminution in value, loss or restriction on use of the Leased Premises.

“Environmental Laws” means all applicable federal, State of Texas, regional and local laws, regulations, rules, permit terms, codes, ordinances and legally enforceable guidance documents, now or hereafter in effect, as the same may be amended from time to time, and applicable decisional law, which govern materials, substances, regulated wastes, emissions, pollutants, water, storm water, ground water, wellfield and wellhead protection, cultural resources protection, animals or plants, noise, or products and relate to the protection of health, safety or the environment and natural resources, including land, sediments, water, groundwater, and stormwater, and shall include, but not be limited to: the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Section 136 *et seq.*; the Safe Drinking Water Act, 42 U.S.C. Section 300(f) *et seq.*; the Oil Pollution Control Act of 1990, 33 U.S.C. Section 270 *et seq.*; the

Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C., Section 9601 *et seq.*; and as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. Law No. 99-499, 100 Stat. 1613; the Toxic Substances Control Act, 15 U.S.C., Section 2601 *et seq.*; the Clean Air Act as amended, 42 U.S.C. 7401 *et seq.*; the Clean Water Act, 33 U.S.C., Section 1251, *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C., Section 1801 *et seq.*; the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C., Section 651-678; the Resource Conservation and Recovery Act, 42 U.S.C., Section 6901 *et seq.*; and their State counterparts.

“Hazardous Materials” means any and all substances, materials, wastes, pollutants, oils, or governmental regulated substances or contaminants as defined, designated or regulated as hazardous, toxic, radioactive, dangerous, or any other similar term in or under Environmental Laws. Examples of Hazardous Materials include but are not limited to, asbestos and asbestos containing materials, petroleum products including crude oil or any fraction thereof, gasoline, aviation fuel, diesel fuel, lubricating oils and solvents, urea formaldehyde, flammable explosives, PCBs, radioactive materials or waste.

"Hazardous Substances" means any and all substances, pollutants, contaminants, materials or products defined or designated as hazardous, toxic, radioactive, dangerous or regulated wastes or materials or any other similar term in or under any applicable Environmental Laws. Hazardous Substance shall also include, but not be limited to, fuels, petroleum, and petroleum-derived products. Hazardous Substances includes Hazardous Materials.

"Hazardous Substance Release" shall include the spilling, discharge, deposit, injection, dumping, emitting, releasing, placing, leaking, migrating, leaching, and seeping of any Hazardous Substance into the air or into or on any land, sediment or waters, except any release in compliance with Environmental Laws or specifically authorized by a current and valid permit issued under Environmental Laws with which Airline is in compliance at the time of such release, but not including within the exception any such release in respect of which the State of Texas has determined that application of the State’s Hazardous Substance removal and remedial action rules might be necessary in order to protect public health, safety or welfare, or the environment.

14.4.2 Environmental Compliance

Airline shall not cause or allow a Hazardous Substance Release into or onto the Leased Premises or any other location upon or above the Airport, and shall not allow any such release by its employees, agents, permittees, contractors, subcontractors, sublessees, or others in Airline's control, supervision, or employment.

- a. **Hazardous Substance Use on Leased Premises.** Airline may store and use Hazardous Substances that are associated with Air Transportation on the Leased Premises. Airline shall strive to reasonably minimize Hazardous Substance use on the Leased Premises and identify and use non-hazardous alternatives in Airline's operations.
- b. **Safety Data Sheets for Hazardous Substances.** Airline shall maintain Safety Data Sheets ("SDSs") for all Hazardous Substances used on the Leased Premises by Airline or by its agents, employees, contractors, licensees, invitees, or sublessees, to the extent required by Environmental Laws. In order to ensure that the SDSs are available to the City in the event of a Hazardous Substances Release or other emergency, the SDSs shall be kept current at all times and a copy of the SDSs shall be kept in a place known to and easily accessible to the City.
- c. **Storm Water Management System and Wash Water Discharges.** Airline must at its sole cost manage storm water associated with the Leased Premises ("**Airline's Storm Water**") prior to its discharge into any storm sewer system. Airline shall not discharge storm water to any storm sewer system without complying with applicable laws and regulations, including any applicable Environmental Laws and with the City's or Airline's stormwater permit issued under the Texas Pollution Discharge Elimination System ("TPDES").
 - i. Airline acknowledges that City's TPDES municipal separate storm sewer system (MS4) permit and its TPDES industrial multi sector stormwater discharge general permit ("Industrial Stormwater Permit"), and any subsequent amendments, extensions, or renewals thereto, to the extent affecting Airline's operations at the Airport, are incorporated by reference into this Agreement. City shall provide Airline with written notice of City's MS4 and Industrial Stormwater Permit discharge permit requirements (including any modifications thereto) that are applicable to Airline's operations and that Airline shall be obligated to perform from time to time at the

Airport including, but not limited to: certification of non-stormwater discharges; implementation of "good housekeeping" measures or Best Management Practices; and maintenance of necessary records.

- ii. Airline must maintain its own Industrial Stormwater Permit, and may prepare its own Storm Water Pollution Prevention Plan ("SWPPP") or subscribe to the SWPPP of the City.
- iii. Within sixty (60) days of the commencement of this Agreement and then annually thereafter as provided in Section 14.4.7, Airline shall provide information to the City demonstrating compliance of Airline's Storm Water management with Environmental Laws.
- iv. Airline agrees to participate, to the extent reasonably practical, in any reasonable manner requested by City in any City organized task force or other work group established to coordinate stormwater activities at the Airport.
- d. **Discharge and Treatment of Industrial Wastewater.** No industrial wastewater discharge shall be made by Airline onto or into the ground, the groundwater, surface water, or any City owned conveyance or storage system unless such discharge meets the requirements of all applicable laws and regulations, including Environmental Laws. City shall have the right, but not the duty, in its sole discretion, to review and approve or disapprove any industrial wastewater management, treatment or discharge system constructed or modified on the Leased Premises during the term of the Agreement.
- e. **Wetlands Prevention.** Airline shall not create any wetlands under any federal, state, regional or local jurisdiction on the Leased Premises during the term of this Agreement or extension thereof, or on any adjacent City-owned or non-City owned property. Airline shall also manage the Leased Premises so that no wetlands are allowed to form on the Leased Premises and so that Airline's development and use of the Leased Premises does not cause the formation of wetlands on any adjacent City-owned or non-City owned property. If the City believes that wetlands are likely to form on the Leased Premises and Airline has not taken corrective action, the City shall have the right, but not the obligation, to exercise Self Help as provided in Section 14.4.6.

14.4.3 Liability for Environmental Compliance

- a. **Hazardous Substances Releases.** Airline shall be responsible for all response, remediation and restoration of any Hazardous Substance Release and associated Environmental Costs on or from the Leased Premises, on other properties, in the air or surface waters and ground water, that results from or occurs in connection with Airline's occupancy, possession, or use of the Leased Premises occurring during or continuing after the termination of the Agreement. If the City has reason to suspect that there has been a Hazardous Substance Release, there is an imminent threat of a Hazardous Substance Release, or that Hazardous Substances are being stored, handled, disposed of or otherwise managed onsite in violation of Environmental Law or the requirements of this Agreement, then at the City's request Airline shall, at its expense, demonstrate (through such tests, professional inspections, samplings, or other methods as may be reasonably required) that Airline has not caused or permitted any release of hazardous substances or contaminants in excess of quantities or volumes permitted by applicable law. Airline shall provide copies of reports from any such testing or assessments to City. Should Airline not provide the requested demonstration to City, City may conduct, or cause to be conducted, such tests, inspections, samplings and assessments, and Airline shall reimburse City for all costs of such actions, no later than thirty (30) days following demand for reimbursement.
- b. **Limitation of Airline's Liability.** As between the City and Airline, Airline shall have no responsibility for Hazardous Substance Releases or associated Environmental Costs that are not caused by the Airline or its employees, agents, permittees, contractors, subcontractors, sublessees, or others in Airline's control, supervision, or employment.
- c. **Immediate Response.** In the event of a Hazardous Substance Release, or a threat of or reasonable suspicion of a Hazardous Substance Release for which Airline is responsible under this Agreement, Airline shall immediately undertake and diligently pursue, at Airline's sole expense, all action necessary and appropriate to investigate, contain, stop, accomplish source control, remove and perform interim remediation regarding the Hazardous Substance Release.
- d. **Corrective Action and Remediation.** Airline shall promptly undertake, at Airline's sole expense, all actions necessary to ensure that any violation of Environmental Law, any violation of Section 14.4 of this Agreement, or any Hazardous Substance Release by Airline, its officers, directors, employees, agents, contractors, invitees, and licensees in any

way associated with the Leased Premises is completely remediated to such a condition that a "No Further Action" or "Completion of Cleanup" determination, or an equivalent determination, not conditioned upon facility or use restrictions is obtained from the government agency with jurisdiction over the Hazardous Substance Release. In the alternative, Airline may seek the City's prior written approval of remediation to risk-based levels conditioned upon governmental agency approval and maintenance of facility and use restrictions. The City may approve such an alternative approach on the condition that the Airline assumes responsibility for any liability under Environmental Law and any Environmental Costs of the City resulting from the residual risks associated with the alternative approach.

- e. **Natural Resources Damages Assessment and Restoration.** Airline shall promptly undertake, at Airline's sole expense, all actions necessary to ensure that any natural resources damage associated with Airline's use of the Leased Premises and the violation of Environmental Laws, the environmental provisions of this Agreement or any Hazardous Substance Release is investigated, determined, quantified, assessed, and permanently restored and compensated for, to the extent legally required by any natural resource trustee with jurisdiction over the matter.
- f. **Allocation of Costs.** Any Environmental Costs incurred by the City for Airline's failure to comply with Environmental Laws as required herein shall be reimbursed to the City by Airline. Unless prohibited by law, regulation or judicial/governmental/law enforcement verbal or written order, City shall promptly notify Airline of any TCEQ proceedings or investigations so that Airline has the opportunity to defend against such fines or penalties as appropriate.

14.4.4 Environmental Audits and Environmental Walkthroughs

- a. During the term of the Agreement, Airline or City may decide jointly or unilaterally to conduct Environmental Audits or Environmental Walkthroughs, as described below, to determine whether the Leased Premises have been or are currently being operated in compliance with the Agreement and Environmental Laws. The types and purposes of Environmental Audits and Environmental Walkthroughs are:
 - i. **Initial.** Prior to occupying the Leased Premises, Airline and City shall jointly determine and agree whether to conduct an Environmental Audit or Environmental Walkthrough to determine if the Leased Premises are currently in compliance with the

Agreement and Environmental Laws. If the parties cannot agree, then either the Airline or the City may unilaterally determine that an Initial Environmental Audit or Environmental Walkthrough is necessary, subject to the cost allocation in subparagraph b. below.

- ii. **Transition.** If Airline is required to occupy a Transition Space under Section 3.4, or the Leased Premises is reassigned under Section 3.5, Airline or City may conduct an Environmental Audit or Environmental Walkthrough to establish the environmental condition of the Leased Premises, the temporary Transition Space, and/or the new Leased Premises space.
- iii. **Special** If the City has reason to suspect that there has been a Hazardous Substance Release, there is an imminent threat of a Hazardous Substance Release, or that Hazardous Substances are being stored, handled, disposed of or otherwise managed onsite in violation of Environmental Law or the requirements of this Agreement, the City may, after written communication of those reasons to Airline, conduct an Environmental Audit or Environmental Walkthrough.
- iv. **Exit.** At the termination or upon a transfer of this Agreement, the City and Airline shall jointly determine and agree whether an Environmental Audit or Environmental Walkthrough is necessary to establish whether the Leased Premises have been operated in compliance with the Agreement and Environmental Laws. If the parties cannot agree, then either the Airline or the City may unilaterally decide that an Exit Environmental Audit or Environmental Walkthrough is necessary, subject to the cost allocation in subparagraph b. below. An Exit Audit shall be conducted not more than one hundred and twenty (120) days, but not less than sixty (60) days, prior to the actual termination or Transfer date of this Agreement.

b. Environmental Audits.

- i. When Airline and City decide to conduct a joint Environmental Audit pursuant to this Agreement, then the time and scope of the audit shall be determined together, a mutually acceptable environmental consultant shall be agreed upon to conduct the Environmental Audit, and the consultant shall timely provide a complete copy of the results of the Environmental Audit to Airline and City.
- ii. If an Environmental Audit is conducted unilaterally by City it shall: provide Airline with reasonable advance written notice of the commencement date; allow Airline to

have a representative present; provide Airline the opportunity to review the findings; and shall not unreasonably disrupt Airline's operations.

- iii. The City and Airline shall share equally in the cost of a joint Environmental Audit. However, if a Special Environmental Audit or an Exit Environmental Audit reveals the presence of a substantial violation of Environmental Laws, defined to mean any violation that would have resulted in mandatory enforcement under the enforcement policies of the TCEQ, or a not previously discovered Hazardous Substance Release caused by the Airline or its employees, agents, permittees, contractors, subcontractors, sublessees, or others in Airline's control, supervision, or employment, then Airline shall pay for the cost of the Environmental Audit.

c. Environmental Walkthrough.

- i. When Airline and City decide to conduct a joint Environmental Walkthrough pursuant to this Agreement, then it shall be conducted by one or more representatives of the Airline and City. The Environmental Walkthrough shall be for the purpose of determining by visual observation, which may include reviewing non-confidential and non-privileged environmental records, whether the Leased Premises are in compliance with the Agreement and Environmental Laws. At least one representative of Airline and one representative of City that participates in an Environmental Walkthrough shall be knowledgeable of Environmental Laws. Airline and City shall each prepare a separate list of observations believed to show where the Leased Premises is not in compliance with the Agreement or Environmental Laws. Within ten days after the completion of the Environmental Walkthrough, the Airline and City shall exchange copies of the lists.
- ii. If an Environmental Audit is conducted unilaterally by City it shall: provide Airline with reasonable advance written notice of the commencement date; allow Airline to have a representative present; provide Airline the opportunity to review the findings; and shall not unreasonably disrupt Airline's operations.
- iii. Airline and City shall each bear its own cost in conducting an Environmental Walkthrough.

14.4.5 Environmental Access

The City reserves the right from time to time, after reasonable notice to Airline (except in cases of emergencies when notice shall not be required), to inspect the Leased Premises and Airline's operations on and use of the Leased Premises to: (a) evaluate Airline's management of Hazardous Substances; (b) conduct subsurface or stormwater sampling; (c) evaluate compliance with Environmental Laws; (d) review compliance documentation to facilitate the City's compliance with Environmental Laws or implementation of its environmental management system; and (e) perform Environmental Audits or Environmental Walkthroughs. At City's request Airline shall make available for inspection and copying any or all of the non-privileged documents and materials prepared by or for Airline pursuant to any Environmental Law or regulation. The documents may be retained by City or submitted to any governmental regulatory agency; provided, such documents and materials relate to environmental regulatory compliance and pertain to the Airport or the Leased Premises.

14.4.6 Notices, Review & Approval, and Self-Help

Airline shall promptly notify the City upon becoming aware of: (a) a violation or alleged violation of any applicable Environmental Laws related to the Leased Premises or of this Section 14.4 of the Agreement; and (b) any Hazardous Substance Release on, under, from or adjacent to the Leased Premises or threat of or reasonable suspicion of such. In addition, Airline shall also notify the City by calling the Airport's twenty-four (24) hour/seven (7) days a week Airport Communication Center: (210) 207-3433. If Airline fails to notify the City of a matter as required in this Section 14.4.6, and if the City does not otherwise acquire knowledge of the matter, Airline shall be liable for any exacerbation of such Hazardous Substance Release that could reasonably have been avoided if such notification by Airline had been provided.

- a. **Regulatory Notice - Airline.** If any Environmental Law requires Airline to file any notice or report of a release or threatened release of Hazardous Substances on, under or about the Leased Premises or the Airport, Airline shall promptly submit such notice or report to the appropriate governmental agency and simultaneously provide a copy of such report or notice to City. In the event that any written allegation, claim, demand, action or notice is made against Airline regarding Airline's failure or alleged failure to comply with any environmental law or regulation, Airline, as soon as practicable, shall notify City in writing

and provide same with copies of any such written allegations, claims, demands, notices or actions so made.

- b. **Regulatory Notice - City.** City will promptly provide written notice to Airline of any notices received by City from TCEQ or other regulatory agency regarding Airline's environmental compliance obligations.
- c. **City's Rights of Approval, Notice, Review and Comment.** Except in the case of an emergency or a regulatory agency order requiring immediate action, Airline shall give the City advance notice before beginning any immediate response, remediation or restoration action required by this Agreement or applicable Environmental Laws. The City shall have the right to approve or disapprove the proposed work and the entities and individuals conducting such work. Airline shall copy the City, at no cost to the City, on all of the immediate response, remediation or restoration action deliverables submitted to the regulatory agencies and shall allow the City a reasonable period of time based upon the surrounding circumstances to submit comments thereon to Airline. Within thirty (30) days following completion of any immediate response, remediation or restoration action required by this Agreement, Airline shall provide the City, at no cost to the City, with a written report outlining, in detail, what has been accomplished.
- d. **Airline's Split Sampling Notice.** Airline shall notify the City at least forty-eight (48) hours in advance of any proposed sampling associated with a Hazardous Substance Release in order to allow the City to be present or to collect split samples. Airline shall provide the City with copies, at no cost to the City, of any sampling results and associated chain of custody and quality assurance and quality control information within ten (10) days of receipt by Airline.
- e. **City's Right to Advise and/or Direct the Immediate Cessation of Operations in an Emergency.** The City shall have the right to advise and/or direct Airline to cease all or part of its operations immediately upon delivery of written notice if the City determines that the Airline's operation: (i) is not being undertaken by Airline or Airline's Representatives in any material respect in accordance with applicable permits, approvals, laws or regulations; (ii) constitutes an emergency, meaning an imminent endangerment to human health, safety, or welfare or the environment; or (iii) resulted in a Hazardous Substance Release.

- f. **City's Right of Self Help.** City shall have the right, upon giving Airline seven (7) days written notice, stating the obligations in issue, to perform Airline's obligations arising under any Environmental Laws and charge Airline the resulting Environmental Cost, plus any additionally incurred charges from the date any funds were expended by the City ("**Self Help**"). Airline agrees to reimburse the City, upon demand, any amounts the City may spend pursuant to this section on behalf of Airline. The City may not commence performance on behalf of Airline under this section if, within such notice period, Airline promptly notifies the City, begins, and continually thereafter diligently pursues to completion the performance of the obligations stated in the City's notice. Written notice by the City is not required in the event of an emergency or a governmental agency order requiring immediate action and significant notice cannot be given.
- g. **City's Right of Final Approval.** The Director shall have authority to disapprove an activity of the Airline and/or any sublessee, on the basis of a risk assessment. The parties understand that Airport premises are not intended for use involving refining, processing, manufacturing, maintenance, overhaul, or similar heavy industrial activities entailing use, storage, manufacture, or transport of critical volumes of regulated or hazardous materials or toxic chemicals. For purposes of this Agreement, "critical volumes" are those which, in the discretion and sole judgment of the Director, pose or may pose an unreasonable risk to Airport property, its occupants, employees or the traveling public.

14.4.7 Additional Environmental Provisions

Airline shall be fully and primarily responsible to the City for any violation of any Environmental Laws or non-performance of the duties stated in this Agreement by Airline or its representatives and Airline shall be fully responsible for the same as if Airline had committed the violation or breach itself.

- a. **Annual Certification.** If requested in writing by the City, Airline shall provide on or before each anniversary of the Effective Date of this Agreement, a written statement, certified by Airline as true and complete to the best of its actual knowledge, that during the preceding year with respect to the Leased Premises and Airline's occupation and use of the Leased Premises, Airline has complied with applicable Environmental Laws. If Airline is unable to provide such certification at the time requested by the City, then Airline shall

provide the City with a written statement of the steps Airline is taking to enable it to provide the City with a certification of compliance.

- b. **Sustainability.** City and Airline shall become familiar with and comply with all applicable local, state, and federal environmental laws, ordinances and policies regarding recycling, green building, water conservation, energy conservation, renewable energy, and air quality. Airline shall use reasonable efforts to comply with City's policies and programs to the extent such policies and programs are not inconsistent with the terms and conditions of this Agreement. Airline shall have the opportunity to participate in the development of such policies and programs and City shall fully consider for incorporation Airline's comments.
- c. **Noise.** Airline shall comply with any formal noise abatement program or policy established by the Airport in conformance with federal statutes, laws, rules, and regulations and use reasonable efforts to comply with informal noise abatement programs established by the Airport. The Airline shall notify the City promptly and may challenge such programs if the Airline believes such formal or informal noise abatement programs may interfere with safe aircraft operation or if Airline believes such programs are not in conformance with federal statutes, laws, rules and regulations.
- d. **Air Quality Improvements.** Airline acknowledges that in order to protect existing Airport operations, to improve air quality in the region, to meet requirements associated with the expansion of the Airport, and to otherwise comply with federal and state air quality laws, the City and its tenants will be required to implement certain changes to operating practices to address any newly regulated air pollutant, emission or contaminant in accordance with applicable Environmental Laws, including without limitation those related to climate change and indoor air quality. In addition, the City may adopt new Best Management Practices that it will request Airline to voluntarily comply with, such as Airline's conversion of ground service equipment and support vehicles to alternative fuels and use of preconditioned air and 400 Hz gate power instead of auxiliary power units ("APUs"). The City agrees to consult with Airline during the development of such Best Management Practices to ensure that such efforts are reasonably achievable and cost effective. Airline agrees to utilize the pre-conditioned air and 400 Hz gate power provided on the jet bridge. Airline will cooperate with the City to identify cost-effective ways to minimize contributions to climate change.

- e. **Cumulative Remedies.** All such remedies of City with regard to environmental requirements as set forth herein shall be deemed cumulative in nature and shall survive termination of this Agreement.

14.5 NONDISCRIMINATION

The Charter of the City of San Antonio and the City of San Antonio Code of Ethics prohibit a City officer or employee, as those terms are defined in Section 2-52 of the Code of Ethics, from having a direct or indirect financial interest in any contract with the City. An officer or employee has a “prohibited financial interest” in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- a. a City officer or employee; his or her spouse, sibling, parent, child, or other family member within the first degree of consanguinity or affinity;
- b. an entity in which the officer or employee, or his or her parent, child or spouse directly or indirectly owns (i) 10 percent or more of the voting stock or shares of the entity, or (ii) 10 percent or more of the fair market value of the entity; or
- c. an entity in which any individual or entity listed above is (i) a subcontractor on a City contract, (ii) a partner or (iii) a parent or subsidiary entity.

Pursuant to the subsection above, Airline warrants and certifies, and this Agreement is made in reliance thereon, that by contracting with the City, Airline does not cause a City employee or officer to have a prohibited financial interest in the Contract. Airline further warrants and certifies that it has tendered to the City a Contracts Disclosure Statement in compliance with the City’s Ethics Code.

Airline further represents and warrants to City that as a condition of the use of Airport services and facilities, Airline shall comply with all applicable provisions of the Federal Nondiscrimination requirements set forth in Exhibit J.

14.6 FAIR AND EQUAL FURNISHING OF SERVICES

As a condition of the use of Airport services and facilities, Airline shall furnish its services on a reasonable, and not unjustly discriminatory basis to all users thereof, and it shall charge reasonable, and not unjustly discriminatory prices for each unit or service provided that Airline is

allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers. In the event of noncompliance with this paragraph, City may terminate Airline's right to use Airport services and facilities.

14.7 AFFIRMATIVE ACTION PROGRAM

As a condition of the use of Airport services and facilities, Airline shall undertake an affirmative action program as required by FAA regulations, Title 14, Code of Federal Regulations, Part 152, Subpart E, entitled "Nondiscrimination in Airport Aid Program," or as otherwise approved by the FAA, to ensure that no person shall on the grounds of race, creed, color, national origin, sex, or handicap be excluded from participation in any employment activities covered in such Subpart E. Airline shall not exclude any person on such grounds from participating in or receiving the services or benefits of any program or activity covered by such Subpart E. Airline shall require that its covered suborganizations provide assurances to Airline that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by Title 14, Code of Federal Regulations, Part 152, Subpart E, to the same effect.

14.8 DISADVANTAGED BUSINESS ENTERPRISES

As a condition of its use of Airport services and facilities, Airline shall comply with the requirements of Title 49 of the Code of Federal Regulations, Part 26, and entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs" as this Part may be amended from time to time.

14.9 RIGHTS OF FEDERAL GOVERNMENT

Any use of Airport services and facilities by Airline shall be subject to whatever right the U.S. government now has or in the future may have or acquire affecting the control, operation, regulation, and taking over of the Airport or the exclusive or nonexclusive use of the Airport by the United States during the time of war or national emergency.

14.10 GOVERNMENTAL RESTRICTIONS

- a. Avigation Rights. City reserves unto itself, its successors, and assigns for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Airport, including the Leased Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft now known or

hereafter used, for navigation of, or flight in the said airspace for landing on and taking off from the Airport.

- b. **Height Limitation.** Airline expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the Leased Premises to such a height so as to comply with Federal Aviation Regulations, Part 77, as such may be amended or superseded from time to time.
- c. **Governmental Review.** Airline acknowledges that this Agreement is subject to review or inspection by the United States government and the State of Texas and their respective agencies and departments, including, but not limited to, the FAA, to determine satisfactory compliance with state and federal law and/or PFC and grant assurance requirements. Airline agrees that this Agreement shall be in full force and effect and binding upon both parties pending such review or inspection; provided, however, that upon such review or inspection the parties agree to modify any of the terms of this Agreement that are determined by the United States government or the State of Texas or any of their respective agencies or departments to be in violation of or inconsistent with any state or federal law and/or PFC or grant assurance requirement.
- d. **Federal Right to Reclaim.** In the event a United States governmental agency shall demand and take over the entire facilities of the Airport or the portion thereof wherein the Leased Premises are located, for public purposes, then this Agreement shall thereupon terminate and City and Airline shall be released and fully discharged from any and all liability hereunder. This Article shall not act or be construed as a waiver of any rights Airline may have against the United States as a result of such taking.

14.11 SUBORDINATION OF AGREEMENT

The use of Airport services and facilities by Airline, pursuant to this Agreement, is subordinated to City's existing and future obligations or agreements with or to the federal government including, but not limited to, federal grant assurances.

Nothing contained in this Agreement is intended, nor shall be construed, as a waiver by either party of any right to assert any claim or defense, or raise any issue in any context or forum including, but not limited to, a court or administrative forum, regarding the preemption by federal

law, including but not limited to the Airline Deregulation Act (49 U.S.C. § 41713), of any state or local law or ordinance, or the [Airport] Rules and Regulations.

ARTICLE 15. TERMINATION

15.1 TERMINATION BY CITY

City, in addition to any other right of cancellation herein given to it or any other rights to which it may be entitled by law or equity or otherwise, may cancel this Agreement by giving Airline sixty (60) days' advance written notice, to be served as hereinafter provided, upon or after the happening of any one or more of the following events without cure, except default in timely payment of any money due City, including Passenger Facility Charges, if applicable, for which fifteen (15) days' written notice shall be given and except default in providing copies of insurance policies or maintaining required insurance coverages as described in this Agreement, for which ten (10) days' written notice shall be given:

- a. The filing by Airline of a voluntary petition in bankruptcy or any assignment for benefit of creditors of all or any part of Airline's assets; or
- b. Any institution of proceedings in bankruptcy against Airline and the adjudication of Airline as a bankrupt pursuant to such proceedings; or
- c. The taking of jurisdiction by a court of competent jurisdiction of Airline or its assets pursuant to proceedings brought under the provisions of any federal reorganization act; or
- d. The appointment of a receiver or trustee of Airline's assets by a court of competent jurisdiction or by a voluntary agreement with Airline's creditors; or
- e. The abandonment by Airline of its conduct of its Air Transportation business at the Airport and in this connection, suspension of operations for a period of ninety (90) days will be considered abandonment in the absence of an explanation satisfactory to and accepted in writing by the Director; or
- f. If Airline shall be prevented for a period of ninety (90) days, after exhausting or abandoning all appeals, by any action of any governmental authority, board, agency, or officer having jurisdiction thereof from conducting its Air Transportation business at the Airport, or it is so prevented from conducting its Air Transportation business, either by (i) reason of the United States or any agency thereof, acting directly or indirectly, taking possession of, in whole or substantial part, the Leased Premises or premises required for the actual operation

of Airline's aircraft to and from the Airport; or (ii) if all or a substantial part of the Leased Premises shall be acquired through the process of eminent domain.

- g. The default by Airline in the performance of any covenant, obligation, or condition herein required to be performed by Airline and the failure of Airline to remedy such default for a period of thirty (30) days after receipt from City of written notice to remedy same, except default in timely payment of any money due City under this Agreement, for which a total of fifteen (15) days' written notice will be given; and except default in providing copies of insurance policies or maintaining required insurance coverages described herein, for which ten (10) days' written notice shall be given; provided, however, that no notice of cancellation as above provided shall be of any force or effect if Airline shall have remedied the default prior to receipt of City's notice of cancellation or if, within the applicable period, Airline commences the process of remedying the default and diligently prosecutes the same to completion. Failure by City to take any authorized action upon default by Airline of any of the terms, covenants, or conditions required to be performed, kept, and observed by Airline shall not be construed to be or act as a waiver of said default or of any subsequent default of any of the terms, covenants, and conditions herein contained to be performed, kept, and observed by Airline. The acceptance of rents by City from Airline for any period or periods after a default by Airline of any of the terms, covenants, and conditions herein required to be performed, kept, and observed by Airline shall not be deemed a waiver or estoppel of any right on the part of City to cancel this Agreement for failure by Airline to so perform, keep, or observe any of said terms, covenants, or conditions.

15.2 TERMINATION BY AIRLINE

In addition to any other right of cancellation herein given to Airline or any other rights to which Airline may be entitled by law, equity, or otherwise, so long as Airline is not in default in payment to City of any amounts due City under this Agreement or otherwise, Airline may cancel this Agreement and thereby terminate all of its rights and unaccrued obligations hereunder by giving City sixty (60) days' advance written notice, to be served as hereinafter provided, upon or after the happening of any of the following events:

- a. Termination, suspension, revocation, or cancellation, by any federal agency (including foreign government agency) with competent jurisdiction of Airline's right or authority to operate as a scheduled air carrier serving the Airport;
- b. Issuance by a court of competent jurisdiction of an injunction that in any way substantially prevents or restrains the use of the Airport or any part thereof necessary for Airline's scheduled flight operations and which injunction remains in force for a period of at least thirty (30) days after City has exhausted or abandoned all appeals, if such injunction is not necessitated by or issued as the result of an act or omission of Airline;
- c. If, at any time during the Term of this Agreement, because of City's failure to provide within a reasonable time safe aircraft operating facilities, the Federal Aviation Administration or its successor fails or refuses to certify the Airport as adequate to accommodate aircraft that Airline is licensed to operate and is operating into and from all other airports of like size and character and with similar facilities and which aircraft are in general use on Airline's scheduled transportation route system; and which Airline may reasonably desire to operate into or from the Airport; provided such refusal or failure is not due to any fault of Airline;
- d. The inability of Airline for a continuing period in excess of ninety (90) days to use the Airport or to exercise any rights or privileges granted to Airline hereunder and necessary to its scheduled flight operations because of any law or ordinance by any governmental authority having jurisdiction over the operations of the Airport or Airline, or because of any order, rule, regulation, or other action or any nonaction of the Federal Aviation Administration, its successor, or any other authorized governmental agency prohibiting such use, or because of earthquake or other casualty (excepting fire), acts of God or the public enemy, and beyond the control of Airline.
- e. The default by City in the performance of any covenant or condition within the control of City and herein required to be performed by City and failure of City to use its best efforts to remedy such default for a period of thirty (30) days after receipt from Airline of written notice to remedy the same; provided, however, that no notice of cancellation as above provided shall be of any force or effect if City shall have remedied the default prior to receipt of Airline's notice of cancellation or within the aforesaid thirty (30) day period or

during said period commences the process of remedying the same and diligently prosecutes the same to completion.

- f. The assumption by the United States government or any authorized agency thereof of the operation, control, or use of the Airport and facilities, or any substantial part thereof, in such a manner as to substantially restrict Airline, for a continuous period of at least ninety (90) days, from operating its Air Transportation business.
- g. Termination, suspension, or discontinuation of Airline's services at the Airport by a governmental agency authorized to do so because of a war or national emergency declared by the government. Airline's performance of all or any part of this Agreement for or during any period or periods after a default of the terms, covenants, and conditions herein contained to be performed, kept, and observed by City shall not be deemed a waiver of any right on the part of Airline to cancel this Agreement for failure by City to perform, keep, or otherwise observe any of the terms, covenants, or conditions hereof to be performed, kept, and observed by City, or be construed to be or act as a waiver by Airline of said default or of any subsequent default of any of said terms, covenants, and conditions herein contained and to be performed, kept, and observed by City.
- h. In any event where the use of the Airport by Airline is materially affected as provided herein and whether or not Airline is entitled to cancel this Agreement as herein provided, while such event is continuing, an equitable adjustment to the rents herein required to be paid by Airline shall be made by City.

ARTICLE 16. ASSIGNMENT AND SUBLETTING

Airline shall not at any time assign this Agreement in whole or in part without the prior written consent of the Director; provided, however, that the foregoing shall not prevent the assignment of this Agreement to any corporation with which Airline may merge or consolidate or which may succeed to the business of Airline and provided further that, in connection with any such requested assignment, Airline may request City to release the assigned portion of said Leased Premises from this Agreement and to relieve Airline of rental obligation therefore. In the event City fails or refuses to approve such request and relief, Airline may then assign all or a portion of the Leased Premises to another Air Transportation company or companies that have executed an Agreement with City.

Airline may sublet all or any part of the Leased Premises only after obtaining the prior written consent of the Director, but if an event of default shall occur and be continuing under this Agreement, City may collect rent from such sublessee or occupant and apply the amount collected to the extent possible to satisfy the obligations of Airline hereunder, but no such collection shall be deemed a waiver by City of the covenants contained herein or the acceptance by City of such sublessee or occupant as a successor to Airline or a release of Airline by City from its obligations hereunder.

All of the terms, provisions, covenants, stipulations, conditions, and consideration in this Agreement shall extend to and bind the legal representatives, successors, sublessees, and assigns of the respective parties hereto.

ARTICLE 17. MISCELLANEOUS

17.1 ACKNOWLEDGMENT

The parties hereto acknowledge that they have thoroughly read this Agreement, including any exhibits or attachments hereto, and have sought and received whatever competent advice and counsel was necessary for them to form a full and complete understanding of all rights and obligations hereunder. The parties further acknowledge that this Agreement is the result of extensive negotiations between the parties and shall not be construed against City by reason of the preparation of this Agreement by City.

17.2 AUTHORITY OF DIRECTOR

The Director or his designee may exercise all rights and obligations of City under this Agreement, unless specifically provided otherwise or required by law.

17.3 CAPACITY TO EXECUTE

Each of the parties hereto warrants and represents that the execution and delivery of this Agreement by the undersigned representatives has been duly authorized by all necessary corporate or municipal action, as applicable.

17.4 COVENANT AGAINST LIENS

Airline shall not cause nor permit any lien against the Leased Premises or any improvements thereto to arise out of or accrue from any action or use thereof by Airline; provided, however, that Airline may, in good faith, contest the validity of any alleged lien.

17.5 DELIVERY OF NOTICES

Any notice required in this Agreement shall be in writing and served personally or sent by registered or certified mail, postage prepaid, or by courier service such as DHL, FedEx, or UPS. Any notice mailed pursuant to this paragraph shall be presumed to have been received by the addressee five (5) business days after deposit of it in the mail, unless sent by courier service.

Notices to City shall be addressed to:

CITY OF SAN ANTONIO
Director of Aviation
San Antonio International Airport
9800 Airport Blvd.
San Antonio, Texas 78216-9990

Notices to Airline shall be addressed to:

Attn: Manager, Airport Affairs
Southwest Airlines Co.
2702 Love Field Dr.
HDQ-4PF
Dallas, TX 75235
Telephone: (214) 792-2513

17.6 EMPLOYEES OF AIRLINE

Airline shall require all of its employees and subcontractors or independent contractors hired by Airline working in view of the public and about the Terminal Building to wear clean and neat attire (as appropriate to the job duties performed) and to display appropriate identification. Airline employees shall obtain identification badges from the City. Airline shall be responsible for paying the cost of Transportation Security Administration required employee background checks and badging.

17.7 ENTIRE AGREEMENT

This Agreement, including all Exhibits and Attachments hereto, constitutes the entire Agreement of the parties on the subject matter hereof and may not be changed, modified, discharged, or extended except by written instrument duly executed by City and Airline. This Agreement supersedes all prior agreements and understandings, written and oral, expressed, or implied, between the City and Airline related hereto. Airline agrees that no representations or grant of rights or privileges shall be binding upon City unless expressed in writing in this Agreement.

17.8 NONEXCLUSIVE RIGHTS

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 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.

17.9 FAVORED NATIONS

Airline shall have the same rights and privileges and pay the same City-established fees and charges, not to exceed those established under the provisions of this Agreement as periodically revised under the terms hereof, with respect to the use of the Airport as are granted to or charged any other airline executing a similar use and lease agreement with City for use of the Airport. It is understood that rents and fees are set as established in this Agreement and to the extent permitted under applicable federal law therefore may vary among lessees on account of the different premises to be leased.

17.10 FORCE MAJEURE

Neither City nor Airline shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortages of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, tides, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not in its control; provided, however, that these provisions shall not excuse Airline from paying rents, fees, and charges.

17.11 GENERAL INTERPRETATION

Insofar as this Agreement grants, permits, or contemplates the use of space or facilities or the doing of any other act or thing at the Airport by Airline, such use or the doing of such act or thing by Airline is to be in connection with the operation of its Air Transportation on scheduled or nonscheduled flights, whether as a common carrier, a contract carrier, a private carrier, or otherwise. Each of the parties, however, has entered into this Agreement solely for its own benefit; and (without limiting the right of either party to maintain suits, actions, or other proceedings because of breaches of this Agreement) the Agreement does not grant to any third person

(excepting a successor party to City or Airline) a right to claim damages or bring any suit, action, or other proceeding against either City or Airline because of any breach hereof.

17.12 GOVERNING LAW

The laws of the State of Texas shall govern this Agreement and all disputes arising hereunder, with venue in Bexar County, Texas.

17.13 HEADINGS

The headings of the Articles and paragraphs of this Agreement are inserted only as a matter of convenience and for reference and do not define or limit the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions of this Agreement or of its interpretation.

17.14 INCORPORATION OF EXHIBITS

All exhibits referred to in this Agreement are intended to be and hereby are specifically incorporated and made a part of this Agreement and may not be altered or deleted except by formal written amendment, executed by both parties.

17.15 INCORPORATION OF REQUIRED PROVISIONS

The parties incorporate herein by this reference all applicable provisions lawfully required to be contained herein by any governmental body or agency.

17.16 INDEPENDENT CONTRACTOR

As respects City, Airline shall be and remain an independent contractor for all intents and purposes.

17.17 INVALID PROVISIONS

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

17.18 NONLIABILITY OF INDIVIDUALS

No director, officer, agent, elected official, or employee of either party shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution or attempted execution.

17.19 NONINTERFERENCE WITH AIRPORT OPERATIONS

Airline, by accepting this Agreement, expressly agrees for itself, its successors, and assigns that it will not make use of its Leased Premises in any manner that might interfere with the landing and taking off of aircraft at the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, on reasonable notice to Airline and opportunity to cure, City reserves the right to enter the Leased Premises and cause the abatement of such interference at the expense of Airline.

17.20 NOTICE OR CONSENT

Any notice or consent required herein to be obtained from or given by City (or the Director) may be given by the Director unless otherwise provided. Consent of City or Airline when required herein shall not be unreasonably withheld, delayed, or conditioned.

17.21 NON-WAIVER

The acceptance of rents and fees by City for any period or periods after a default of any of the terms, covenants, and conditions herein contained to be performed, kept, and observed by Airline shall not be deemed a waiver of any right on the part of City to terminate this Agreement.

17.22 OPERATION OF AIRPORT

City agrees to maintain and operate the Airport in accordance with all applicable standards, rules, and regulations of the Federal Aviation Administration or its successor. City shall exercise its rights hereunder and otherwise operate the Airport with due regard for the operational requirements and long-term interests of the Airline and the interests of the traveling public, in a manner that is consistent with applicable laws, federal aviation regulations, federal grant assurances, and City Bond Ordinances.

17.23 OTHER LAND AND BUILDINGS EXCLUDED

It is agreed and understood that it is not intended by this Agreement or any exhibit hereto to lease any building, space, or area or to set any rental rates for any building, space, or area other than what is specifically described herein.

17.24 PAYMENT OF TAXES

Airline shall pay all taxes that may be levied upon, assessed, or charged Airline or its property located on the Airport by the State of Texas or any of its political subdivisions or municipal corporations, and shall obtain and pay for all licenses and permits required by law. However, Airline shall have the right to contest, in good faith, the validity or application of any such tax, license, or permit and shall not be considered in default hereunder so long as such contest is in progress. Further, Airline agrees to diligently prosecute such contest.

17.25 REMEDIES TO BE NONEXCLUSIVE

All remedies provided in this Agreement shall be deemed cumulative and additional and not in lieu of or exclusive of each other or of any other remedy available to City or Airline at law or in equity (to the extent not inconsistent with the express provisions hereof), and the exercise of any remedy or the existence herein of other remedies or indemnities shall not prevent the exercise of any other remedy.

17.26 RIGHT TO AUDIT BOOKS AND RECORDS

Airline agrees to keep books and records on its operations at the Airport, and the Director or any other authorized City representative, upon reasonable advance written notice to Airline, shall have the right to inspect and audit such books and records to ensure compliance with the prevailing municipal bond disclosure requirements and to determine that City has received from Airline all moneys due City under the terms hereof, including, but not limited to, rents, fees, and charges and PFCs (if applicable) payable to City by Airline. Likewise, Airline shall have the right to inspect the books and records of the City relating to the provisions hereof.

17.27 RIGHT TO LEASE TO UNITED STATES GOVERNMENT

During time of war or national emergency, City shall have the right to lease the Airport landing area or any part thereof to the United States government for use by the Armed Forces and, if any such lease is executed, the provisions of this Agreement insofar as they are inconsistent with

the provisions of the lease to the Government shall be suspended; however, such suspension shall not extend the Term of this Agreement. If, as a result of any such lease, the rights or duties of Airline hereunder are materially affected, then Airline shall receive an equitable rental adjustment.

17.28 RIGHTS RESERVED TO CITY

Nothing contained herein shall unlawfully impair the right of City to exercise its governmental or legislative functions. This Agreement is made subject to the Constitution and laws of the State of Texas and to the Charter of the City of San Antonio, Texas, and to the provisions of the Airport Improvement Program Grant Agreements applicable to the Airport and its operation, and the provisions of such agreements, insofar as they are applicable to the terms and provisions of this Agreement, shall be considered a part hereof to the same extent as though copied herein at length to the extent, but only to the extent, that the provisions of any such agreements are required generally by the United States at other civil airports receiving federal funds. To the best of City's knowledge, nothing contained in such laws or agreements conflicts with the express provisions of this Agreement.

17.29 SUCCESSORS AND ASSIGNS

The provisions of this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided, however, this provision shall in no way whatsoever alter the restriction herein regarding assignment and subletting by Airline.

17.30 TIME IS OF THE ESSENCE

Time is of the essence in this Agreement.

17.31 AMENDMENT

This Agreement, together with the authorizing ordinance, constitutes the entire agreement between the parties. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties hereto. The Aviation Director is authorized to execute amendments which do not substantially alter the material terms of this Agreement. All other amendments must be authorized in writing by City Council by passage of an ordinance thereto.

EXECUTED this _____ day of _____, A.D. 2020.

ATTEST:


City Clerk

CITY OF SAN ANTONIO:

By: _____

City Manager

ATTEST:

 _____

Secretary

SOUTHWEST AIRLINES CO.

By:  _____

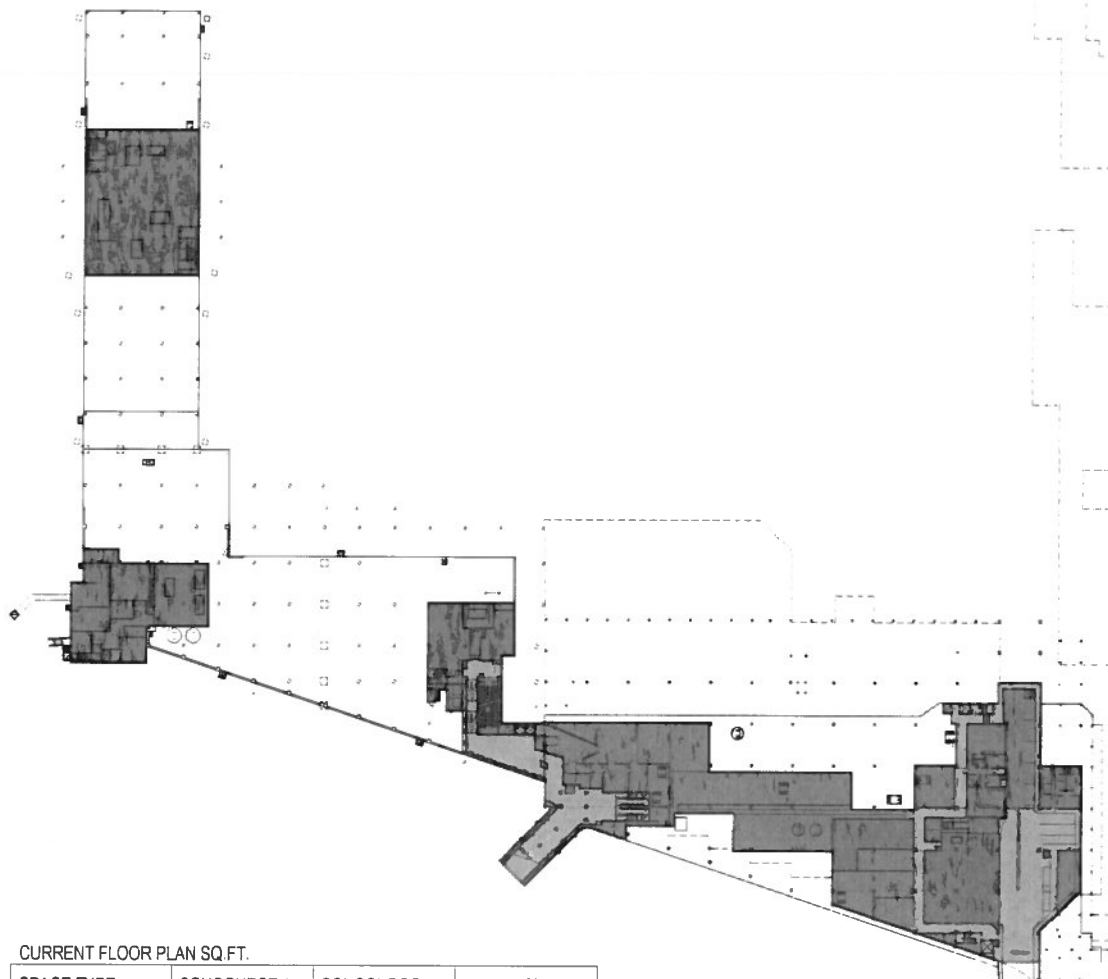
Title: **Stephen F. Sisneros**
Managing Director-Airport Affairs _____

APPROVED AS TO FORM:

City Attorney

EXHIBIT A
AIRPORT LAYOUT PLAN

EXHIBIT B
TERMINAL LAYOUT PLAN



CURRENT FLOOR PLAN SQ. FT.

SPACE TYPE	CONCOURSE A	CONCOURSE B	LANDSIDE
AIRLINE	0	0	0
NON-AIRLINE	0	0	0
PUBLIC	0	0	23,465 SQ.FT.
SAIA	0	0	59,844 SQ.FT.
TOTAL:	0	0	83,309 SQ.FT.
GRAND TOTAL:	83,309 SQ.FT.		

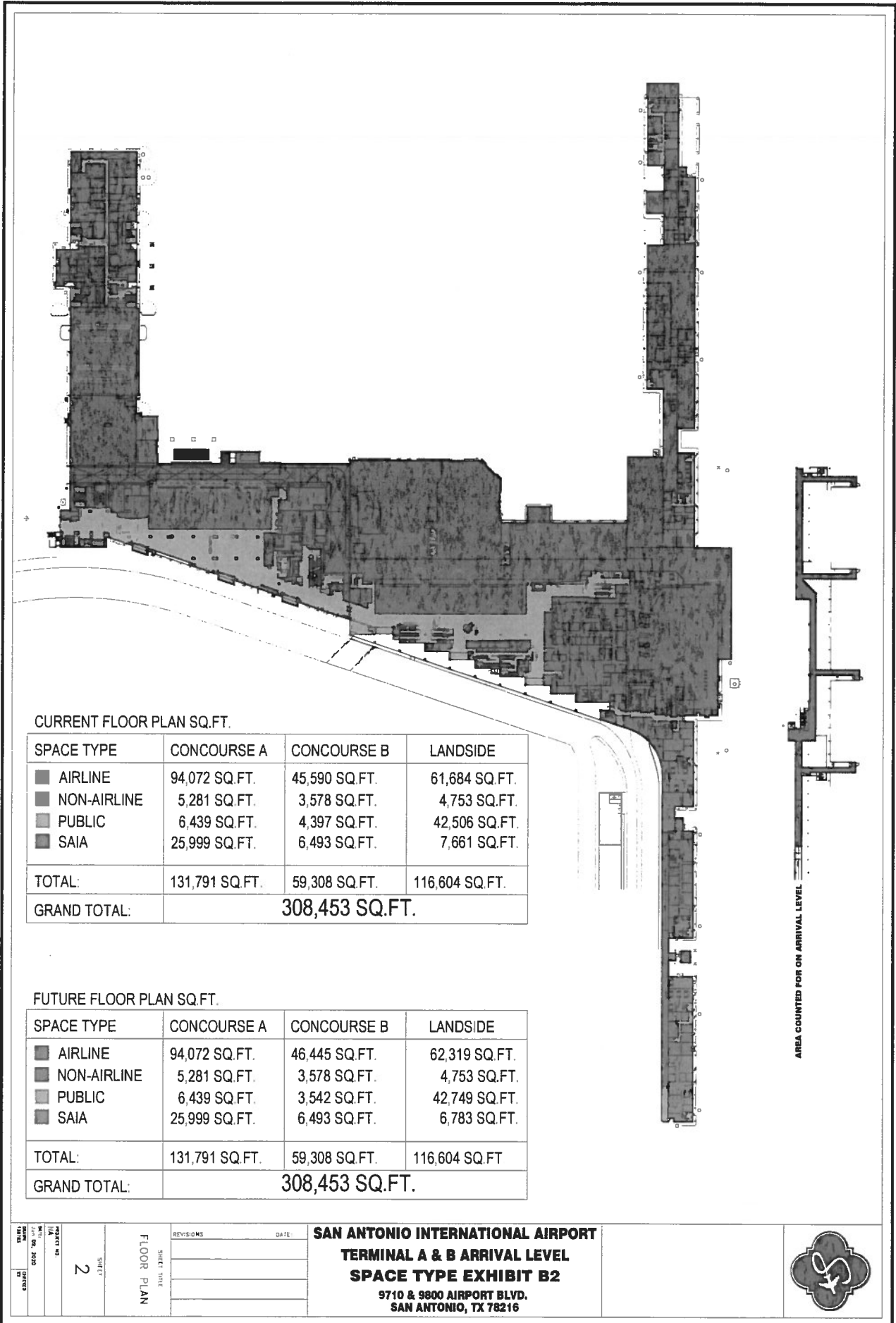
FUTURE FLOOR PLAN SQ. FT.

SPACE TYPE	CONCOURSE A	CONCOURSE B	LANDSIDE
AIRLINE	0	0	0
NON-AIRLINE	0	0	8,879 SQ.FT.
PUBLIC	0	0	18,868 SQ.FT.
SAIA	0	0	55,562 SQ.FT.
TOTAL:	0	0	83,309 SQ.FT.
GRAND TOTAL:	83,309 SQ.FT.		

PROJECT NO.	1
DATE	1/16/16
REVISIONS	
DATE	
REVISIONS	
DATE	
REVISIONS	
DATE	

SAN ANTONIO INTERNATIONAL AIRPORT
TERMINAL A & B SERVICE LEVEL
SPACE TYPE EXHIBIT B1
 9710 & 9800 AIRPORT BLVD.
 SAN ANTONIO, TX 78216





CURRENT FLOOR PLAN SQ.FT.

SPACE TYPE	CONCOURSE A	CONCOURSE B	LANDSIDE
AIRLINE	94,072 SQ.FT.	45,590 SQ.FT.	61,684 SQ.FT.
NON-AIRLINE	5,281 SQ.FT.	3,578 SQ.FT.	4,753 SQ.FT.
PUBLIC	6,439 SQ.FT.	4,397 SQ.FT.	42,506 SQ.FT.
SAIA	25,999 SQ.FT.	6,493 SQ.FT.	7,661 SQ.FT.
TOTAL:	131,791 SQ.FT.	59,308 SQ.FT.	116,604 SQ.FT.
GRAND TOTAL:	308,453 SQ.FT.		

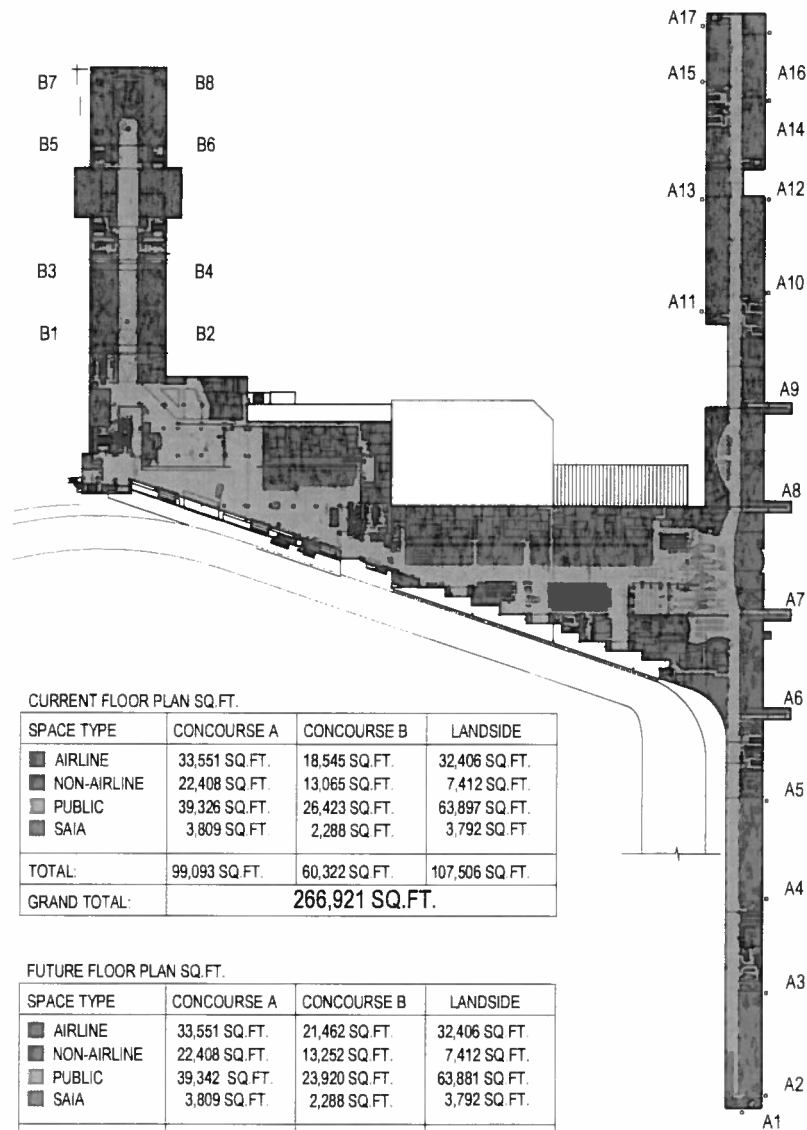
FUTURE FLOOR PLAN SQ.FT.

SPACE TYPE	CONCOURSE A	CONCOURSE B	LANDSIDE
AIRLINE	94,072 SQ.FT.	46,445 SQ.FT.	62,319 SQ.FT.
NON-AIRLINE	5,281 SQ.FT.	3,578 SQ.FT.	4,753 SQ.FT.
PUBLIC	6,439 SQ.FT.	3,542 SQ.FT.	42,749 SQ.FT.
SAIA	25,999 SQ.FT.	6,493 SQ.FT.	6,783 SQ.FT.
TOTAL:	131,791 SQ.FT.	59,308 SQ.FT.	116,604 SQ.FT.
GRAND TOTAL:	308,453 SQ.FT.		

SHEET NO. 2	SHEET TITLE FLOOR PLAN	REVISIONS DATE:
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SAN ANTONIO INTERNATIONAL AIRPORT
TERMINAL A & B ARRIVAL LEVEL
SPACE TYPE EXHIBIT B2
 9710 & 9800 AIRPORT BLVD.
 SAN ANTONIO, TX 78216





CURRENT FLOOR PLAN SQ. FT.

SPACE TYPE	CONCOURSE A	CONCOURSE B	LANDSIDE
AIRLINE	33,551 SQ. FT.	18,545 SQ. FT.	32,406 SQ. FT.
NON-AIRLINE	22,408 SQ. FT.	13,065 SQ. FT.	7,412 SQ. FT.
PUBLIC	39,326 SQ. FT.	26,423 SQ. FT.	63,897 SQ. FT.
SAIA	3,809 SQ. FT.	2,288 SQ. FT.	3,792 SQ. FT.
TOTAL:	99,093 SQ. FT.	60,322 SQ. FT.	107,506 SQ. FT.
GRAND TOTAL:	266,921 SQ. FT.		

FUTURE FLOOR PLAN SQ. FT.

SPACE TYPE	CONCOURSE A	CONCOURSE B	LANDSIDE
AIRLINE	33,551 SQ. FT.	21,462 SQ. FT.	32,406 SQ. FT.
NON-AIRLINE	22,408 SQ. FT.	13,252 SQ. FT.	7,412 SQ. FT.
PUBLIC	39,342 SQ. FT.	23,920 SQ. FT.	63,881 SQ. FT.
SAIA	3,809 SQ. FT.	2,288 SQ. FT.	3,792 SQ. FT.
TOTAL:	99,107 SQ. FT.	60,923 SQ. FT.	107,490 SQ. FT.
GRAND TOTAL:	267,523 SQ. FT.		

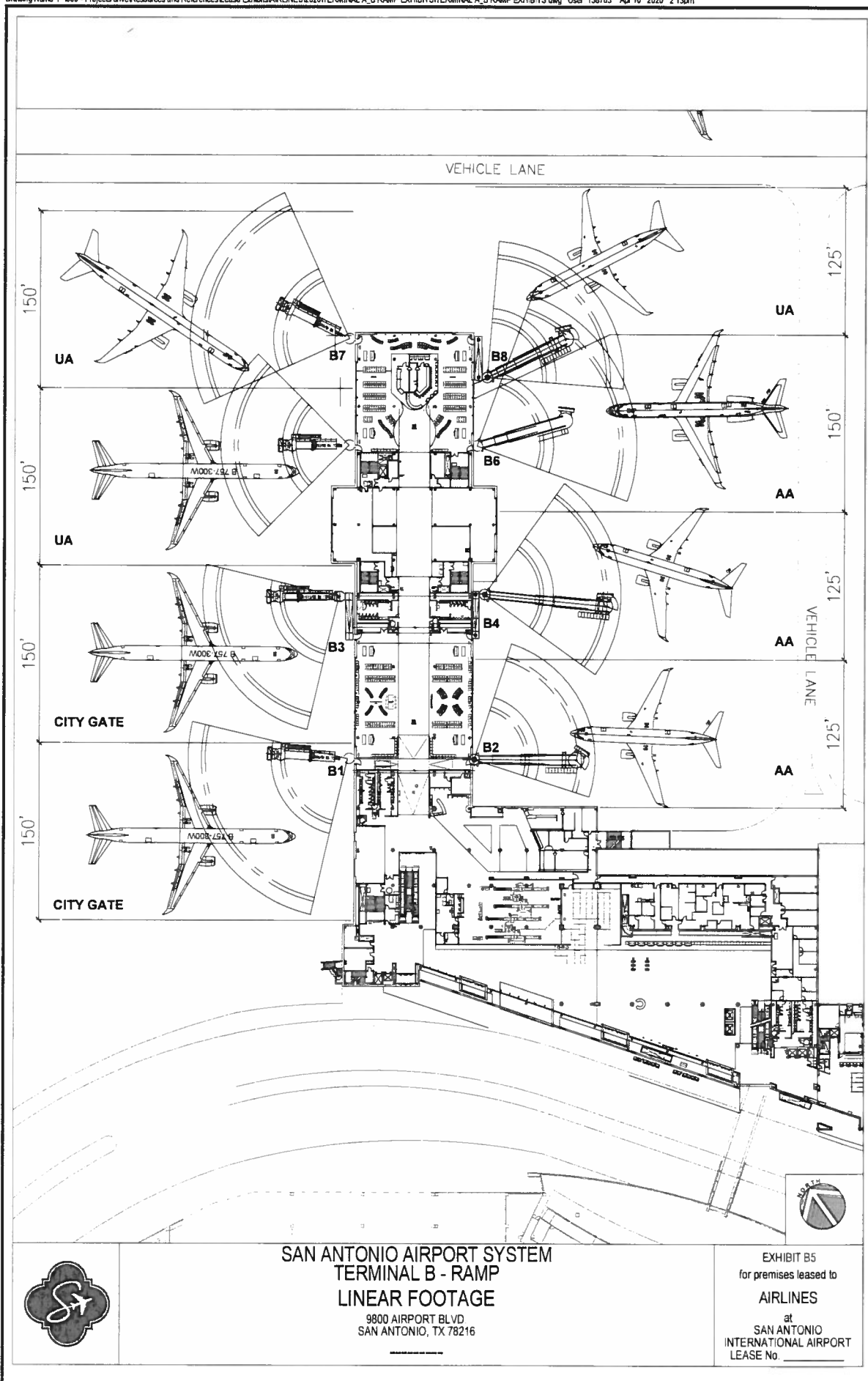
SHEET NO. 3 OF 3 FLOOR PLAN	REVISIONS _____ _____ _____	DATE _____ _____ _____	SAN ANTONIO INTERNATIONAL AIRPORT TERMINAL A & B DEPARTURE LEVEL SPACE TYPE EXHIBIT B3 9710 & 9800 AIRPORT BLVD. SAN ANTONIO, TX 78216	

SPACE TYPE	CONCOURSE A	CONCOURSE B	LANDSIDE
■ AIRLINE	0	0	0
■ NON-AIRLINE	0	0	252 SQ. FT.
■ PUBLIC	0	0	3,994 SQ. FT.
■ SAIA	0	0	25,604 SQ. FT.
TOTAL	0	0	29,850 SQ. FT.
GRAND TOTAL	29,850 SQ. FT.		

DATE	
REVISIONS	
SHEET TITLE	
FLOOR PLAN	
SHEET	4
DRAWING NO. 1-1 DATE Feb 27, 2020 DRAWN BY GCH/STN	

**9710 & 9800 AIRPORT BLVD.
SAN ANTONIO, TX 78216**





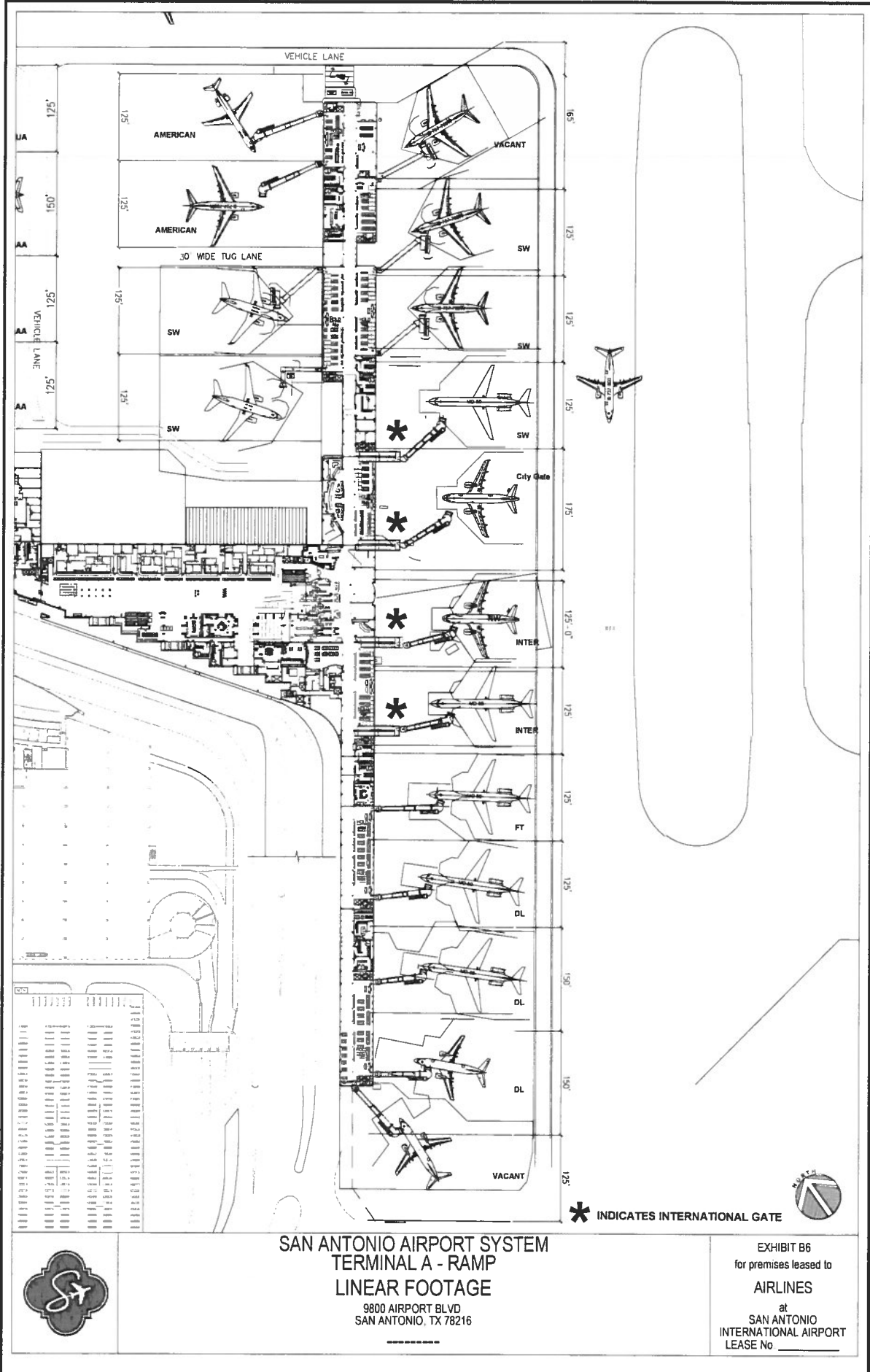
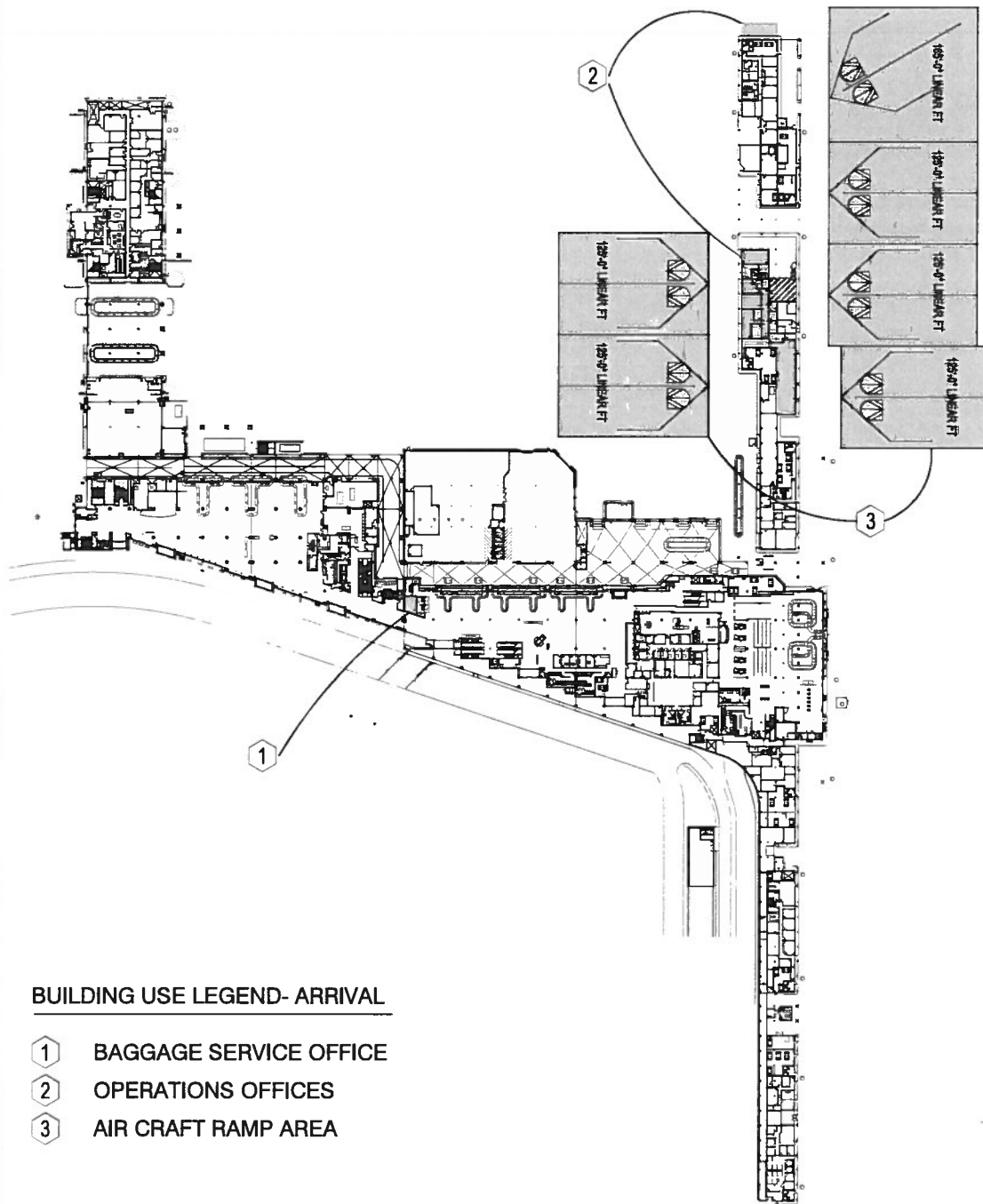


EXHIBIT C
AIRLINE LEASED PREMISES



BUILDING USE LEGEND- ARRIVAL

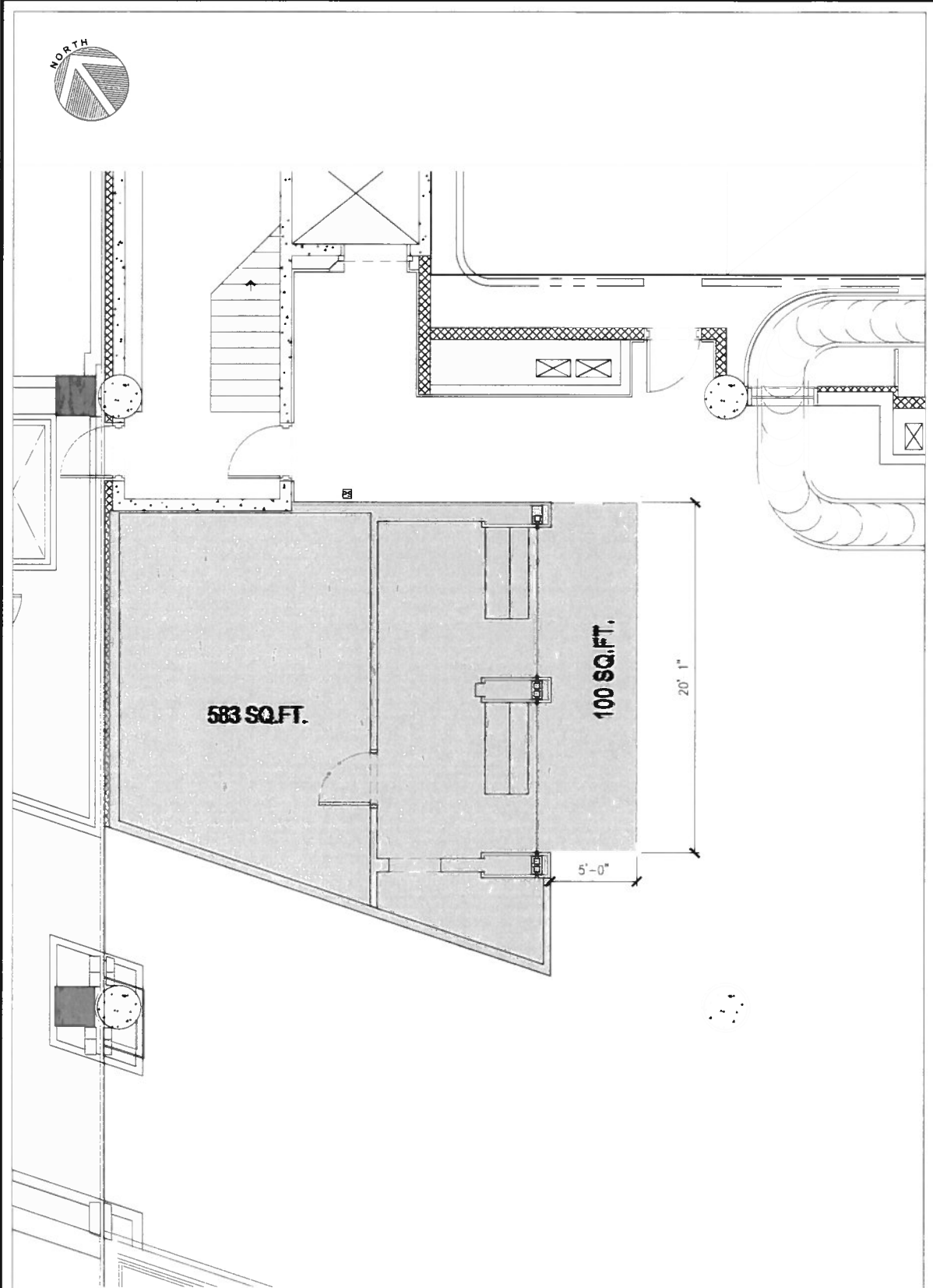
- 1 BAGGAGE SERVICE OFFICE
- 2 OPERATIONS OFFICES
- 3 AIR CRAFT RAMP AREA



**SAN ANTONIO AIRPORT SYSTEM
TERMINAL A- ARRIVAL LEVEL
AREA FLOOR PLAN**

9800 AIRPORT BLVD.
SAN ANTONIO, TX 78216

EXHIBIT C, PAGE 1/4
for premises leased to
SOUTHWEST
AIRLINE CO.
at
SAN ANTONIO
INTERNATIONAL AIRPORT
LEASE No. _____

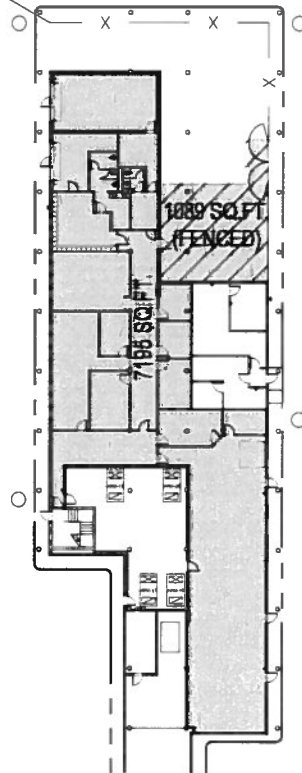
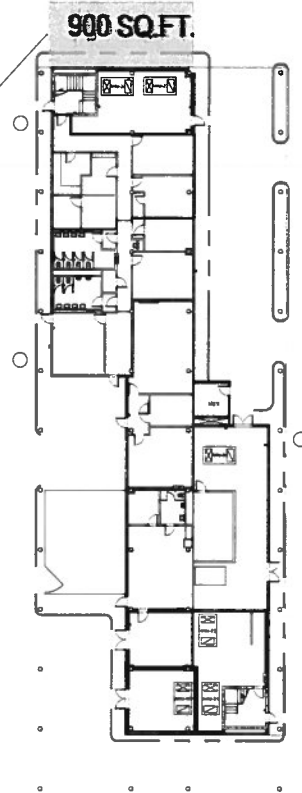
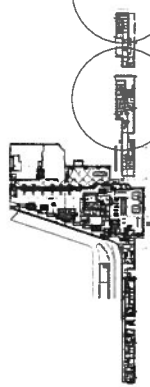


**SAN ANTONIO AIRPORT SYSTEM
TERMINAL A- ARRIVAL LEVEL
BAGGAGE SERVICE OFFICE**

9800 AIRPORT BLVD.
SAN ANTONIO, TX 78216

1 683 SQ.FT.

EXHIBIT C, PAGE 2/4
for premises leased to
**SOUTHWEST
AIRLINE CO.**
at
SAN ANTONIO
INTERNATIONAL AIRPORT
LEASE No. _____

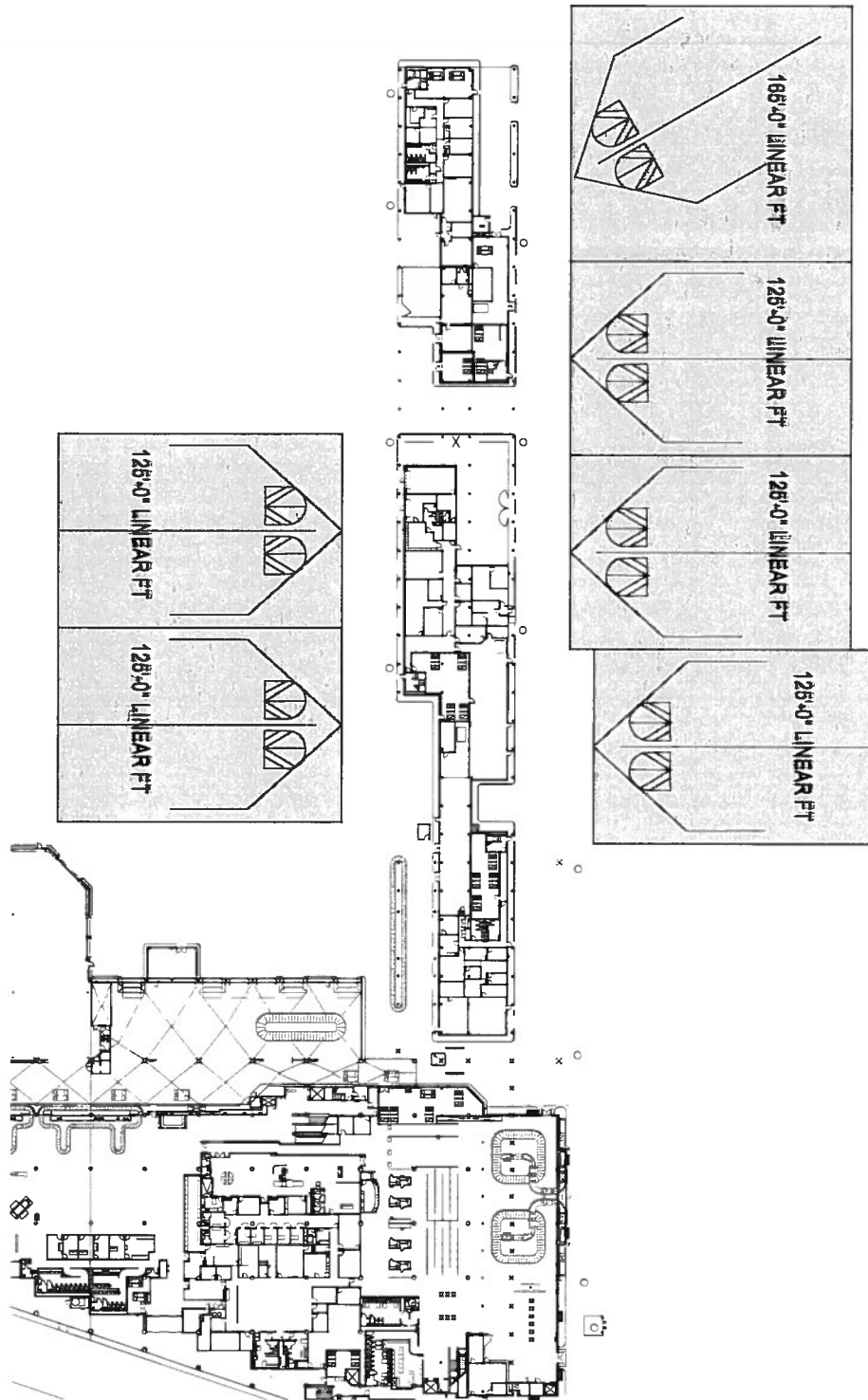
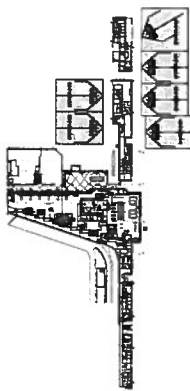


**SAN ANTONIO AIRPORT SYSTEM
TERMINAL A- ARRIVAL LEVEL
OPERATION OFFICES**

9800 AIRPORT BLVD.
SAN ANTONIO, TX 78216

2 9184 SQ.FT.

EXHIBIT C, PAGE 3/4
for premises leased to
**SOUTHWEST
AIRLINE CO.**
at
SAN ANTONIO
INTERNATIONAL AIRPORT
LEASE No. _____

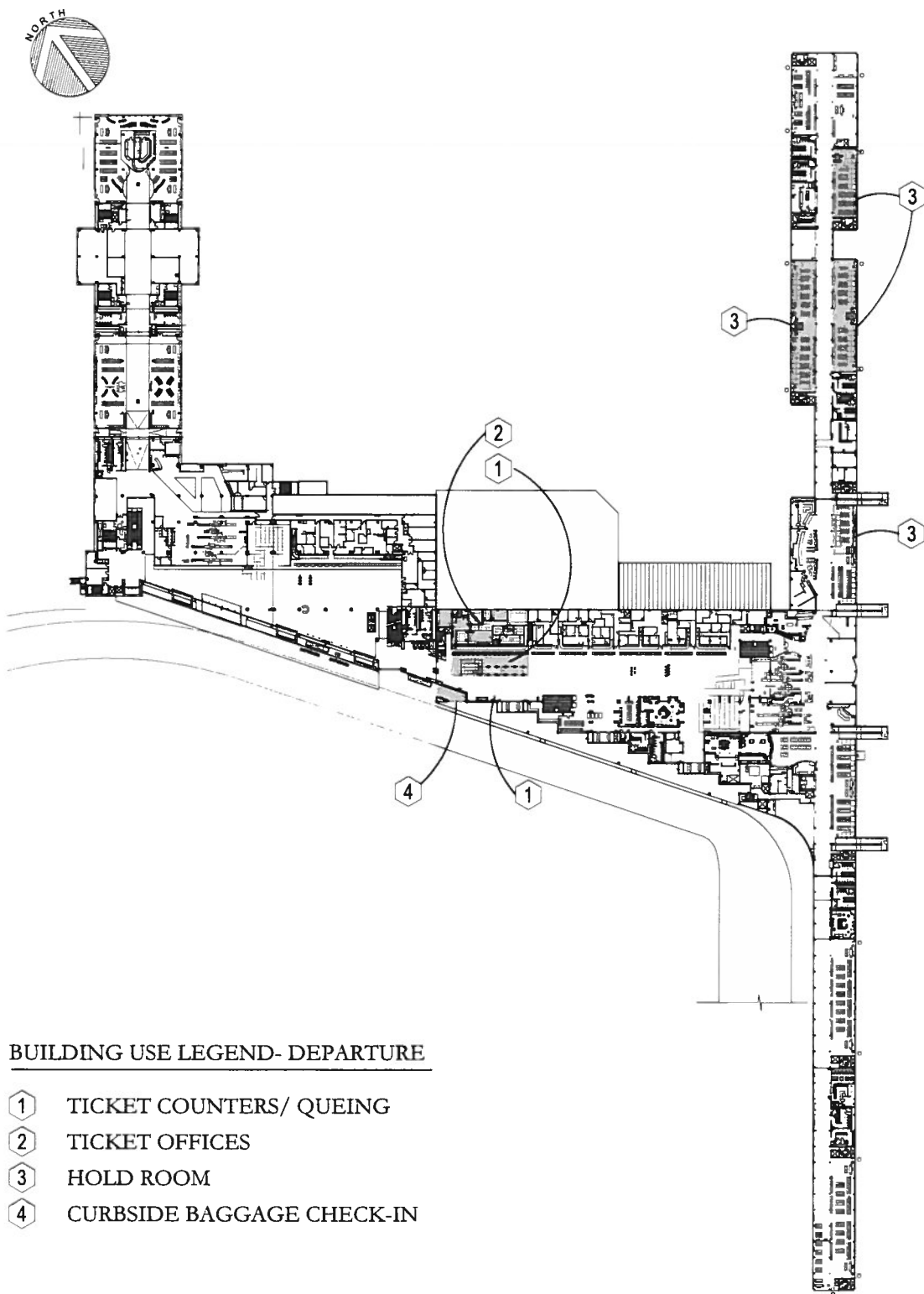


**SAN ANTONIO AIRPORT SYSTEM
TERMINAL A- ARRIVAL LEVEL
AIRCRAFT RAMP AREA**

9800 AIRPORT BLVD.
SAN ANTONIO, TX 78216

3 790 LINEAR FEET

EXHIBIT C, PAGE 4/4
for premises leased to
**SOUTHWEST
AIRLINE CO.**
at
SAN ANTONIO
INTERNATIONAL AIRPORT
LEASE No. _____



BUILDING USE LEGEND- DEPARTURE

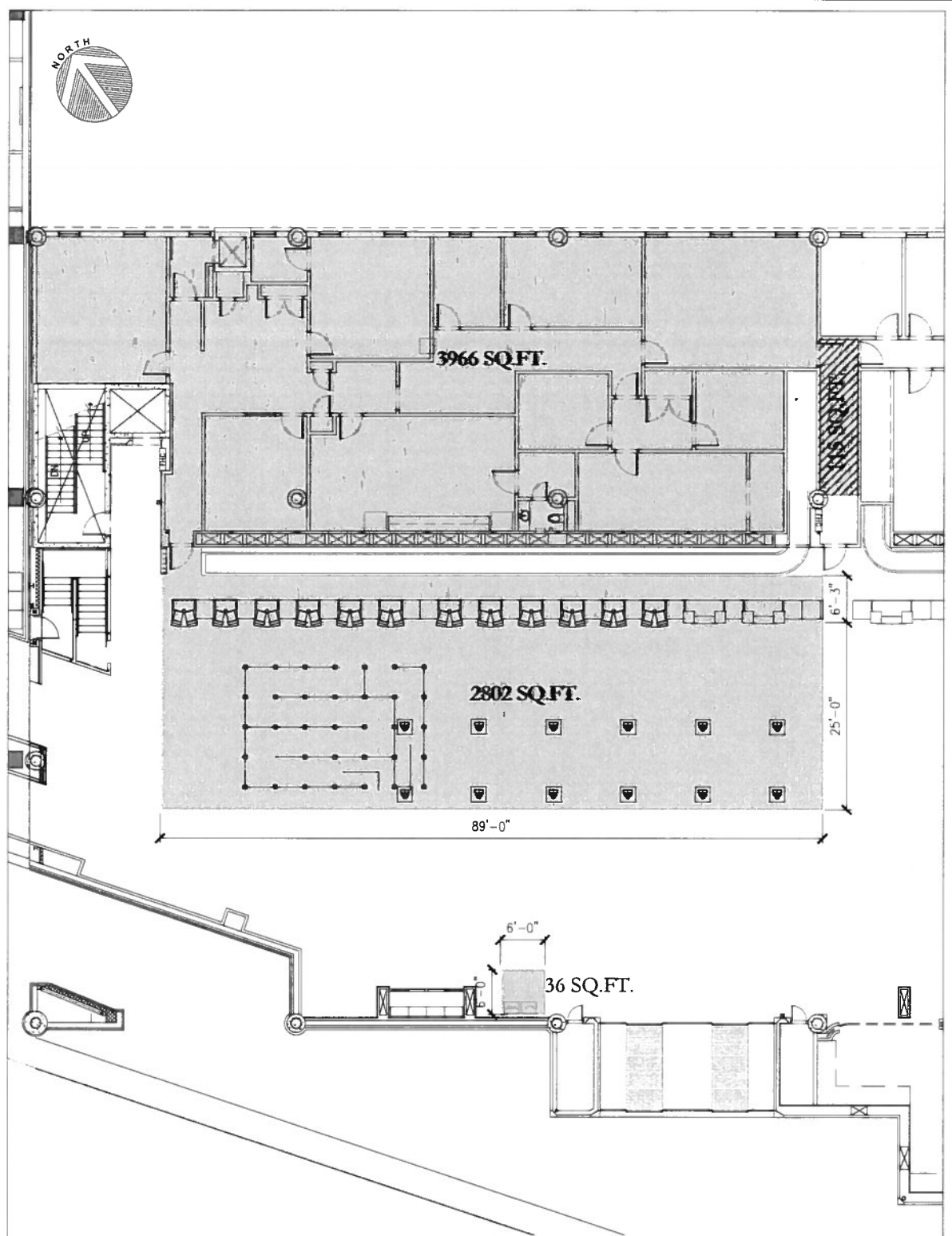
- 1 TICKET COUNTERS/ QUEING
- 2 TICKET OFFICES
- 3 HOLD ROOM
- 4 CURBSIDE BAGGAGE CHECK-IN



SAN ANTONIO AIRPORT SYSTEM TERMINAL A - DEPARTURE LEVEL AREA FLOOR PLAN

9800 AIRPORT BLVD.
SAN ANTONIO, TX 78216

EXHIBIT C, PAGE 1/4
for premises leased to
SOUTHWEST
AIRLINES CO.
at
SAN ANTONIO
INTERNATIONAL AIRPORT
LEASE No. _____



PRO-RATED SHARE OF CORRIDOR

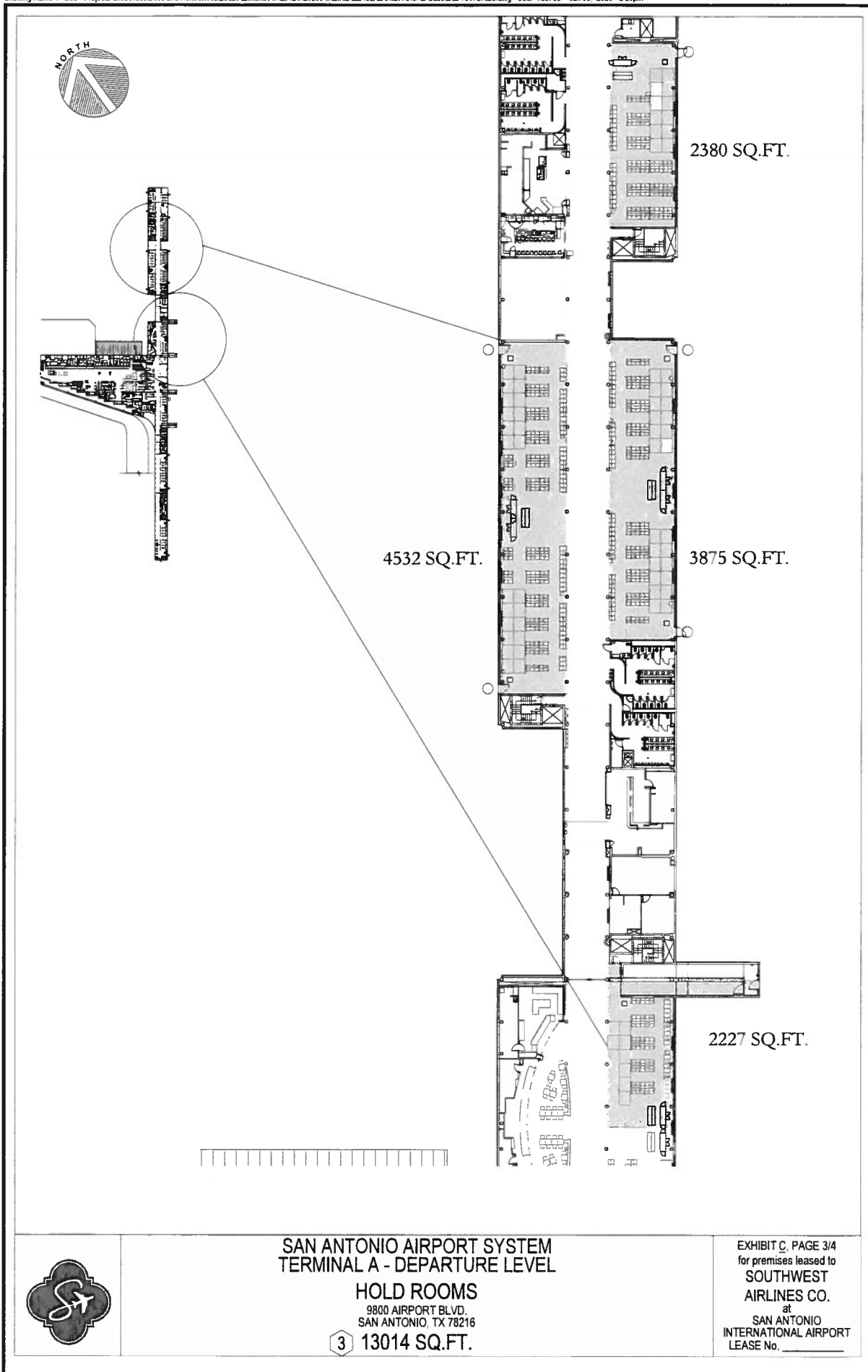


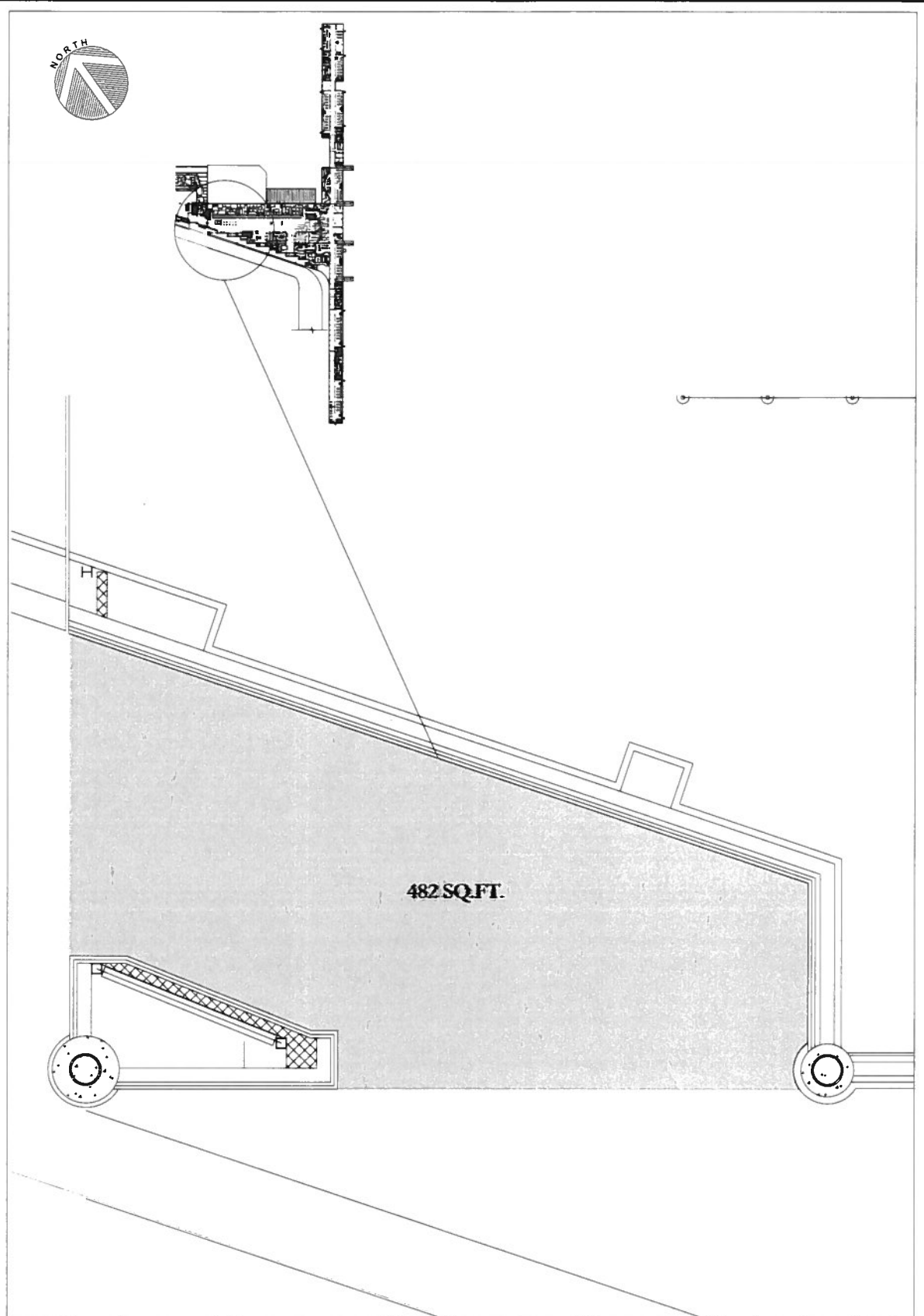
**SAN ANTONIO AIRPORT SYSTEM
TERMINAL A - DEPARTURE LEVEL
TICKET COUNTER/ QUEUING AND OFFICES**

9800 AIRPORT BLVD.
SAN ANTONIO, TX 78216

1 2 6919 SQ.FT.

EXHIBIT C, PAGE 2/4
for premises leased to
**SOUTHWEST
AIRLINES CO.**
at
**SAN ANTONIO
INTERNATIONAL AIRPORT**
LEASE No. _____





**SAN ANTONIO AIRPORT SYSTEM
TERMINAL A - DEPARTURE LEVEL
CURBSIDE BAGGAGE CHECK-IN**

9800 AIRPORT BLVD.
SAN ANTONIO, TX 78216

4 482 SQ. FT.

EXHIBIT C, PAGE 4/4
for premises leased to
SOUTHWEST
AIRLINES CO.
at
SAN ANTONIO
INTERNATIONAL AIRPORT
LEASE No. _____

EXHIBIT D
RATES AND FEES SCHEDULE

EXHIBIT "D"
to Signatory Airline Agreement for
San Antonio International Airport

RATE AND FEE SCHEDULE

SECTION I - DEFINITIONS

The following words, terms and phrases used in this **Exhibit "D"** shall have the meanings set forth in this Section and the meanings shall apply to both the singular and plural forms of such words, terms, and phrases. Additional words, terms and phrases used in this Exhibit "D", but not defined in this Section, shall have the meanings ascribed to them in the individual sections of this Exhibit "D", the Agreement or Bond Ordinance. The specific methodologies for calculating the rates, fees and charges defined below can be found in Section II of this Exhibit "D".

Sections I, II, III and IV of this Rate and Fee Schedule will not be revised during the Term of the Agreement unless mutually agreed upon and amended by the Airline and City.

1. **"Airfield Area Cost Center"** means the Airport Cost Center further described in **Table D-7** of this Exhibit "D".
2. **"Leased Premises"** means those areas licensed for use by Airline, which are comprised of Exclusive Use Space, Preferential Use Space and Joint Use Space.
3. **"Airport Budget"** means the Airport capital and operating budgets and allocated administrative costs prepared and periodically revised and updated by the Director and submitted to the City Manager, and approved/adopted by the San Antonio City Council prior to commencement of the Fiscal Year in which it is to apply.
4. **"Airport Cost Centers"** means the direct cost centers to be used in accounting for Airport revenues and expenses and for calculating and adjusting certain rents, fees, and other charges associated with various Airport areas or facilities as they now exist or as they may hereafter be reconstructed, modified, changed, or developed.
5. **"Airport Revenue"** means all income, and revenue derived by City in connection with the operation of the Airport System, as the term "Revenue" is further defined, limited, and determined in accordance with the Bond Ordinance. The term "Airport Revenue" shall not include PFCs, CFCs, insurance proceeds, restricted land sale proceeds or any local, state, or federal assistance, or any interest earned thereon.
6. **"Airport System"** means all airport and aviation facilities, or any interest therein, now or from time to time hereafter owned, operated or controlled in whole or in part by the City, together with all properties, facilities and services thereof, and all additions, extensions, replacements and improvements thereto, and all services provided or to be provided by the City in connection therewith, but expressly excluding Special Facilities. The Airport System currently includes San Antonio International Airport and Stinson Municipal Airport.

7. "Amortization" means the amount to recover an Amortized Capital Improvement which is funded from the Capital Improvement Fund and shall be calculated based on the expected useful life of the Capital Expenditure with a rate of return equivalent to three (3) percent per year. Amortization will commence on the first day of the Fiscal Year immediately following date of completion of any such Capital Improvement.
8. "Apron Area Cost Center" the Airport Cost Center further described in **Table D-7** of this Exhibit "D".
9. "Apron Area Fee" means the fee imposed by City on a linear foot basis for the use of the Apron Area space.
10. "Baggage Handling System (BHS) Cost Center" means the Airport Cost Center further described in **Table D-7** of this Exhibit "D".
11. "BHS Fee" means a fee assessed by City on a per Enplaned Passenger basis for use of the BHS.
12. "BHS Enhancement Project" means the project that includes improvements to the programmable logic controller and hardware for the BHS. This project will be funded by the City and costs will be excluded from Amortized Capital Improvements.
13. "BHS Expansion Project" means the project that includes design and construction costs necessary to expand the BHS to accommodate future capacity.
14. "Bond Ordinance" means the Master Ordinances and any Supplemental Ordinances, heretofore or hereafter adopted, amendatory, or supplemental thereto, authorizing the issuance of Bonds and Obligations that are payable from or secured by all or any part of the gross revenues of the Airport, grant funds, Customer Facility Charges, or Passenger Facility Charges.
15. "Bond Reserve Fund" means the fund(s) by that name established by City for the Airport to assure that there are sufficient funds to pay debt service on a timely basis.
16. "Bonds" means any bonds or certificates of obligation issued in accordance with a Master Ordinance or any Supplemental Ordinance.
17. "Capital Improvement" means any single item that is acquired, purchased, or constructed to improve, maintain, or develop the Airport, as well as any extraordinary or substantial expenditure whose objective is to preserve, enhance, or protect the Airport and shall be further differentiated as follows:
 - a. "Amortized Capital Improvements" means any Capital Improvement with a net cost of three hundred thousand dollars (\$300,000) or more and shall be recovered through Amortization.
 - b. "Non-Amortized Capital Improvements" means any Capital Improvement with a net cost less than three hundred thousand dollars (\$300,000) and shall be expensed in the year in which such Non-Amortized Capital Improvement is completed.

18. “Capital Improvement Fund” means the fund by that name established by City for the Airport. Amounts on deposit in the Capital Improvement Fund will be used to pay the costs of constructing, equipping, or otherwise acquiring any enlargements, extensions of, or any other improvements to the Airport System, or to provide for the early retirement of Bonds.
19. “Common Use Passenger Processing System (CUPPS)” means City-owned systems and equipment provided, operated or maintained by the City for use by Airline, including but not limited to systems and equipment for passenger processing, flight and baggage information display, and baggage handling.
20. “Competitive Credit” means an amount available to keep cost per Enplaned Passenger competitive with that of other airports similarly situated for the development and retention of air service. The Competitive Credit will be calculated as presented in **Table D-6** of this Exhibit D for the Term of this Agreement.
21. “Customer Facility Charges or CFC” means charges collected by the rental car companies and remitted to City. This term includes interest earnings on Customer Facility Charge proceeds.
22. “Debt Service” means with respect to any outstanding or contemplated Obligations, the amount of principal and interest on such Obligations accrued and expected to accrue during the Fiscal Year, excluding interest payable from capitalized interest.
23. “Debt Service Coverage” means twenty five percent (25%) of Debt Service in a Rate Setting Period.
24. “Debt Service Reserve Requirement” has the meaning set forth in the Bond Ordinance.
25. “Enplaned Passenger” means the total number of passengers boarding aircraft.
26. “Excess PFC Revenues” means PFC Revenues available to repay Debt Service that was issued for fund PFC-eligible Capital Improvements.
27. “FIS” means Federal Inspection Services spaces within the Terminal Building which are dedicated to processing arriving international passengers. FIS space includes sterile connectors from the aircraft to passport control (U.S. Immigration and Naturalization Service), baggage control (Customs), and other federal agencies.
28. “FIS Fee” means a fee assessed by City on a per Deplaned Passenger basis for use of the FIS.
29. “Fuel Flowage Revenues” means the fees collected by the City for each gallon of fuel and oil delivered to the Airports for use by private aircraft owners with City-approved self-fueling facilities or sold to the public by the fixed base operators.
30. “Gates” means those portions of the Terminal Building consisting of a passenger holdroom and associated Apron Area and Loading Bridge.

31. “Joint Use Charges” means a formula used to prorate charges for a particular facility, service, or space used in common with others, as follows: Fifteen percent (15%) of the charges are prorated equally among all Airlines leasing Terminal Building space under this Agreement for the facilities, service, or space. Eighty-five percent (85%) of the charges are prorated according to the ratio of the number of Airline’s Enplaned Passengers at the Airport to the total number of Enplaned Passengers of all Airlines using such facilities, service, or space. For invoicing, City will use the most recent six (6) months of available information to calculate the Joint Use Charges.
32. “Landed Weight” means the maximum gross certificated landed weight, in thousand (1,000) pound units, that Aircraft Arrivals operated by Airline is authorized by the FAA to land at the Airport, as recited in each Airline’s flight manual governing that aircraft type. For all landing fee computations, said sum shall be rounded up to the nearest thousand (1,000) pound units.
33. “Landing Fee” means a fee assessed by City on Air Transportation Companies based on the Landed Weight of each Revenue Landing and is calculated in Attachment D-1 of this Exhibit “D”.
34. “Leased Premises” means those areas licensed for use by Airline, which are comprised of Exclusive Use Space, Preferential Use Space and Joint Use Space.
35. “Loading Bridge Cost Center” means the Direct Cost Center further described in **Table D-7** of this Exhibit “D”.
36. “Loading Bridge Fee” means the annual fee charged for use of a Loading Bridge.
37. “Maintenance and Operating Expenses” means City’s costs for the operation, maintenance and repair of the Airport System and shall include, but shall not be limited to, salaries and employee benefits, utility costs, ordinary maintenance, administrative and general expenses, security, and all such other expenses as defined and determined in accordance with the Bond Ordinance.
38. “Maintenance and Operating Reserve” means an amount equal to twenty-five percent (25%) of the amount included in the annual Airport Budget for Maintenance and Operating Expenses that is required to be maintained in the Maintenance and Operating Reserve Account under the Bond Ordinance. The Maintenance and Operating Reserve is to be used to prevent deficiencies in the payment of Maintenance and Operation Expenses.
39. “Net Revenues” means, for any period, Airport Revenues during such period less Maintenance and Operating Expenses during such period.
40. “Non-Airline Revenues” means any Airport Revenue except Terminal Rentals, Per Use Fees – Gate, Per Use Fees – Ticket Counter, BHS Fees, Apron Area Fees, Loading Bridge Fees, Landing Fees, Non-Terminal RON Parking Fees, FIS Fees and any other Airport Revenue derived from an Air Transportation Company.
41. “Non-Terminal RON Parking Positions” means those aircraft parking positions designated for the parking of aircraft that cannot be accommodated at Gates.

42. "Non-Terminal RON Parking Fee" means the fee charged by the City for use of an aircraft parking position designated for the parking of aircraft that cannot be accommodated at Gates.
43. "Obligations" means any obligation of the Airport System, including any Bonds issued pursuant to the Bond Ordinance or other issuing instrument, as applicable.
44. "Other Buildings and Areas Cost Center" means the Direct Cost Center further described in **Table D-7** of this Exhibit "D".
45. "Other Debt" means any debt other than Bonds incurred by City for Airport purposes including but not limited to Interim Financing.
46. "Parking Cost Center" the Direct Cost Center further described in **Table D-7** of this Exhibit "D".
47. "Passenger Facility Charges" or "PFCs" means those charges collected by the City pursuant to the authority granted by 49 U.S.C. Section 40117 and 14 Code of Federal Regulations (CFR) Part 158, as amended from time to time, in respect of any component of the Airport and interest earnings thereon, net of amounts that collecting air carriers are entitled to retain for collecting, handling, and remitting such PFC revenues.
48. "Per Use Fee - CUPPS" means a charge assessed by City for each use of the CUPPS by Airline.
49. "Per Use Fee – Gate" means a charge assessed by City for each use of an unassigned aircraft gate facility for a period not to exceed two (2) hours. The gate facility includes holdroom, loading bridge, pre-conditioned air, and 400 Hertz systems. Per Use Fees - Gate shall not apply to the use of gate facilities that are included in an Air Transportation Company's Preferential Use Space pursuant to an agreement with City.
50. "Per Use Fee - Ticket Counter" means a charge assessed by City for each use of unassigned ticket counter (two (2) positions) for a period not to exceed three (3) hours. Per Use Fees - Ticket Counter shall not apply to the use of ticket counter areas that are included in an Air Transportation Company's Preferential Use Space pursuant to an agreement.
51. "Prior Period Debt Service Coverage" means the debt service coverage paid by the Airlines in one year that is transferred to the Revenue Fund in the following year and used to offset the reduction in the rates and charges for each associated Airport Cost Center.
52. "Rates and Fees Schedule" means the Rates and Fees Schedule attached hereto as Exhibit "D".
53. "Rate Setting Period" means the Fiscal Year for which the rates, fees and charges are being calculated hereunder.
54. "Reliever Airport Cost Center" means the Direct Cost Center further described in **Table D-7** of this Exhibit "D".

55. “Revenue Landing” means any aircraft landing by Airline at the Airport for which Airline receives revenue and those non-Revenue Landings whenever the same aircraft subsequently departs the Airport as a revenue flight.
56. “Terminal Building” means the Landside Terminal Building, Concourse A, and Concourse B.
57. “Terminal Building Cost Center” the Direct Cost Center further described in **Table D-7** of this Exhibit “D”.
58. “Terminal Rental” means the fees and charges imposed by City on a per square foot basis for the use of the Leased Premises, which is comprised of the Joint Use Space, Exclusive Use Space and Preferential Use Space.
59. “Total Landed Weight” means the total Landed Weight for all Signatory and Non-Signatory Airlines during the course of a Fiscal Year.
60. “Total Terminal Rentable Space” means the total amount of space available for rent in the Terminal Building as may be adjusted and/or weighted during the course of any Fiscal Year for changes in space classifications with consultation with the Airlines. Airline Rentable space is shown on **Exhibit B**, which may be changed from time to time in accordance with Section 3.6 of this Agreement. At least 30 days prior to implementing any increase in Joint Use Space, the City will consult with the airlines to discuss the intended revision to the Joint Use Space.
61. “2020 Competitive Credit” means any Competitive Credit calculated for fiscal year 2020 in accordance with the AIRLINE OPERATING AGREEMENT AND TERMINAL BUILDING LEASE, which expires September 30, 2020 (“2010 Airline Agreement”). No later than three months after completion of the final settlement for fiscal year 2020, the City will refund the lesser of six million dollars (\$6,000,000) of the 2020 Competitive Credit or the total 2020 Competitive Credit, to Airlines, which are a Signatory Airline to the 2010 Airline Agreement AND who have executed and returned to the City this Agreement by September 30, 2020, based on each Signatory Airline’s proportionate share of enplanements for fiscal year 2020. If the 2020 Competitive Credit exceeds six million seven hundred fifty thousand dollars (\$6,750,000), the City will reduce the amount of the BHS Expansion Project subject to Amortization by the amount of the 2020 Competitive Credit exceeding six million seven hundred fifty thousand dollars (\$6,750,000).

SECTION II - RATE CALCULATIONS

1. **Explanation of Rate Calculation Line Items.** The following Line Items listed in **Tables D-1.1** and **D-2 - D-5** are included in the calculation of Terminal Rental Rate, BHS Fee, Loading Bridge Fee, Apron Area Fee and Landing Fee for each Rate Setting Period. Each Line Item in **Tables D-1.1** and **D-2 - D-5** is identified by the corresponding letter set forth below.

Line Item A. **Maintenance and Operating Expenses.** This Line Item includes those expenses directly assignable to the Terminal, BHS, Loading Bridge, Apron Area or Airfield Cost Centers and those expenses associated with Maintenance and Operating of the Airport that are not directly assignable but are allocated to the Airport Cost Centers.

Line Item B. **Maintenance and Operating Reserve.** This Line Item includes the Maintenance and Operating Reserve for the current Rate Setting Period less the Maintenance and Operating Reserve for the prior Rate Setting Period allocated to the Terminal, BHS, Loading Bridge, Apron Area or Airfield Cost Centers

Line Item C. **Debt Service.** This Line Item includes Debt Service directly assignable to the Terminal, BHS, Loading Bridge, Apron Area or Airfield Cost Centers and Debt Service for areas other than the Direct Cost Centers but allocable to the Direct Cost Centers.

Line Item D. **Debt Service Coverage.** This Line Item includes Debt Service Coverage attributable to the Terminal, BHS, Loading Bridge, Apron Area or Airfield Cost Centers.

Line Item E. **Other Debt.** This Line Item includes Other Financing attributed to the Terminal, BHS, Loading Bridge, Apron Area or Airfield Cost Centers.

Line Item F. **Amortization.** This Line Item includes Amortization attributable to Amortized Capital Improvements in the Terminal, BHS, Loading Bridge, Apron Area or Airfield Cost Centers.

Line Item G. **Non-Amortized Capital Improvements.** This Line Item includes Non-amortized Capital Improvements attributable to the Terminal, BHS, Loading Bridge, Apron Area or Airfield Cost Centers.

Line Item H. **Total Requirement.** The Total Requirement is the sum of Line Items A through Line Item G. The Total Requirement is applicable to Terminal, BHS, Loading Bridge, Apron Area or Airfield Cost Centers.

Line Item I. **Credits.** This Line Item identifies the Credits to the Total Requirement that may be included in the Terminal, BHS, Loading Bridge, Apron Area or Airfield Cost Centers and as follows:

- a. Credits to the Terminal Total Requirement in **Table D-1.1** includes the Prior Period Debt Service Coverage and Excess PFC Revenues.

- b. Credits to the BHS Total Requirement in **Table D-2** include the prior period Debt Service Coverage and Excess PFC Revenues.
- c. Credits to the Loading Bridge Total Requirement in **Table D-3** include the prior period Debt Service Coverage and Excess PFC Revenues.
- d. Credits to the Apron Total Requirement in **Table D-4** include the prior period Debt Service Coverage.
- e. Credits to the Airfield Total Requirement in **Table D-5** include Prior Period Debt Service Coverage, Excess PFC Revenue, Fuel Flowage Revenue, and Non-Terminal RON Parking.

Line Item J. Net Requirement. The Net Requirement equals Total Requirement minus Credits.

Line Item K. Line Item K in **Tables D-1.1** and **D-2 - D-5** shall be defined as follows:

- **Table D-1.1:** Total Terminal Rentable Space. The term “Total Terminal Rentable Space” in **Table D-1.1** has the meaning set forth in Section I to this Exhibit “D”.
- **Table D-2:** Total Enplaned Passengers. The term “Total Enplaned Passengers” in **Table D-2** means the Enplaned Passengers for all Airlines, including Signatory and Non-signatory Airlines.
- **Table D-3:** Total Loading Bridges. Means the total number of Loading Bridges at the Airport.
- **Table D-4:** Total Apron Area. Means the total linear feet of apron adjacent to Terminal Building.
- **Table D-5:** Total Landed Weight. The term “Total Landed Weight” in **Table D-5** has the meaning set forth in Section I to this Exhibit “D”.

Line Item L. Line Item L in **Tables D-1.1** and **D-2 - D-5** shall be calculated as follows:

- **Table D-1.1:** Signatory Terminal Rental Rate. Calculated in **Table D-1.1** as (J) Net Requirement divided by (K) Total Terminal Rentable Space.
- **Table D-2:** BHS Fee. Calculated in **Table D-2** as (J) BHS Net Requirement divided by (K) Total Enplaned Passengers.
- **Table D-3:** Loading Bridge Fee. Calculated in **Table D-3** as (J) Loading Bridge Net Requirement divided by (K) Total Loading Bridges.
- **Table D-4:** Apron Area Fee. Calculated in **Table D-4** as (J) Apron Area Net Requirement divided by (K) Total Apron Area.

- **Table D-5: Landing Fee.** Calculated in **Table D-5** as (J) Airfield Net Requirement divided by (K) Total Landed Weight.

2. Calculation of Terminal Rental, BHS Fee, Loading Bridge Fee, Apron Area Fee and Landing Fee. The Terminal Rental Rate, BHS Fee, Loading Bridge Fee, Apron Area Fee and Landing Fee for each Rate Setting Period shall be calculated as set forth in this subsection.

A. Terminal Rental Rate. The methodology for calculating the Terminal Rental Rate is set forth in **Table D-1.1** below.

Table D-1.1 Terminal Rental Rate Calculation	
	Line Item (See Section II(1) above for corresponding descriptions)
Maintenance and Operating Expenses	A
Maintenance and Operating Reserve	B
Debt Service	C
Debt Service Coverage	D
Other Debt	E
Amortization	F
Non-Amortized Capital Improvements	G
Terminal Total Requirement	$H=A+B+C+D+E+F+G$
Less: Credits to Terminal Total Requirement	I
Terminal Net Requirement	$J=H-I$
Total Terminal Rentable Space (square feet)	K
Signatory Terminal Rental Rate (per square foot)	$L=J/K$

B. Calculation of Joint Use Charges. The methodology for calculating Joint Use Charges, as defined in Section I to this Exhibit “D”, is set forth in **Table D-1.2** below.

Table D-1.2 Joint Use Charges Calculation	
Total Enclosed Joint Use Space (square feet)	A
Signatory Terminal Rental Rate (per square foot)	B
Enclosed Joint Use Requirement	$C=A*B$
Total Unenclosed Joint Use Space (square feet)	D
Signatory Unenclosed Rental Rate (per square foot)	E
Unenclosed Joint Use Requirement	$F=D*E$
Total Joint Use Requirement	$G=C+F$
Total Signatory Enplaned Passengers	H
Total Non-Signatory Enplaned Passengers	I
Total Enplaned Passengers	$K=H+I$
Average Joint Use Charge Per Enplaned Passenger	$L=G/K$
Non-Signatory Joint Use Charge Per Enplaned Passenger	$M=L*115\%$
Total Non-Signatory Joint Use Charges	$N=I*M$
Net Signatory Joint Use Requirement	$O=G-N$
Net Signatory Joint Use Requirement Allocation – Enplaned Passenger Based	$P=O*85\%$
Net Signatory Joint Use Requirement Allocation – Fixed Based	$Q=O*15\%$

C. Per Use Fee – Gate. The methodology for calculating Per Use Fee - Gate is set forth in **Table D-1.3** below.

Table D-1.3 Per Use Fee - Gate Calculation	
Holdroom	
Total Holdroom Space (square feet)	A
Total Number of Gates	B
Average Space Per Holdroom (square feet)	$C=A/B$
Signatory Terminal Rental Rate (per square foot)	D
Average Cost Per Holdroom	$E=C \times D$
Apron	
Total Apron Area Space (linear feet)	F
Total Number of Gates	G
Average Space Per Apron Area (linear feet)	$H=F/G$
Apron Area Fee (per linear foot)	I
Average Cost Per Apron	$J=H \times I$
Loading Bridge	
Loading Bridge Fee – City Gate	K
Per Use Fee - Gate	
Average Cost Per Holdroom	E
Average Cost Per Apron	J
Loading Bridge Fee – City Gate	K
Total Cost Per Gate	$L=E+J+K$
Divided by 365	365
Divided by 4	4
Per Use Fee - Gate	$M=L/365/4$

D. Per Use Fee - Ticket Counter. The methodology for calculating Per Use Fee – Ticket Counter is set forth in **Table D-1.4** below.

Table D-1.4 Per Use Fee - Ticket Counter Calculation	
Ticket Counter Space (square feet per position)	A
Signatory Terminal Rental Rate (per square foot)	B
Cost of Ticket Counter (per position)	$C=A \times B$
Divided by 365	365
Divided by 4	4
Per Use Fee – Ticket Counter	$D=C/365/4$

E. BHS Fee: The methodology for calculating the BHS Fee is set forth in **Table D-2** below.

Table D-2. BHS Fee Calculation	
	Line Item (See Section II(1) above for corresponding descriptions)
Maintenance and Operating Expenses	A
Maintenance and Operating Reserve	B
Debt Service	C
Debt Service Coverage	D
Other Debt	E
Amortization	F
Non-Amortized Capital Improvements	G
BHS Total Requirement	$H=A+B+C+D+E+F+G$
Less: Credits to BHS Total Requirement	I
BHS Net Requirement	$J=H-I$
Total Enplaned Passengers	K
BHS Fee (per enplaned passenger)	$L=J/K$

- F. Loading Bridge Fee: The methodology for calculating the Loading Bridge Fee is set forth in **Table D-3** below.

Table D-3. Loading Bridge Fee Calculation	
	Line Item (See Section II(1) above for corresponding descriptions)
Maintenance and Operating Expenses	A
Maintenance and Operating Reserve	B
Debt Service	C
Debt Service Coverage	D
Other Debt	E
Amortization	F
Non-Amortized Capital Improvements	G
Loading Bridge Total Requirement	$H=A+B+C+D+E+F+G$
Less: Credits to Loading Bridge Total Requirement	I
Loading Bridge Net Requirement	$J=H-I$
Total Loading Bridges	K
Loading Bridge Fee	$L=J/K$

G. Apron Area Fee: The methodology for calculating the Apron Area Fee is set forth in **Table D-4** below.

Table D-4. Apron Area Fee Calculation	
	Line Item (See Section II(1) above for corresponding descriptions)
Maintenance and Operating Expenses	A
Maintenance and Operating Reserve	B
Debt Service	C
Debt Service Coverage	D
Other Debt	E
Amortization	F
Non-Amortized Capital Improvements	G
Apron Area Total Requirement	$H=A+B+C+D+E+F+G$
Less: Credits to Apron Area Total Requirement	I
Apron Area Net Requirement	$J=H-I$
Total Apron Area (linear feet)	K
Apron Area Fee (per linear foot)	$L=J/K$

- H. Landing Fee. The methodology for calculating the Landing Fee is set forth in **Table D-5** below.

Table D-5. Landing Fee Calculation	
	Line Item (See Section II(1) above for corresponding descriptions)
Maintenance and Operating Expenses	A
Maintenance and Operating Reserve	B
Debt Service	C
Debt Service Coverage	D
Other Debt	E
Amortization	F
Non-Amortized Capital Improvements	G
Airfield Total Requirement	$H=A+B+C+D+E+F+G$
Less: Credits to Airfield Total Requirement	I
Airfield Net Requirement	$J=H-I$
Total Landed Weight (thousand-pound units)	K
Landing Fee (per thousand-pound units)	$L=J/K$

Miscellaneous Fees and Charges.

- A. FIS Fee. The FIS Fee shall be a fee charged per deplaned international passenger as established by the City and presented in Attachment D-1.
- B. Non-Terminal RON Parking Fee. Any Air Transportation Company parking an aircraft in a remote location overnight shall be charged a fee per overnight period as established by the City and presented in Attachment D-1.

SECTION III – COMPETITIVE CREDIT

1. **Competitive Credit.** Competitive Credit shall be calculated by City in accordance with this Section. The following Line Items listed in **Table D-6** are included in the calculation of Competitive Credit. Each Line Item in **Table D-6** is identified by the corresponding letter set forth below.

Line Item A. Amount Deposited to Capital Improvement Fund. Line Item A will be calculated as Airport Revenues less Deposit to Bond Fund less Deposit to Debt Service Reserve Fund less Deposit to Maintenance and Operating Fund.

Line Item B. 20% of Non-Airline Revenue. Twenty percent of the Non-Airline Revenue will be retained by the City and deposited in the Capital Improvement Fund.

Line Item C. Prior Period Debt Service Coverage. Line Item C will be the total Debt Service Coverage from the Prior Fiscal Year

Line Item D. Fixed Amount Available for Competitive Credit. Line Item D will be Line Item A minus Line Item B minus Line Item C times 50 percent.

Line Item E. Minimum Competitive Credit. Line Item E will be five percent of Non-Airline Revenue.

Line Item F. Total Competitive Credit. Line F will be the greater of Line Item D and Line Item E.

Line Item G. Airline's Landing Weight Based Competitive Credit. Line Item G will be equal to 25 percent of Line Item F and will be allocated to the Signatory Airlines' based on Airline's proportionate share of total Landed Weight for all Signatory Airlines.

Line Item H. Airline's Passenger Based Competitive Credit. Line Item H will be equal to 75 percent of Line Item F and will be allocated to the Signatory Airlines' based on Airline's proportionate share of total Enplaned Passengers for all Signatory Airlines.

Line Item I. Airline's Total Competitive Credit. Airline's Total Competitive Credit shall be an amount equal to the sum of Airline's Landing Weight Based Competitive Credit and Airline's Passenger Based Competitive Credit.

2. Table D-6. The methodology for calculating each Signatory Airline's (including Airline's) share of Competitive Credit is set forth in **Table D-6** below.

Table D-6. Signatory Airline Competitive Credit Calculation	
	Line Item (See Section III(1) above for corresponding descriptions)
Amount Deposited to Capital Improvement Fund	A
20% of Non-Airline Revenue	B
Prior Period Debt Service Coverage	C
Fixed Amount Available for Competitive Credit	$D = (A - B - C) * 50\%$
Minimum Competitive Credit.	$E = 5\% * \text{Non-Airline Revenues}$
Total Competitive Credit	$F = \text{greater of D and E}$
Airline's Landing Weight Based Competitive Credit	$G = 25\% * F * \text{Airline's proportionate share of total Landed Weight for all Signatory Airlines.}$
Airline's Passenger Based Competitive Credit	$H = 75\% * F * \text{Airline's proportionate share of total Enplaned Passengers for all Signatory Airlines.}$
Airline's Total Competitive Credit	$I = G + H$

SECTION IV – COST CENTERS

1. Direct Cost Centers. The Direct Cost Centers include, but are not limited to, those Cost Centers listed in **Table D-7** below.

Table D-7. Direct Cost Centers	
Cost Center	Description of Area Included or Functional Activity
Airfield Area	Those portions of the Airport including runways, taxiways, taxilanes, and apron areas (other than the Apron Area, other leased apron areas, and common use cargo aprons), navigational aids, hazard designation and warning devices, airfield security roads and fencing, blast fencing, lighting, runway protection zones and safety areas for landing, taking off, and taxiing of aircraft, aviation easements, land used in connection therewith or acquired for such purpose, and facilities, the acquisition, construction, or installation cost of which is wholly or partially paid by City, all as shown on the Airport Layout Plan, Exhibit A .
Apron Area	The areas at the Airport dedicated to the parking, servicing, and ground handling of aircraft at the Terminal Building, all as shown on the Airport's Terminal Layout, Exhibit B .
BHS	The areas and non-TSA equipment at the Airport associated with the consolidated BHS and related areas designed to automatically transfer checked baggage from Airline-monitored inputs to a TSA operated inline checked baggage inspection system with sortation capabilities to automatically transfer checked baggage inspection system cleared bags to designated baggage makeup carousels for pickup by Airline and other airline personnel, all as shown on the Airport's Terminal Layout, Exhibit B .
Ground Transportation	Areas designated for employee and public automobile parking and rental car operations (excluding rental car ticket counters in the Terminal), and all Airport access roadways.
Loading Bridge	Any passenger loading bridge serving aircraft at the Terminal Building.
Other Buildings and Areas	All other facilities that are not included in the other direct cost centers of the Airport, including air cargo buildings, areas occupied by the Federal

Table D-7. Direct Cost Centers	
Cost Center	Description of Area Included or Functional Activity
	Aviation Administration (FAA), the fuel storage facility, areas for the sale and servicing of aircraft, and general aviation hangars, buildings, and aprons.
Parking	The public parking garage and associated access ramps, surface lots (hourly, daily, and economy), and other automobile parking areas; employee parking lots; and taxicab service areas at the Airport.
Reliever Airport	Stinson Municipal Airport and any other aviation facility as may be from time to time be owned or operated by City and designated by City to be part of the Airport System.
Terminal Building	The portion of the Terminal Building and associated curbside entrance areas, including, but not limited to, passenger ticketing areas, TSA screening areas, baggage checking areas, baggage claim areas, Concourse A and Concourse B, which includes the secure area containing the holdrooms, concession areas, and public circulation areas, all as shown on the Airport's Terminal Layout, Exhibit B.

**ATTACHMENT “D-1”
TO EXHIBIT “D”**

**STATEMENT OF RATES
FISCAL YEAR 2021**

(October 1, 2020 through September 30, 2021)

1. Terminal Rental Rate.
 - a. Signatory Airline: \$ per square foot.
 - b. Non-signatory Airline: \$ per square foot.¹
2. Landing Fee Rate.
 - a. Signatory Airline: \$ per 1,000 pounds of Landed Weight.
 - b. Non-signatory Airline: \$ per 1,000 pounds of Landed Weight.
3. BHS Fee:
 - a. Signatory Airline: \$ per Enplaned Passenger.
 - b. Non-signatory Airline: \$ per Enplaned Passenger
4. Loading Bridge Fee:
 - a. Signatory Airline: \$ per loading bridge attached to preferentially leased holdroom
 - b. Non-Signatory Airline: \$ per loading bridge attached to preferentially leased holdroom
5. Apron Area Fee:
 - a. Signatory Airline: \$ per linear foot adjacent to preferentially leased holdroom passenger.
 - b. Non-Signatory Airline: \$ per linear foot adjacent to preferentially leased holdroom passenger.
6. Per Use Fee – Gate:
 - a. Signatory Airline: \$ per two (2) hour use, or any portion thereof.
 - b. Non-Signatory Airline: \$ per two (2) hour use, or any portion thereof.
7. Per Use – Fee Ticket Counter:
 - a. Signatory Airline: \$ per two (2) hour use, or portion thereof, of ticket counter area.
 - b. Non-Signatory Airline: \$ per two (2) hour use, or portion thereof, of ticket counter area.
8. CUPPS Charge: \$ per two (2) hour use, or portion thereof, to use the Common Use Passenger Processing System either at the ticket counter or gate location.
9. Federal Inspection Services (FIS) Facility Fee Rate: \$ per international Deplaned Passenger requiring FIS processing.

¹ Non-Signatory Airline rates shall apply to Non-Signatory Airline terminal tenants/licensees if terminal rental rates apply to such tenants/licensees. Non-Signatory Joint Use charges will include a fifteen percent surcharge in addition to the the rate charged to Signatory Airlines.

10. Non-Terminal RON Parking Fee: \$ for each Overnight use of Remote aircraft parking area.

**ATTACHMENT “D-2”
TO EXHIBIT “D”**

**RATE CALCULATION TABLES
FISCAL YEAR 2021**

**ATTACHMENT “D-2”
TO EXHIBIT “D”**

**RATE CALCULATION TABLES
FISCAL YEAR 2021**

EXHIBIT E
RESPONSIBILITY OF CITY AND AIRLINE
FOR
SERVICES, MAINTENANCE, AND OPERATION

EXHIBIT E
RESPONSIBILITY OF CITY AND AIRLINE FOR SERVICES, MAINTENANCE AND OPERATIONS

	AIRLINE EXCLUSIVE / PREFERENTIAL USE							LOADING BRIDGES
	PUBLIC AREA/PUBLIC CURBSIDE	TICKET COUNTER	SPACE		JOINT USE SPACE	CITY OCCUPIED/CITY PUBLIC/CONRAC	APRON AREA	
			HOLDROOMS	OTHER SPACE	FIS			
HEATING, VENTILATION & AIR CONDITIONING								
A. MAINTENANCE	C	C	C	C	C	C	C/S	
B. OPERATION	C	C	C	C	C	C	C/S	
C. CHILLED AIR DISTRIBUTION	C	C	C	C	C	C	C/S	
D. WARM AIR DISTRIBUTION	C	C	C	C	C	C	C/S	
ELECTRICAL								
A. BULB & TUBE REPLACEMENT (EXCLUDING BALLASTS)	C	A	A	A	C	C	A	
B. ILLUMINATION INCL. POWER	C	C	C	C	C	C	N/A	
C. POWER EXC. FOR ILLUMINATION	C	C	C	C	C	C	N/A	
D. MAINTENANCE	C	C	C	C	C	C	C	
E. OPERATION	C	A	A	A	C	C	A	
ELEVATOR/ESCALATOR								
A. MAINTENANCE	C/S	N/A	N/A	N/A	C/S	N/A	N/A	
B. OPERATION	C/S	N/A	N/A	N/A	C/S	C/S	N/A	
WATER MAINTENANCE								
A. DISTRIBUTION	C	C	C	C	C	C	C	
B. FIXTURES	C	C	C	C	C	C	C	
MAINTENANCE								
A. OTHER THAN STRUCTURE	C	A	A	A	C	C	C/S	
B. STRUCTURE	C	C	C	C	C	C	C	
C. EXTERIOR	C	C	C	C	C	C	A	
BAGGAGE HANDLING SYSTEM & BAGGAGE CAROUSELS								
A. MAINTENANCE	C/S	C/S	N/A	N/A	C/S	C/S	N/A	
B. OPERATION	C/S	C/S	N/A	N/A	C/S	C/S	N/A	
SEWAGE & PLUMBING								
A. DISTRIBUTION	C	C	C	C	C	C	C	
B. FIXTURES	C	C	C	C	C	C	C	
PUBLIC ADDRESS SYSTEM								
C	C	C	C	C	C	C	N/A	
CUSTODIAL SERVICE								
C/S	C/S	C/S	C/S	A	C	C/S	A	
WINDOW CLEANING								
A. EXTERIOR	C	N/A	C	C	C	C	N/A	
B. INTERIOR	C/S	N/A	A	A	C/S	C	N/A	
SECURITY ITEMS								
C	C	C	C	C	C	C	C	

A = AIRLINE
C = CITY
C/S = CITY, ASSIGNED TO SAAC
N/A = NOT APPLICABLE

EXHIBIT F
FINANCIAL RESPONSIBILITY FOR AIRLINE AND CITY
JANITORIAL SPACE

EXHIBIT F
FINANCIAL RESPONSIBILITY FOR AIRLINE AND CITY JANITORIAL SPACE

	City/Other ¹	Airline ²	Airline Joint Use	Total
Landside Terminal				
Ticketing including queueing		14,574		14,574
Ticket Offices	340	12,817		13,157
Baggage Services		1,977		1,977
Curbside/Remote bag check		1,322		1,322
Baggage Claim			20,802	20,802
Passenger Screening			15,618	15,618
Tug Lane			31,509	31,509
BHS			22,766	22,766
Bag Make-Up			27,089	27,089
FIS	37,636			37,636
Concession Space	9,411			9,411
Other	139,700		1,694	141,394
Sub-Total Landside Terminal	187,087	30,690	119,476	337,253
Airside A				
Holdrooms		33,855		33,855
Operations		16,140		16,140
Fenced Area		2,551		2,551
Tug Lane			2,542	2,542
FIS	8,596			8,596
Concession Space	27,689			27,689
Other	139,525			139,525
Sub-Total Airside A	175,810	52,546	2,542	230,898
Airside B				
Holdrooms		16,109		16,109
Operations		8,734		8,734
Fenced Area		750		750
Clubroom		2,436		2,436
Bag Make-Up			11,903	11,903
Concession Space	19,341			19,341
Other	60,958			60,958
Sub-Total Airside B	80,299	28,029	11,903	120,231
Total	443,196	111,265	133,921	688,382

NOTES:

- 1 City/Other space may be identified to be assigned to the consortium and paid by City
- 2 Unleased airline space becomes the responsibility of the City

SOURCES: Ricondo & Associates, Inc, June 2020. SAT Airline Agreement Exhibits, June 2020.

EXHIBIT G
JANITORIAL SPECIFICATIONS

Janitorial Specifications

SAN ANTONIO INTERNATIONAL AIRPORT

This is a generic list, provided for informational purposes to support the janitorial responsibilities between the City and the Airlines or SAAC. It should not be considered all-inclusive, and is subject to further definition and revision.

This list represents baseline, routine, custodial tasks, and their typically required frequency, by areas within the Terminal and other Facilities. These benchmarks (and schedules based on these guidelines, developed during negotiations) provide a useful gauge for estimating the scope and cost of providing requested standards, but the respondent should bear in mind that they reflect an estimated minimum standard. It will be up to the Respondent to manage each task as needed to meet the Performance Requirements.

For purposes of these Cleaning Specifications, "Clean" is defined as:

1. Free from dirt, dust, litter, stain, or impurities, and
2. Free from foreign matter, pathogens, or pollution, and
3. Presence of appropriate surface gloss protection, unadulterated clean air and drinking water.

For purposes of these Cleaning Specifications, "continuous cleaning" is defined as the execution of cleaning tasks performed on an ongoing hourly basis, at minimum.

For purposes of these Cleaning Specifications, "continuous cleaning" is defined as the execution of cleaning tasks to achieve a clean (see above definition) environment, but on a daily basis at minimum.

Periodically, but at least annually, the City and Airline and other airlines will meet and review the janitorial service to be provided by SAAC and update this list as necessary. The adjustment of either the janitorial specifications or who will be performing which specific areas (City or SAAC) will be identified in a letter agreement and attached to this Agreement by reference, superseding any previous agreements.

TICKETING LOBBY (including ticket counter, queuing and passenger screening areas)

Task	Frequency
Remove graffiti	Continuous
Police Litter	Continuous
Empty/Clean Trash & Recycle Receptacles	Continuous
Replace Trash Liners	Continuous
Spot Clean Building Surfaces	Continuous
Dust signs and MUFIDS display screens	As Needed
Spot Clean Furniture Surfaces	Daily
Dust mop or Sweep	Daily
Damp mop non-carpeted floors	As Needed
Restore Terrazzo (wet mop, burnish)	Daily
Clean door glass and frames	Daily
Dust windows within reach	Daily
Clean/disinfect ticket counters (computers, keyboards, calculators & counter surfaces)	Daily
Clean and disinfect telephones	Daily
Police and clean Planters and Pots	Daily
Spot clean/wash signage	Daily
Spot clean/wash floor mats	Daily
Police/clean stairwells	Continuous
Clean Ambassador Booths	Daily

ENTRY AND EXIT

Task	Frequency
Remove graffiti	Continuous
Cleaning glass	Every 6 Weeks
Power washing/cleaning of skycap booth	Monthly
Exterior facade of upper and lower level building, entry doors, bus shuttle booths and any fixture or furniture on the exterior of the upper and lower levels	
Police Litter	Continuous
Empty/clean trash & Recycle receptacles	Continuous
Maintain doors and glass	Continuous
Dust mop or Sweep	As Needed
Damp mop non-carpeted floors	As Needed
Restore Terrazzo (wet mop, burnish)	As Needed
Maintain entry carpet mats	As Needed
Curb cleaning (smoking areas, benches)	Continuous
Reachable windows along sidewalk from ground	As Needed

BAGGAGE CLAIM LEVEL

Task	Frequency
Remove graffiti	Continuous
Police Litter	Continuous
Empty/Clean Trash & Recycle Receptacles	Continuous
Replace Trash Liners	Continuous
Spot Clean Building Surfaces	Continuous
Spot Clean Furniture Surfaces	Daily
Dust mop or Sweep	Daily
Damp mop non-carpeted floors	As Needed
Spot mop	As Needed
Clean/disinfect windows	As Needed
Clean/disinfect water fountains	As Needed
Restore Terrazzo, (wet mop, burnish)	Daily
Clean door glass and frames	Daily
Dust windows within reach	Daily
Clean walls and partitions	As Needed
Clean and disinfect telephones	Daily
Spot clean/wash signage	Daily
Police/clean stairwells	Continuous
Clean baggage carousels	Daily
Clean Ambassador Booths	Daily

PUBLIC CONCOURSE AREAS (including Holdrooms)

Task	Frequency
Remove graffiti	Daily
Jet Bridge cleaning	As Needed
Police Litter	As Needed
Empty/Clean Trash & Recycle Receptacles	Continuous
Spot Clean Building Surfaces	As Needed
Dust mop or sweep obvious soil	As Needed
Spot mop	As Needed
Dust Building Surfaces	Daily
Damp mop non-carpeted floors	As Needed
Seating - Clean & Disinfect	Continuous
Vacuum all carpet	Daily
Remove carpet stains	As Needed

RESTROOM FACILITIES

Task	Frequency
Remove graffiti	Continuous
Police Litter	Continuous
Empty/Clean Trash Receptacles	Continuous
Spot Clean building surfaces	Continuous
Spot clean mirrors, partitions & fixtures	Daily
Spot clean furniture surfaces	Daily
Dust mop or sweep	Continuous
Damp mop non-carpeted floors	As Needed
Remove carpet stains	As Needed
Vacuum Traffic Lanes & remove soil	As Needed
Dust building surfaces	Continuous
Dust furniture surfaces & High Dust	Weekly
Vacuum completely	Bi-Weekly
Restore Terrazzo (wet mop, burnish)	As Needed
Clean and disinfect fixture	Continuous
Refill dispensers	As Needed
Disinfect all surfaces	Continuous
Disinfect toilets and urinals	Continuous
Wet clean and disinfect floors	Continuous
Clean and refill floor drains	As Needed
Replenish supplies and dispensers	As Needed

FIS (CUSTOMS AREA)

Task	Frequency
Clean Restrooms	Continuous
Remove graffiti	Continuous
Empty/Clean Trash & Recycle Receptacles	Daily
Dust mop non-carpeted floors	Daily
Clean break room / kitchen area	Daily
Damp mop non-carpeted floors	As Needed
Restore Terrazzo (wet mop, burnish)	As Needed
Police Litter	As Needed
Remove carpet stains	As Needed
Clean wall surfaces	As Needed
Clean door glass and frames	Weekly
Dust furniture surfaces	Weekly
Clean Escalator	Weekly
Vacuum Completely	Weekly
Dust Building Surfaces & High Dust	Weekly
Clean and disinfect telephones	Weekly
Spot Clean Building Surfaces	Weekly

CONCESSIONS COURT: EATING AND VENDING AREAS

Task	Frequency
Remove graffiti	Continuous
Police Litter	Continuous
Empty Trash & Recycle Receptacles	Continuous
Spot Clean Building Surfaces	Continuous
Spot Clean Furniture Surfaces	Daily
Dust mop or Sweep	As Needed
Damp mop non-carpeted floors	As Needed
Vacuum Traffic Lanes & Remove Soil	As Needed
Dust Building Surfaces & High Dust	Weekly
Dust Furniture Surfaces	Weekly
Vacuum Completely	Bi-Weekly
Restore Terrazzo, Clean Floors, & Burnish Floor	Daily
Clean door glass and frames	Daily
Dust windows within reach	Daily
Clean and disinfect furniture	Daily
Clean and disinfect telephones	Daily
Police and clean Planters and Pots	Daily
Spot clean/wash signage	Daily
Clean/empty ash urns	Daily
Police/clean stairwells	Continuous
Clean/replace food court trays	Continuous
Trash removal all concession spaces	Daily (5 times a day)

OFFICES/WHERE APPLICABLE

Task	Frequency
Remove graffiti	As Needed
Police Litter	As Needed
Empty/Clean Trash & Recycle Receptacles	As Needed
Clean writing boards	As Needed
Clean erasers and writing board trays	As Needed
Spot clean wall surfaces	As Needed
Spot clean furniture surfaces	As Needed
Remove carpet stains	As Needed
Vacuum Traffic Lanes & remove soil	As Needed
Spot mop	As Needed
Arrange Furniture	As Needed
Clean wall surfaces	As Needed
Clean furniture surfaces	As Needed
Vacuum completely	As Needed
Clean door glass and frames	Daily
Dust windows within reach	Daily
Clean and disinfect telephones	Daily
Police and clean Planters and Pots	Daily
Spot clean/wash floor mats	Daily
Police/clean stairwells	Continuous
Clean break room/kitchens	Daily

ELEVATORS & ESCALATORS

Task	Frequency
Remove graffiti	As Needed
Police Litter	As Needed
Door tracks and frames cleaned	Twice Daily
Door tracks and frames polished	Daily
Light diffusers, side panels, base plates, tracks and thresholds cleaned	Daily
Escalators, elevators and moving walkways, including glass and Balusters, cleaned	As Needed
Dust mop or sweep	Daily
Remove carpet stains	As Needed
Damp mop non-carpeted floors	Bi-Weekly
Vacuum completely	Daily
Elevator call button panel clean	Twice Daily

CONFERENCE ROOMS

Task	Frequency
Remove graffiti	Daily
Police Litter	Daily
Empty/Clean Trash & Recycle Receptacles	Daily
Clean writing boards	Daily
Clean erasers and writing board trays	Daily
Spot clean wall surfaces	Daily
Spot clean furniture surfaces	Daily
Remove carpet stains	As Needed
Vacuum Traffic Lanes & remove soil	Daily
Spot mop	Weekly
Dust building surfaces	Weekly
Dust furniture surfaces	Weekly
Vacuum completely	As Needed
Dust mop non-carpeted floors	Daily

STAIRS

Task	Frequency
Remove graffiti	Continuous
Police Litter	Continuous
Empty/Clean Trash Receptacles	Continuous
Spot clean building surfaces	Continuous
Dust mop non-carpeted floors	As Needed
Dust mop or sweep	As Needed
Remove carpet stains	As Needed
Vacuum Traffic Lanes & remove soil	As Needed
Dust building surfaces	Weekly
Vacuum completely	Bi-Weekly

STORAGE AREAS

Task	Frequency
Remove graffiti	Daily
Police Litter	As Needed
Empty/Clean Trash Receptacles	As Needed
Spot clean building surfaces	Weekly
Dust mop or sweep obvious soil	As Needed
Spot mop	Weekly
Dust mop or sweep	As Needed
Remove carpet stains	As Needed
Damp mop non-carpeted floors	As Needed
Vacuum completely	Bi-Weekly

CUSTODIAL CLOSETS

Task	Frequency
Remove graffiti	Daily
Police Litter	Daily
Spot clean surfaces	Daily
Dust mop or sweep	Daily
Clean and disinfect fixtures	Daily
Clean building surfaces	Weekly
Damp mop non-carpeted floors	Weekly
Clean and disinfect mop sinks & drains	Daily
Stock paper & cleaning supplies in janitor closet	As Needed

CONCESSIONS COURT; EATING AND VENDING AREAS

Task	Frequency
Remove graffiti	Continuous
Police Litter	Continuous
Empty Trash & Recycle Receptacles	Continuous
Spot Clean Building Surfaces	Continuous
Spot Clean Furniture Surfaces	Daily
Dust mop or Sweep	As Needed
Damp mop non-carpeted floors	As Needed
Vacuum Traffic Lanes & Remove Soil	As Needed
Dust Building Surfaces & High Dust	Weekly
Dust Furniture Surfaces	Weekly
Vacuum Completely	Bi-Weekly
Restore Terrazzo, Clean Floors, & Burnish Floor	Daily
Clean door glass and frames	Daily
Dust windows within reach	Daily
Clean and disinfect furniture	Daily
Clean and disinfect telephones	Daily
Police and clean Planters and Pots	Daily
Spot clean/wash signage	Daily
Clean/empty ash urns	Daily
Police/clean stairwells	Continuous
Clean/replace food court trays	Continuous
Trash removal all concession spaces	Daily (5 times a day)

LOCKER ROOMS

Task	Frequency
Police Litter	Daily
Empty/Clean Trash Receptacles	Daily
Spot clean furniture surfaces	Daily
Dust mop or sweep	Daily
Remove carpet stains	Daily
Vacuum Traffic Lanes & remove soil	Daily
Dust furniture surfaces & High Dust	Weekly
Damp mop non-carpeted floors	Daily
Vacuum completely	Bi-Weekly
Restore Terrazzo/clean floors	Bi-Weekly

COPY ROOMS

Task	Frequency
Police Litter	Daily
Empty/Clean Trash Receptacles	Daily
Spot clean furniture surfaces	Daily
Dust mop or sweep	Daily
Remove carpet stains	As Needed
Vacuum Traffic Lanes & remove soil	Daily
Dust mop or sweep	Daily
Spot mop	Daily
Dust building surfaces	Weekly
Dust furniture surfaces	Weekly
Spot clean building surfaces	Weekly
Damp mop non-carpeted floors	Weekly
Vacuum completely / high dust	Bi-Weekly
Restore Terrazzo/clean floors	Bi-Weekly

PROJECT WORK

Task	Frequency
Carpets cleaned with Dry cleaning method or using Carpet Manufacturer's preferred method" for the carpet	Once Per Quarter
Carpet Shampooing "Water Extraction Method"	Twice Per Year
Finished Floors stripped of old sealer & new floor sealer replaced	Once Per Year
Windows - Exterior	3 times per year
Blinds	Yearly
Wall Washing	Yearly
Furniture Cleaning	Yearly
Exterior Surfaces -Terminal/Concourse Walls	Yearly

MINIMUM DAILY CUSTODIAL DUTIES

Clean up floor spills (water, human waste, soda, coffee, etc.) immediately once identified.

Set-up for scheduled meetings, clean up afterward and return room, equipment, etc. to original set-up.

Respond immediately to facility emergencies (clogged toilets, broken glass, etc.)

Secure or restrict working areas as they pertain to performing custodial services specified in Scope of Services.

Mop continuously all entranceways and corridors during inclement weather or construction.

Clean all glass as needed.

Report any unsafe condition to Department. Address immediately those specified In Scope of Services.

Report Status and condition of Terminal and other Facilities sections and defined areas to the Department.

Report any items needing repair to proper contact so they can be repaired / replaced.

EXHIBIT H
MINIMUM OPERATING STANDARDS
FOR THE
SAN ANTONIO AIRLINE CONSORTIUM

ARTICLE 1. INTRODUCTION

1.1 PURPOSE AND SCOPE

These Minimum Operating Standards establish the minimum operating requirements and expectations for the San Antonio Airport Consortium ("SAAC") to:

1. Provide services within Airline Leased Premises and certain other areas of the San Antonio International Airport Terminal Building ("Terminal Building") assigned to the airlines pursuant to the Airline Operating Agreement and Terminal Building Lease ("Agreement") by and between the City of San Antonio, Texas ("City") and the Airline; and
2. Operate and maintain certain systems, equipment, and facilities in and about the Terminal Building on behalf of Airline, other nonmember Airlines, and the City; and
3. Serve as the authorized agent for fulfilling certain contractual responsibilities of Airline and other Air Transportation Companies including passenger services; and
4. Finance, design, procure, acquire, or construct mutually agreed upon capital improvements on behalf of Airline, other nonmember Airlines, and the City.

SAAC is a Texas not-for-profit limited liability corporation, formed and organized by certain Airlines operating at the Airport to provide services on behalf of SAAC members, nonmember airlines, and the City. SAAC as its authorized agent for fulfilling the following obligations of Airline: janitorial services within the Airline Leased Premises; Baggage Handling System operation and maintenance; Passenger Loading Bridge operation and maintenance; Passenger Services; and Apron Area striping. The City has assigned SAAC, and SAAC has agreed to undertake, the responsibility for janitorial services within certain public-use areas of the Terminal Building as assigned by the City.

ARTICLE 2. DEFINITIONS

Unless otherwise specified herein, the definitions contained in Article 1, Definitions, of the Agreement are incorporated by reference as if fully set forth here.

"Chairperson of SAAC" means the individual elected as the chairperson of the board of directors pursuant to the terms and conditions of the Members Agreement.

"Contractor" means a person or firm hired by SAAC to act as its agents or as independent contractors for the performance of Work.

"Contracts" means all agreements SAAC enters into with any supplier of materials, furnisher of services, contractors, subcontractors or any labor organization which furnishes skilled, unskilled and craft union skilled labor, or which may perform any such labor, services, or Work as authorized by the Members, nonmembers, or City.

"Member" means a member of SAAC pursuant to the terms of the Members Agreement.

"Members Agreement" means that certain San Antonio Airport Consortium Agreement.

"Non-Member" means any Air Transportation Company that is not a member of SAAC pursuant to the terms of the Members Agreement. Non-Member Airlines shall pay Premium Rates as required in Section 5.7 of this Exhibit H.

"SAAC Operations Area" means any area or space at the Airport where SAAC performs Work or performs tasks, including administrative tasks, attendant thereto, and any area or space at the Airport containing SAAC equipment.

"Work" means those services as agreed to by the City and Members, pursuant to the terms and conditions of the Agreement and these Minimum Operating Standards and as described in Article 3 hereof.

ARTICLE 3. OPERATING RIGHTS AND PRIVILEGES

Subject to the terms and provisions contained in the Agreement and all applicable rules, regulations, laws, ordinances, codes and orders of any federal, state or local government or subdivision thereof, in connection with the conduct of SAAC's activities at the Airport, the City has granted SAAC the rights set forth below.

3.1 JANITORIAL SERVICES

The Airlines have appointed SAAC to serve as their janitorial services provider for the Airline Leased Premises and Joint Use Areas of the Terminal Building. In addition, the City has appointed SAAC to provide janitorial services in certain City-designated areas of the Terminal Building. The

extent of SAAC's janitorial services responsibilities is shown on Exhibit E of the Agreement. The janitorial services provided by SAAC shall result in Airline's Leased Premises, and City designated areas of the Terminal, being kept in a neat, clean, sanitary, safe, and orderly condition at all times. To maintain a uniform level of janitorial service within both airline Leased Premises and City-designated areas in the Terminal Building, SAAC shall retain one Contractor for such services. Exhibit F of the Agreement depicts the janitorial specifications for SAAC and its Contractor to adhere to for all janitorial services in the Terminal Building.

3.2 BAGGAGE HANDLING SYSTEM MAINTENANCE

The Airlines have appointed SAAC to fulfill their obligations for the Baggage Handling System Maintenance and Operation as described in the Agreement. Airline, together with other airlines and acting through SAAC, shall operate, maintain, and clean the Baggage Handling System. SAAC shall maintain the Baggage Handling System in accordance with the manufacturer's recommended maintenance program.

3.3 LOADING BRIDGE MAINTENANCE

The Airlines have appointed SAAC to fulfill their obligations to maintain the Terminal Building Loading Bridges as described in the Agreement. SAAC shall maintain and clean the Loading Bridge(s) shown on Exhibit C (including 400 Hz power, preconditioned air, Loading Bridge air conditioning, and potable water cabinets) in accordance with the manufacturer's recommended maintenance program.

3.4 ADDITIONAL SERVICES AND RIGHTS (ADDITIONAL SERVICE AREAS)

In addition to the above-described rights, and subject to the approval of the Director, such approval not to be unreasonably withheld, SAAC shall have the right to perform and conduct such other activities and operations consistent with the rights, privileges and responsibilities granted to SAAC hereunder, provided that such activities and operations do not unreasonably interfere or conflict with the rights granted by the City to others at the Airport.

ARTICLE 4. OBLIGATIONS.

4.1 SAAC ADMINISTRATIVE AND SUPPORT AREAS.

The Director will designate an office and such other space as the Director deems reasonably necessary for SAAC's use in performing Work. This space shall be as set forth in Exhibit C, as such exhibit may be revised from time to time, at the sole discretion of the Director without need for an amendment to this Agreement.

4.2 AIRFIELD AND PUBLIC AREAS OF THE AIRPORT.

SAAC has the right to use, in common with others, the public facilities at the Airport subject to the rules and regulations with respect to the use of such facilities imposed by the City, the FAA or any other governmental agency.

4.3 SAAC EMPLOYEE BADGES

All SAAC employees and their Contractor and subcontractor employees shall obtain the appropriate badges for the areas in which they will be working. The City will charge SAAC the standard badging fee for each badge issued to its employees and the employees of subcontractors.

4.4 INGRESS AND EGRESS.

The City hereby grants SAAC the right and privilege of (i) ingress to and egress from the SAAC Operations Areas, and the public areas of the Terminal Building, for its contractors, employees, agents, guests, patrons and invitees, suppliers of materials, furnishers of services, and its equipment, vehicles and machinery and (ii) to provide transportation of its employees to, from, and within the Airport. SAAC shall neither block or otherwise obstruct the Apron Area or service roads at any time, nor in any other manner impair or adversely affect the use and operation of the Apron Area by City or other Airport users.

4.5 CITY'S RIGHT OF ENTRY.

The City hereby reserves such rights as may be necessary to enter SAAC Operations Areas for the purpose of conducting any operations related to the function of the Airport and to inspect and/or conduct testing on any part of SAAC's Work. City agrees to not unreasonably interfere with

SAAC's Work, and/or operation and maintenance of the Baggage Handling System, Passenger Loading Bridges, or Additional Service Areas when exercising its rights under this Section.

4.6 RESTRICTIONS REGARDING THE BAGGAGE HANDLING SYSTEM, PASSENGER LOADING BRIDGES, AND ADDITIONAL SERVICE AREAS.

SAAC hereby agrees that the use and operation of the Baggage Handling System, Passenger Loading Bridges, and Additional Service Areas by SAAC or a Member shall not unreasonably interfere with the operation of the Airport. SAAC hereby covenants and agrees that at all times it and they will comply with all laws, regulations, and ordinances applicable to their use of the Baggage Handling System, Passenger Loading Bridges, and Additional Service Areas. SAAC, and its Members, non-Members, contractors, and their respective successors and assigns, agree that it and they shall not make use of the Baggage Handling System, Passenger Loading Bridges, and Additional Service Areas in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event that this foregoing covenant is breached, the City may cause the abatement of such interference at the expense of the breaching party. SAAC shall cause its Members to agree in the Members Agreement to the terms set forth above in this Section.

4.7 PRESENT CONDITION OF THE AIRPORT.

SAAC accepts the Terminal Building, including the Baggage Handling System, Additional Service Areas, and Passenger Loading Bridges, in an "As-Is" condition. SAAC shall be responsible for compliance with all applicable Federal, State and local laws, statutes, codes, ordinance, rules, regulations and orders, including any and all requirements set forth in these Minimum Operating Standards. Other than what may be explicitly provided for herein, the City shall have no obligation or responsibility whatsoever to perform any Work or furnish improvements of any kind to the Baggage Handling System, Passenger Loading Bridges and Additional Service Areas, or to perform any maintenance or repairs on the Baggage Handling System, Passenger Loading Bridges, Additional Service Areas or SAAC Operations Areas. City makes no warranty to SAAC as to the environmental conditions in the Terminal Building, Passenger Loading Bridges, the Baggage Handling System, and Additional Service Areas. City makes no warranty, either express or implied, as to the condition of the Terminal Building, Passenger Loading Bridges, the Baggage Handling System, and Additional Service Areas or their suitability for SAAC's purposes or needs.

City shall not be responsible to SAAC for any latent defect in any structure, improvement, facility or equipment in the Terminal Building, Passenger Loading Bridges, the Baggage Handling System, and Additional Service Areas. By its entry onto the Airport, SAAC accepts the SAAC Operations Areas as being free and clear from all defects and in good, safe, clean and orderly condition and repair. SAAC waives any and all claims against the City regarding the condition of the Terminal Building, Passenger Loading Bridges, the Baggage Handling System, and Additional Service Areas which may currently exist or which may arise in the future, whether such claim arises under contract, at common law, in equity or under statute, now or then currently in effect, including those which relate to environmental conditions on, under or near SAAC's Operations Areas; *provided, however*, that such waiver does not extend to (i) SAAC's right to contribution from the City as may be provided under environmental law, and (ii) fines and penalties for which the City would be liable, and SAAC would not be liable, under any environmental law.

4.8 OWNERSHIP OF THE BAGGAGE HANDLING SYSTEM AND LOADING BRIDGES.

The Baggage Handling System, all Loading Bridges, and Additional Service Areas are and shall remain the property of the City. SAAC hereby acknowledges that neither SAAC nor any user of the Baggage Handling System, Loading Bridges, and Additional Service Areas will own or have title to the Baggage Handling System, Loading Bridges, and Additional Service Areas and agrees that it will not treat itself or authorize any other User to treat itself as the owner of the Baggage Handling System, Loading Bridges, and Additional Service Areas.

4.9 CONTRACTING FOR WORK.

SAAC may contract for the performance of Work and construction of Capital Improvements. The City has the right, but not the obligation, to review and approve the form of SAAC's contract for the performance of such Work. SAAC shall furnish its proposed form of contract for Work to the City for City review and approval prior to the advertisement for bids of any Work. SAAC hereby expressly acknowledges and agrees that in the performance of Work, SAAC is bound by all terms and conditions set forth in the Agreement, including those federal, state and local laws, statutes, ordinances, regulations, rules and executive orders pertaining to procurement referenced in the Agreement, including all exhibits hereto. SAAC shall not contract for Work or services of any nature with any person or entity barred from contracting with the City pursuant to any law, ordinance, rule or regulation. City reserves the right to disapprove any such contract.

SAAC shall include the provisions set forth in Article 15 of the Agreement in all contracts for Work. SAAC's contracts for Work shall not include any terms or provisions which in any way conflict with, negate or void the contract provisions set forth in Article 15 of the Agreement. Subject to the review and approval of the City and its Counsel, SAAC may modify the contract provisions in Article 15 of the Agreement to conform to the nature of the Work to be performed by SAAC and/or its Contractors. All such contracts for Work shall contain provisions making them assignable to the City. Upon the occurrence of Termination, the City shall have the right to require that SAAC complete the assignment to City of any and all contracts. Such assignment shall be in writing and acceptable in form and substance to the Director. All such contracts shall also contain terms providing that in the event that such contract is assigned to the City, the Contractor shall be deemed to have waived any and all claims, suits or causes of action arising out of or relating to the performance of such contract prior to the effective date of such assignment unless the Contractor notifies the City in writing of such claim, suit or cause of action prior to the effective date of such assignment. The City shall not be responsible or liable for any claims relating to such contracts arising from or related to any fraud, misrepresentation, negligence or willful or intentionally tortious conduct by SAAC, its officials, employees, agents, Members or Contractors.

4.10 TITLE TO REPLACEMENT PARTS, COMPONENTS AND EQUIPMENT.

Title to any replacement parts, components or items of the Baggage Handling System, Additional Service Areas and Loading Bridges shall immediately vest in the City without further action by any party. Title to any parts, components or items of the Baggage Handling System, Additional Service Areas, and all Loading Bridges not replaced shall be retained by City.

4.11 CAPITAL IMPROVEMENTS

No Capital Improvement shall be made or undertaken by SAAC without the prior written approval of the City, which approval may be withheld or conditioned in the sole discretion of the City. The City may require SAAC to cause Plans and Specifications for Capital Improvements to be prepared and submitted to the City for review and approval, which approval shall be within the sole discretion of the City ("Approved Plans"). Plans and Specifications submitted for City approval shall comply with the City's standards.

SAAC shall obtain all necessary and required permits under Applicable Laws and Airport Rules and Regulations before commencing any Capital Improvement and shall provide City with electronic copies of as-constructed plans upon completion of the Capital Improvement in a format acceptable to the City. Capital Improvements shall be performed by SAAC and its Contractors in a good and workman like manner, using good quality materials and in compliance with all Applicable Laws, including without limitation applicable building codes. The City's approval of the Capital Improvements or Plans and Specifications shall not be deemed as an acceptance, consent to, or waiver of these SAAC obligations. The City makes no representations or warranties regarding the condition of the existing improvements and SAAC is solely responsible for all known and unknown existing conditions on, in, or under the location where a Capital Improvement is to be constructed or installed. SAAC shall diligently commence approved Capital Improvements, diligently pursue the completion of same in a timely manner, and perform all activities in accordance with the Airport Security Plan. If required by the City, SAAC shall ensure that construction activities are closed off from public view with a painted gypsum dust partition with attractive, easily readable signs explaining the construction, as approved by the City prior to undertaking such Capital Improvements.

SAAC agrees that any contract for performance of a Capital Improvement or for the purchase of material to be used, or for work and labor to be performed within or on the Airport shall be in writing and shall contain provisions to protect the City from the claims of any laborers, subcontractors or materialmen. SAAC agrees to give the City immediate notice of the placing of any lien or encumbrance against the Capital Improvement and further agrees to cause such lien to be discharged in accordance with direction from the City.

4.12 CITY'S RIGHT TO PERFORM SAAC FUNCTIONS.

In the event that SAAC fails to perform any of its obligations within thirty (30) days of its receipt of notice from the City to so perform, the City may perform such obligations without such performance causing or constituting an interference with any of SAAC's rights. The City may do all things necessary to perform such obligation and charge the cost and expense of such performance as an O&M Expense of the Terminal Building Cost Center in the calculation of Airline Fees and Charges under the Agreement. If, in the sole determination of the Director, any failure of SAAC to perform its obligations endangers the health and safety of the public or

employees of the City, the City may perform any such obligation after providing oral notice to SAAC and may charge its costs for such performance as an O&M Expense of the Terminal Building Cost Center under the Agreement.

4.13 ACCESS TO AND USE OF BAGGAGE HANDLING SYSTEM AND PASSENGER LOADING BRIDGES BY NON-MEMBERS.

SAAC shall operate the Baggage Handling System, Additional Service Areas, and Passenger Loading Bridges so that both Members and non-Members shall have full and complete access to and use of the Baggage Handling System, Additional Service Areas and Passenger Loading Bridges. SAAC may, by Majority-in-Interest approval, and subject to review and approval of the City, establish reasonable rules and regulations regarding access to and use of the Baggage Handling System, Additional Service Areas, and Passenger Loading Bridges by non-Members. SAAC may further require in such rules and regulations that, as a condition to access to and use of the Baggage Handling System, Additional Service Areas, and Passenger Loading Bridges, a non-Member must execute an agreement with SAAC, the form and substance of which shall be subject to the review and approval of the City.

4.14 CITY APPROVAL OF MEMBERS AGREEMENT.

The City has the right to review and approve the Member Agreement and all amendments thereto. Such approval not to be unreasonably withheld or denied.

4.15 CITY/SAAC INTERFACE

City will designate a representative to monitor and observe the maintenance and operation of the Baggage Handling System, Additional Service Areas, and Loading Bridges. SAAC agrees to use its best efforts to implement suggestions and requests of City's representative. Additionally, City will designate a non-voting representative to attend Board of Directors meetings and other organizational meetings of SAAC.

4.16 MEMBERSHIP IN SAAC.

An airline is entitled to become a member of SAAC by entering into an Agreement with the City and a Members Agreement with SAAC. SAAC may establish reasonable rules and regulations regarding admission of airlines as members of SAAC, including the purchase of memberships,

which rules and regulations shall be subject to the review and approval of the City. SAAC agrees that so long as an airline has an Agreement, in no event shall the approval of the Members be required for such airline to become a Member. SAAC shall notify the City in writing of all existing Members by _____ of each Fiscal Year.

4.17 SAAC TO MAINTAIN CORPORATE EXISTENCE.

SAAC warrants that it is, and shall be throughout the Term of the Agreement, qualified to do business in the State of Texas. SAAC shall maintain its corporate existence, shall not assign or otherwise transfer all or substantially all of its assets, and shall not consolidate or merge with another corporation or permit one or more other corporations to consolidate or merge into it, unless the surviving, resulting or transferee corporation, as the case may be, (i) expressly assumes in writing all of the obligations of SAAC hereunder, and (ii) if such corporation is not organized and existing under the laws of the United States of America or any State or Territory thereof or the District of Columbia, delivers to the City an irrevocable consent to service of process and jurisdiction.

4.18 INCONSISTENT PROVISIONS.

SAAC shall not amend its articles of incorporation or by-laws in any manner that would cause such articles of incorporation or by-laws to be inconsistent with the terms and provisions of the Agreement or these Minimum Operating Standards. SAAC shall promptly provide copies of any such amendments to the City.

4.19 SAAC RESPONSE TIMES

SAAC shall provide services within appropriate response times. Response time shall be at least equal to response time at other airports with similar systems and equipment. Services requiring immediate action shall be responded to appropriately. SAAC shall also perform preventive maintenance on a scheduled basis.

ARTICLE 5. FINANCIAL OBLIGATIONS

5.1 COST OF JANITORIAL SERVICES – AIRLINE LEASED PREMISES

Janitorial services provided by SAAC within an Airline's Leased Premises shall be at Airline's sole cost and expense. SAAC janitorial services costs for Joint Use Space shall be prorated among all airlines by SAAC using the methodology agreed upon by all airlines. In the absence of agreement between the airlines, the Joint Use Formula will be used. SAAC will invoice Airline and other airlines for the services that are provided on Airline's behalf.

5.2 COST OF JANITORIAL SERVICES – CITY-DESIGNATED AREAS

The cost of janitorial services provided by SAAC to City-designated areas of the Terminal Building as assigned by the Director to SAAC will be at the City's expense.

5.2.1 Annual Budget Process for Janitorial Services – City-designated Space

Each year, as part of City's Aviation Department budget development process, the City will advise SAAC of City-designated space in the Terminal Building for which SAAC will be responsible for providing janitorial services for the City in the subsequent year. Increases or decreases in scope will result in an appropriate adjustment in compensation due SAAC. At least one hundred twenty (120) days before the end of each Fiscal Year, SAAC shall provide City with a preliminary estimate of the cost of janitorial services that will be invoiced to City in the subsequent Fiscal Year. At least ninety (90) days prior to the end of the then-current Fiscal Year, SAAC will provide the City with its final budget for the cost of janitorial services that will be invoiced to the City in the subsequent Fiscal Year. The City will advise SAAC of its acceptance of the proposed costs.

Any janitorial services provided by City in the Terminal Building will be in Airport Cost Centers that are not paid for by Airline, except to the extent that they are part of the indirect cost allocation.

5.3 COST OF BAGGAGE HANDLING SYSTEM MAINTENANCE

SAAC shall operate, maintain, and clean the Baggage Handling System. The maintenance, operation, and cleaning of the Baggage Handling System shall be at the sole cost and expense of the Airlines together with other airlines. The Baggage Handling System costs shall be prorated among all airlines by SAAC using the methodology agreed upon by all airlines. In the absence of agreement between the airlines, the Joint Use Formula will be used.

5.4 COST OF LOADING BRIDGE MAINTENANCE

SAAC shall operate, maintain, and clean all passenger Loading Bridges shown on Exhibit C (including 400 Hz power, preconditioned air, Loading Bridge air conditioning, and potable water cabinets) at the sole cost and expense of Airline together with other airlines. The Loading Bridge maintenance costs shall be prorated among all airlines by SAAC using the methodology agreed upon by all airlines. In the absence of agreement between the airlines, the Joint Use Formula will be used.

5.4.1 Annual Budget Process for Unleased Loading Bridges

Each year, as part of City's Aviation Department budget development process, the City will advise SAAC of the number of unleased Loading Bridges in the Terminal Building. At least one hundred twenty (120) days before the end of each Fiscal Year, SAAC shall provide City with a preliminary estimate of the cost of maintaining unleased Loading Bridges that will be invoiced to City in the subsequent Fiscal Year. At least ninety (90) days prior to the end of the then-current Fiscal Year, SAAC will provide the City with its final budget for the cost of maintaining unleased Loading Bridges that will be invoiced to the City in the subsequent Fiscal Year. The City will advise SAAC of its acceptance of the proposed costs.

5.5 ANNUAL CAPITAL IMPROVEMENT BUDGET PROCESS

Each year, as part of City's Aviation Department budget development process, SAAC will prepare and present to the City a five-year capital improvement plan depicting the costs and justification for capital improvements, including but not limited to replacement loading bridges and baggage handling system refurbishment, replacement, or expansion projects. At least one hundred twenty (120) days before the end of each Fiscal Year, SAAC shall provide City with a preliminary five-year capital improvement plan that includes a list of all capital improvements SAAC proposes to undertake during this period. At least ninety (90) days prior to the end of the then-current Fiscal Year, SAAC will provide the City with its final five-year capital improvement plan for loading bridges and the baggage handling system and other capital improvement projects. The City will advise SAAC of its acceptance of the proposed five-year capital improvement plan.

5.6 SAAC CAPITAL IMPROVEMENT FINANCING TERMS AND CONDITIONS

The City and SAAC acknowledge that from time to time it may be advantageous for SAAC to finance, design, procure, acquire, or construct mutually agreed upon capital improvements on behalf of the City. During the annual capital improvement budget process described in Section 5.5, the City and SAAC shall decide on which capital improvements SAAC will finance, design, procure, acquire, or construct on behalf of the City and a schedule for City reimbursement of SAAC funds expended for said approved capital improvements. SAAC shall obtain City prior approval of all plans, specifications, and construction phasing for approved capital improvements.

5.7 PREMIUM RATES.

The Premium Airline Leased Premises Janitorial, Baggage Handling System, and Loading Bridge Fees for each Fiscal Year, which rate shall be payable by non-Members only, shall be calculated as no more than one hundred twenty-five (125%) of the Base Airline Leased Premises Janitorial, Baggage Handling System, and Loading Bridge Fees paid by Members.

5.8 MONTHLY REPORTING AND PAYMENT PROCEDURES.

Each month, SAAC will submit an invoice to the City for City-designated areas of the Terminal Building and unleased Loading Bridge maintenance. The City shall, in a timely manner, submit payment to SAAC, which will then be responsible for paying its Contractors directly. Each invoice shall be acceptable in form and substance to the Director. The City shall have no obligation or liability to SAAC other than to make payment pursuant to an accepted SAAC invoice. The City shall have no obligation or liability to any third party whatsoever. Payment of SAAC invoices will be made within thirty (30) days of the Director's acceptance of an invoice. The Director may withhold processing of any invoice which, in his or her reasonable opinion, is not submitted with adequate supporting documentation for the charges and costs set forth on such invoice. The Director shall provide reasonable notice of any inadequacies in the supporting documentation.

5.9 ADJUSTMENT OF SAAC CHARGES TO CITY TO ACTUAL

Within three (3) months following the completion of each Fiscal Year, SAAC shall furnish Airline and City with an accounting of the costs and expenses actually incurred, actual allocations for direct and indirect expenses, revenues and other credits actually realized and shall recalculate the charges required for the calendar year based on those actual costs and revenues.

In the event that City's charges billed and paid during the year were more or less than the amount of City's charges required (as recalculated based on actual costs), such excess or deficit amount will be credited immediately or charged to the City over the next succeeding three (3) months.

ARTICLE 6. RECORD KEEPING AND REPORTING

6.1 OWNERSHIP OF DOCUMENTS.

All documents and data, including studies, reports, drawings, models, specifications, estimates, maps, calculations and instruments of service (collectively, Documents) prepared or maintained by SAAC in connection with the Work are the property of the City. SAAC is responsible for any loss or damage to the Documents while such Documents are in SAAC's possession or the possession of its Contractors. SAAC is wholly responsible for the cost of restoration of such lost or damaged Documents. SAAC shall deliver all Documents to the City upon the City's reasonable demand. If SAAC fails to deliver such Documents to the City, SAAC shall pay to the City any damages the City may incur due to such failure.

6.2 RECORDS OF THE WORK.

SAAC shall furnish to the Director such information as may be requested pertaining to the progress, execution, and cost of Work. SAAC shall maintain, or cause to be maintained, records showing actual time expended and cost incurred in the performance of Work. All such books, records and accounts shall be maintained according to generally accepted accounting principles. All books, records and accounts in any way pertaining to the Work shall be open to the City, including any representatives designated and authorized by the City to inspect, audit, duplicate or otherwise review such books, records and accounts. SAAC shall maintain all such books, records and accounts in a safe location, make them available to the City upon request, and retain all such books, records and accounts for inspection, audit, duplication or other related use by the City for at least five (5) years after completion of the Work.

6.3 RECORDS OF THE OPERATION AND MAINTENANCE OF THE BAGGAGE HANDLING SYSTEM AND LOADING BRIDGES.

SAAC shall furnish to the Director such information as may be requested pertaining to the operation and maintenance of the Baggage Handling System and Loading Bridges. SAAC shall maintain, or cause to be maintained, records showing actual time expended and cost incurred in

such operation and maintenance of the Baggage Handling System and Loading Bridges. All such books, records and accounts shall be maintained according to generally accepted accounting principles. All books, records and accounts in any way pertaining to the operation and maintenance of the Baggage Handling System and Loading Bridges shall be open to the City, including any representatives designated and authorized by the City to inspect, audit, duplicate or otherwise review such books, records and accounts. SAAC shall maintain all such books, records and accounts in a safe location, make them available to the City upon request, and retain all such books, records and accounts for inspection, audit, duplication or other related use by the City for at least five (5) years.

6.4 SAAC REPORTS.

On or before October 31st of each calendar year during the Term, SAAC shall provide the Director with a report of its operations and maintenance of the Baggage Handling System and Loading Bridges for the prior Fiscal Year. All such reports shall be acceptable in form and substance to the Director.

ARTICLE 7. INDEMNIFICATION

SAAC covenants and agrees to fully indemnify, defend, and hold harmless, the City and the elected officials, employees, officers, directors, volunteers and representatives of the City, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to SAAC's activities in, on or about Airline Leased Premises, or from any operation or activity of SAAC upon the Airport premises, or in connection with its use of Airline Leased Premises, including any acts or omissions of SAAC, including any acts or omissions of SAAC, any agent, officer, director, representative, employee, SAAC or subcontractor of SAAC, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of its duties herein. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of City, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT SAAC AND CITY ARE FOUND

JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

The provisions of this Article 7 are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. SAAC shall advise the City in writing within 24 hours of any claim or demand against the City or SAAC known to SAAC related to or arising out of SAAC's activities and shall see to the investigation and defense of such claim or demand at SAAC's cost. The City shall have the right, at its option and at its own expense, to participate in such defense without relieving SAAC of any of its obligations under this paragraph.,

ARTICLE 8. SAAC INSURANCE REQUIREMENTS

SAAC shall be required to purchase and maintain or caused to be maintained in force the insurance coverage for itself and its officers, agents, employees, contractors, subcontractors, licensees, and suppliers. SAAC shall maintain in full force and effect the forms of insurance specified in this section. All such insurance hereunder shall be maintained by SAAC's with insurance underwriters who have been approved by the Director.

All liability insurance policies shall provide coverage that includes, or has the same substantive effect as, the following wording:

1. "The City of San Antonio and each of its officers, agents, elected representatives, volunteers, and employees, in their respective capacities as such, shall be additional insureds hereunder with respect to the products, premises, and operations of the named insured to the full limits of liability purchased by SAAC even if those limits of liability are in excess of those required by this Lease."
2. "SAAC's insurance shall be primary insurance and non-contributory with respect to all other available sources."

3. "This insurance shall not be materially changed, altered, canceled, or non-renewed until after thirty (30) days advance written notice has been given to the City of San Antonio except that only ten (10) day notice shall be required in the event of cancellation due to non-payment of premium."

SAAC shall furnish City with evidence of all insurance policies required hereunder. Prior to the expiration of any then-current policy of insurance, SAAC shall deliver to City evidence showing that such insurance coverage has been renewed. At least five (5) calendar days prior to the date of cancellation or reduction of coverage, as received in the written notice from the insurer, SAAC shall deliver to the Director evidence showing reinstatement or other provision for the required insurance.

All such evidence shall be in the form of certificates of insurance satisfactory to the Director.

- a. General Liability insurance with a liability limit of not less than Twenty-Five Million Dollars (\$25,000,000.00) combined single limit per occurrence, on occurrence form policy.
- b. Automobile liability insurance with a liability limit of not less than Five Million Dollars (\$5,000,000.00) for all owned, non-owned, and hired vehicles operated by or on behalf of SAAC at the Airport, including any additional or replacement vehicles.
- c. Professional liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence.
- d. SAAC shall have and require that each of its agents, licensees, subcontractors, and suppliers maintains workers' compensation insurance or evidence of self-insurance with statutory limits of liability and employers liability with limits of not less than \$1,000,000 per each accident and/or disease, in accordance with the laws of the State of Texas, covering all of its employees who may from time to time be at the Airport in such capacity. The workers' compensation policy(s) required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against City, its officers, agents, elected representatives, volunteers, and employees. Upon request by the Director, SAAC shall furnish the Director with evidence of such workers' compensation insurance in a form acceptable to City.

- e. From time-to-time, the minimum limits of the insurance herein required may become inadequate and that, in any way, directly or indirectly, contingently, or otherwise, affect or might reasonably affect the City. City hereby reserves the right to review all coverages and amounts and request adjustments as necessary in City's reasonable discretion.
- f. If, at any time, SAAC fails to obtain or maintain in force the insurance required herein, such failure, if not cured within 48 hours, shall constitute a default permitting City, upon prior reasonable written notice to SAAC, to terminate SAAC's use of the space or SAAC's operations or activities in regard to the Airport and that, in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect City.
- g. If any claim for damages is filed with SAAC or if any lawsuit is instituted against SAAC, SAAC shall give prompt and timely notice thereof to the Director, provided that claims and lawsuits subject to such notice are only those that arise out of or are in any way connected with SAAC's or its officers', representatives', agents', employees', contractors', subcontractors', licensees', or suppliers' use of their approved Premises or SAAC's operations or activities in regard to the Airport and that, in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect City. Notice shall be deemed prompt and timely if given within thirty (30) calendar days following the date of receipt of a claim or ten (10) calendar days following the date of service of process of a lawsuit. Accident or property damage claims in an amount less than One Thousand Dollars (\$1,000.00) shall be excluded from the requirements of this paragraph.
- h. If any claim for damages is filed with City or if any lawsuit is instituted against City, City shall give prompt and timely notice thereof to SAAC, provided that claims and lawsuits subject to such notice are only those that arise out of or are in any way connected with the operation of the Airport by City and that, in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect SAAC. Notice shall be deemed prompt and timely if given within thirty (30) calendar days following the date of receipt of a claim or ten (10) calendar days following the date of service of process of a lawsuit. Accident or property damage claims in an amount less than One Thousand Dollars (\$1,000.00) shall be excluded from the requirements of this paragraph.

ARTICLE 9. SAAC PERFORMANCE FAILURE

City may, but is not obligated to, perform any repairs, maintenance, janitorial service, or other Work that SAAC has failed to perform in a timely manner. In the event that City, after providing SAAC with reasonable notice and opportunity to perform, must perform repairs, maintenance, janitorial service, or other work that are Airline's responsibility within Airline's Leased Premises, the Passenger Loading Bridges, Baggage Handling System, or Additional Service Areas Airline agrees to pay the cost of this service plus fifteen percent (15%) for administration, which sum is due upon receipt of invoice.

In Joint Use Space, City may, but is not obligated to, perform any repairs, maintenance, janitorial service, or other work that SAAC has failed to perform in a timely manner. In the event that City, after providing SAAC with reasonable notice and opportunity to perform, must perform repairs, maintenance, janitorial service, or other work that are the SAAC responsibility within Joint Use Space, Airline, together with other airlines, agrees to pay the cost of this service plus fifteen percent (15%) for administration, which sum shall be prorated among the airlines according to the Joint Use Formula. Payments for these services are due upon receipt of invoice.

ARTICLE 10. MORE FAVORABLE TERMS, CONDITIONS, FEES OR CHARGES

SAAC shall not enter into any agreement or arrangements with Airline, other airlines, or others containing more favorable terms, conditions, or charges for services, or fees, than those provided the City for the services that the City requests of SAAC to be performed at the Airport. Should SAAC enter into any agreement or arrangements with Airline, other airlines, or others containing more favorable terms, conditions, fees or charges for its services, those more favorable terms, conditions, fees or charges are deemed to be concurrently provided to the City.

ARTICLE 11. TERMINATION

11.1 JANITORIAL SERVICES TERMINATION

The City may terminate the janitorial services being performed for City by SAAC on ninety (90) days advance written notice to SAAC.

11.2 BAGGAGE HANDLING SYSTEM MAINTENANCE AND OPERATION TERMINATION

The City or airlines may terminate SAAC's obligation to maintain the Baggage Handling System on ninety (90) days advance written notice.

11.3 LOADING BRIDGE MAINTENANCE AND OPERATION TERMINATION

The City or airlines may terminate SAAC's obligation to maintain the Loading Bridges on ninety (90) days advance written notice.

11.4 ADDITIONAL SERVICE AREA TERMINATION

The City or airlines may terminate SAAC's obligation to exercise any additional rights granted in accordance with Section 3.4 on ninety (90) days advance written notice.

11.5 REVERSION OF SERVICES

Should the City exercise its right to terminate SAAC or should SAAC cease being responsible for any or all of the maintenance and operation of Loading Bridges, Baggage Handling System, public view areas of the Terminal Building and Joint Use Space, or Additional Service Areas the City will assume these responsibilities and charge Airlines together with other airlines for the costs associated with these areas. These costs will be calculated based on the procedures established in the Rate and Fee Schedule of the Agreement.

EXHIBIT I
MONTHLY ACTIVITY REPORTS

EXHIBIT J
FEDERAL NONDISCRIMINATION REQUIREMENTS

A. Title VI Clauses for Compliance with Nondiscrimination Requirements.

During the performance of this Agreement, Airline, for itself, its assignees, and successors in interest, agrees as follows:

1. **Compliance with Regulations:** Airline will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities ("Nondiscrimination Acts and Authorities" as set forth in paragraph B below), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. **Nondiscrimination:** Airline, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Airline will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when this Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by Airline for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Airline of Airline's obligations under this Agreement and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** Airline will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of Airline is in the exclusive possession of another who fails or refuses to furnish the information, Airline will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of Airline's noncompliance with the non-discrimination provisions of this Agreement, City will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to Airline under this Agreement until Airline complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** Airline will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. Airline will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Airline becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Airline may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, Airline may request the United States to enter into the litigation to protect the interests of the United States.

B. Title VI List of Pertinent Nondiscrimination Acts and Authorities.

During the performance of this Agreement, Airline, for itself, its assignees, and successors in interest, agrees to comply with the following non-discrimination statutes and authorities, as may be amended, including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 *et seq.*).

C. Title VI Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program.

1. Airline for itself and its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Airline will use the Leased Premises and any License Area in compliance with all other requirements imposed by or pursuant to the Nondiscrimination Acts And Authorities.
2. In the event of breach of any of the above nondiscrimination covenants, City will have the right to terminate this Agreement and to enter or re-enter and repossess the Leased Premises and any License Area and the facilities thereon, and hold the same as if this Agreement had never been made or issued.

D. Title VI Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program.

Airline for itself and its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this Agreement for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Airline will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
2. In the event of breach of any of the above nondiscrimination covenants, City will have the right to terminate this Agreement and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if this Agreement had never been made or issued.

E. Airport Concession Disadvantaged Business Enterprises (“ACDBE”).

This Agreement may be subject to the requirements of the U.S. Department of Transportation’s regulations, 49 CFR Part 23. It is the policy of City that ACDBEs shall have the maximum practicable opportunity to participate in the performance of contracts. Airline agrees that it will not discriminate against any business owner because of the owner’s race, color, national origin or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. Airline agrees to include the aforementioned statement in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements.

F. General Civil Rights Provision.

Airline agrees to comply with pertinent and applicable statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If Airline transfers its obligation to another, the transferee is obligated in the same manner as Airline. This provision obligates Airline for the period during which the property is owned, used, or possessed by Airline and the Airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.