

AIRLINE USE AGREEMENT & LEASE OF PREMISES

BY AND BETWEEN

THE COMMONWEALTH PORTS
AUTHORITY

AND

SAIPAN INTERNATIONAL AIRPORT
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

(Revised January 3, 2005)

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AIRLINE USE AGREEMENT AND LEASE OF PREMISES

AIRLINES USE AGREEMENT AND LEASE OF PREMISES (hereinafter referred to as “Agreement”), made this ____ day of _____, 20____, by and between the Commonwealth Ports Authority, as established by Public Law 2-48 (hereinafter referred to as “Authority”), and _____, a corporation under the laws of the Commonwealth of the Northern Mariana Islands, with its principal office at _____ (hereinafter referred to as “Airline”).

WITNESSETH

WHEREAS, the Authority owns and operates the airports located on the Islands of Saipan, Tinian and Rota (including the Commuter Terminal on Saipan), Northern Mariana Islands, a Commonwealth of the United States of America (hereinafter referred to as “Airport”); and

WHEREAS, the Authority has the right to lease property at the Airport, together with the facilities, rights, licenses, and privileges hereinafter granted, and has full power and authority to enter into this Agreement in respect thereof; and

WHEREAS, Airline is engaged in the business of air transportation by aircraft with respect to persons, property, cargo, mail; and

WHEREAS, Airlines desires to lease certain premises, facilities, rights and privileges in connection with the use of the Airport, and Authority is willing to lease and grant the same to Airline upon the terms and conditions hereinafter stated.

NOW THEREFORE, for and in consideration of the mutual covenants hereof, Authority hereby leases to Airline and Airline hereby hires and takes from Authority certain Exclusive Use Premises and Common Use Premises (hereinafter jointly called “Leased premises”), and certain non-exclusive facilities, rights and privileges in connection with and on the Airport, as hereinafter described upon the terms and conditions as follows:

ARTICLE 1: LEASES PREMISES & USES

SECTION 1.01 – DESCRIPTION OF AIRLINE’S EXCLUSIVE USE PREMISES

The Airline’s Exclusive Use Premises shall be comprised of ____ square feet, more or less.

The Exclusive Use Premises is designated in red on Exhibit A, attached hereto and by this reference made a part hereof.

SECTION 1.02 – DESCRIPTION OF AIRLINE’S COMMON USE PREMISES

The Airline’s Common Use Premises shall be comprised of _____ square feet, more or less. The location of the Common Use Premises is designated in red on Exhibit B, attached hereto by this reference made a part hereof.

SECTION 1.03 – DESCRIPTION OF NON-EXCLUSIVE USE PREMISES

In addition to the Airline’s Leased Premises hereinabove defined, Airline is hereby granted the non-exclusive use, in common with others authorized so to do, of such space and facilities as may be designated by Authority, which space and facilities, without limiting the generality hereof, shall consist of:

- a) Ground area for the taxiing of aircraft;
- b) Space for a reasonable amount of Airlines’ apron equipment;
- c) Loading gates; and
- d) Available automobile parking spaces in common with other users, for use by persons that are employed by the Airline. The location and number of spaces, together with the parking rate for use thereof, if any, shall be designated by Authority from time to time during the term hereof. Any such rate imposed by Authority hereafter shall not exceed the then current automobile-parking rate charged to all other terminal-building tenants at the same Airport.

SECTION 1.04 – DESCRIPTION OF PRIVILEGES, USES AND RIGHTS

Airline shall be entitled, in common with others authorized by the Authority, to the general use of all public airport facilities and improvements which now are or may hereafter be connected with or appurtenant to the Airport, except as hereinafter provided. For the purpose of this Agreement, “public airport facilities” shall include, but not be limited to runways, taxiways, aprons, aircraft parking areas, roadways, sidewalks, navigational aids, lighting facilities or other public facilities at the Airport.

Airline’s use of said public airport facilities shall be for the sole purpose of operating air transportation services by aircraft for the carriage of persons, property, cargo and mail (hereinafter referred to as “air transportation”), which use, without limiting the generality hereof, shall include:

- a) The handling, ticketing, billing and manifesting of passengers, baggage, cargo, mail and Airline’s Property, in air transportation by Airline.
- b) The repairing, maintaining, conditioning, servicing, testing, parking or storing of aircraft or other equipment operated by Airline.

- c) The training on the Airport of personnel in the employ of or to be employed by Airline.
- d) The sale, lease, transfer, disposal or exchange of Airline's aircraft engines, accessories, and other equipment or supplies. Said right shall include the sale, lease, transfer to disposal of any article or goods used by or brought for use by Airline in connection with its conduct air transportation services; provided, however, that Airline shall not:
 - 1) Sell food or beverages, except for consumption aloft, as provided in Paragraph (h) of this Section 1.04.
 - 2) Sell gasoline, fuel, propellants, greases or other lubricants except when said products are of particular grade desired by others and are not otherwise available at the Airport.
- e) Upon approval from the Authority, Airline has the right to provide technical and mechanical services to airlines not having a valid agreement with the Authority.
- f) The landing, taking of, flying, taxiing, towing, parking, loading and unloading of Airline's aircraft or other equipment operated by Airline used in the operation of schedules, shuttle, courtesy, test, training, inspection and emergency flights. Said right shall include, without limiting the generality hereof, the right to load and unload airline's aircraft adjacent to a convenient entrance to the terminal building at loading gates located on the loading apron at points to be designated by Authority; provided, however, that flights carrying cargo or freight only shall load and unload at convenient and accessible points to be designated by Authority.
- g) The loading and unloading of property, cargo and mail at the Airport by such motor vehicles or other means of conveyance as Airline may desire or require in the operation of its air transportation service, with the right to designate the particular carrier or carriers who shall transport Airline's property, cargo and mail to and from the Airport.
- h) The right to provide food and beverage for consumption aloft by passengers and crews of Airlines. Nothing in this Agreement shall be deemed to give Airline the right, without prior written approval from the Authority, to maintain or operate on the Airport a cafeteria, restaurant, vending machine, bar or cocktail lounge or club for the purpose of selling or in any manner otherwise providing food or beverage to the public or to its employees and passengers.
- i) The right to replace existing signs identifying Airline's business on and in the terminal building. Signs shall be substantially similar to existing signs in size, type design and location shall be subject to the written approval of Authority prior to installation. Such installation and operation shall be without cost to the Authority.
- j) The right to install, maintain and operate by airline alone, by airline in conjunction with any other scheduled passenger air transportation companies who are lessees at the Airport, or through a nominee, radio communication, meteorological and air navigation equipment and facilities in or on Airline's Exclusive Use Premises. The installation, maintenance and operation of such equipment shall be without cost to Authority and shall require the prior written

- approval of Authority as to location, method and type of installation.
- k) The right, except as herein otherwise specifically provided, to purchase or otherwise obtain personal property of any nature (including, but not limited to, gasoline, fuel, propellants and supplies) deemed by Airline necessary or incidental to its operation, its exercise of the rights herein imposed. These purchases may be made through any person, partnership, firm association or corporation airline may choose.
 - l) The rights of airline pursuant to this Section 1.04 shall not be construed as authorizing the conduct of a separate business by Airline, but shall permit Airline to exercise such rights only in connection with its conduct of air transportation services.

SECTION 1.05 – RIGHTS AND PRIVILEGES SPECIFICALLY EXCLUDED

Except as specifically provided for in Section 1.04, nothing herein shall be deemed to give Airline any right or permission to sell at the Airport any goods or services to the public or to its employees and passengers, other than air transportation services and related services sold in conjunction therewith, without the prior written approval of the Authority. Without limiting the generality of the foregoing, the parties specifically understand and agree that Airline will not exercise, or take any action inconsistent with, any right granted to any food-beverage-merchandise concessionaire of the Authority at any airport of the commonwealth.

Nothing herein shall be deemed to give Airline the right to receive and dispatch property, cargo or freight (except that owned by Airline) within Airline's Exclusive Use Premises as provided for in Section 1.01 of this Agreement, except packages normally tendered to Airline in small, single shipment packages for counter-to-counter express delivery services.

SECTION 1.06 – RIGHT TO INGRESS AND EGRESS

Authority hereby grants the right of ingress to and egress from the Leased Premise and facilities referred to in Section 1.01, 1.02, and 1.03 for Airline, its employees, agents, nominees, passengers, guests, patrons its suppliers of materials or furnisher of services, its aircraft, equipment, vehicles, machinery or other property. These rights shall be subject to such lawful rules and regulations as may now or hereafter have application at the Airport.

SECTION 1.07 – ACCOMMODATION OF OTHER AIRLINES

If a scheduled air carrier not now serving the Airport wishes to initiate scheduled air carrier service to the Airport, and such air carrier has a requirement for exclusive leased space such as is provided to Airline pursuant to Section 1.01 of this Agreement, and Authority has insufficient space to offer for lease to such air carrier having substantially similar agreements with Authority, to accommodate such other air carrier, then Authority shall in writing request Airline, and all other air carriers having substantially similar agreements with Authority, to accommodate such other air carrier, either individually or jointly. Such accommodation may consist of an

agreement between Airline and such other air carrier whereby;

- a) Airline will handle the operations of such other carrier, or;
- b) Airline will share its exclusive Leased Premise, as defined in Section 1.01 of this Agreement, with such other carrier.

If the reasonable requirements of such other carrier are not met in the foregoing manner within thirty (30) days of such request of Authority to Airline, then Authority shall have the right to direct any airline having substantially similar exclusive leased space at the Airport to share its exclusive leased space with such other carrier, in accordance with the following criterion. For each Airline occupying similar exclusive leased space at the Airport, the number of revenue passengers carried by such airline and any other carrier it handles at its exclusive leased spaced or with which it shares its exclusive leased space during the previous six (6) months shall be divided by the number of linear feet of ticket counter space exclusively leased by such airline. The airline having the lowest quotient shall be required to share so much of its exclusive leased space with such other air carrier as shall be necessary to accommodate the reasonable requirements of such other carrier, but in no event more than one-half of its exclusive leased space.

ARTICLE 2: TITLE TO AIRLINE

SECTION 2.01 – INSTALLED IMPROVEMENTS AND PROPERTY

All improvements, fixtures, equipment and other property bought, installed, erected or placed by Airline in, on, or about the Airport and the Leased Premises shall be deemed to be personal and remain the property of Airline.

SECTION 2.02 – OPTION TO PURCHASE

Upon termination of this Agreement, the Authority may, within its sole and unfettered discretion, without prejudice to any other right consistent herewith or otherwise, offer in writing to purchase all or any part of airline's improvements, at a price determined by an independent appraiser satisfactory to both parties. Such offer shall include a description of the items to be purchased in reasonable particularity. If within thirty (30) days after the making of such offer the Authority does not receive a written rejection thereof from Airline, the offer shall conclusively be deemed to have been accepted. Any rejection shall include the amount of compensation Airline wishes to obtain. If the parties do not agree to the amount of compensation to be paid, the Authority may, at its sole option, require Airline to remove the improvements from the premises.

ARTICLE 3: OBLIGATIONS OF AUTHORITY

SECTION 3.01 – RIGHT TO LEASE PROPERTY

Authority represents that it has the full right to lease those portions of the Airport referred to herein, together with all premises, facilities, rights, licenses and privileges herein granted, and has full power and authority to enter into this Agreement.

SECTION 3.02 – MAINTENANCE AND OPERATION OF AIRPORT

Except as otherwise specifically provided herein, Authority shall, during the term of this Agreement, maintain, operate and keep in good repair the terminal building, terminal apron and all public airport facilities and services now or hereafter connected with the Airport, which Authority has agreed to furnish and supply hereunder.

Authority shall take all action reasonably necessary, with reasonable promptness, to keep the Airport free from obstructions, including the clearing and removal of grass, stones, and other foreign matter from the runway, taxiways and loading areas in order to insure the safe, convenient and proper use of the Airport by the Airline. Authority shall maintain and operate the Airport in a reasonably prudent manner and in all respects in a manner at least equal to the highest standards or rating issued by the Federal Aviation Administration for Airports of substantially similar size and activity and in accordance with all rules and regulations of the Federal Aviation Administration.

Nothing herein contained shall be deemed to require Authority to enlarge the Airport or to make extensions or additions to the landing areas, runways, taxiways or other appurtenances of the Airport. It is further understood and agreed that Authority may abandon certain facilities which are no longer reasonably justified for proper and adequate operation of the Airport.

Authority shall keep the public and passenger space in the terminal building adequately supplied, equipped, furnished, and decorated, and shall provide signs in said spaces and in all other public spaces on the Airport. Said signs shall include, but not limited to, signs indicating the location of all public restaurants, rest rooms, shops, telephones, customs area, baggage area, security office, holding room and all other facilities for passenger or public use in the terminal building or elsewhere on the Airport.

Authority shall also provide and supply adequate lighting for ramps and adequate airfield lighting.

Authority shall also provide janitors and other cleaners necessary to keep the Airline's Common Use Premises, public and passenger space and the landing area of the Airport clean, neat, orderly, sanitary and presentable at all times.

SECTION 3.03 – MAINTENANCE AND SERVICE IN AIRLINE'S EXCLUSIVE USE PREMISES

Authority shall provide, at no additional charge, the following services to Airline in the Airline's Exclusive and Common Use Premises: exterior building maintenance, structural maintenance, mechanical and electrical systems maintenance, and exterior window washing.

Any additional use of electricity and water, other than for normal use, must be approved by Authority.

SECTION 3.04 – GOVERNMENTAL FACILITIES

It is expressly agreed that if funds for the provision, and maintenance and operation of air navigation aids or other facilities required or permitted by the United States and/or Authority and needed by Airline for its operation at the Airport and which are now or may hereafter be furnished by the United States and/or Authority are discontinued by the United States and/or Authority, Authority shall not be required to furnish said facilities.

SECTION 3.05 – RESTAURANTS

Authority agrees to provide space in the terminal building for a restaurant and gift shop similar to that which is being provided as of the effective date of this Agreement, for the purpose of selling food, beverages and gifts to the general public.

SECTION 3.06 – AIRPORT SECURITY

Authority shall provide, during the term hereof, security in the air operations area necessary to meet the obligation of Authority in accordance with the provisions of 49 CFR CH. XII, Regulations of the Transportation Security Administration, Department of Homeland Security, as hereafter amended or constituted.

SECTION 3.07 – UTILITY CHARGES

Airline will pay to the Authority a charge for the use of electricity, water, and sewer on Airline's leased Premises. Such charges will not be more than the actual charge to Authority by Authority's supplier of electrical, water, and sewer services. Telephone services are the sole responsibility of the Airline.

ARTICLE 4: OBLIGATION OF AIRLINE

SECTION 4.01 – MAINTENANCE OF AIRLINE'S EXCLUSIVE USE PREMISES

Except for exterior building, structural, and electrical mechanical systems maintenance, and exterior window washing by Authority, as provided in Section 3.03, Airline shall be obligated, without cost to Authority, to maintain its Exclusive Use Premises and every part thereof in good

order, repair and safe condition.

Airline shall, at its own expense, provide janitorial services in Airline's Exclusive Use Premises. Said services may be provided by Airline alone, by airline in conjunction with other firms or companies who may hereafter be lessees at the Airport, or by a nominee approved by Authority.

Airline shall re-lamp light fixtures as necessary, shall repaint the interior of the Airline's Exclusive Use Premises as necessary, and shall provide for interior window washing at periodic intervals. All such maintenance, repairs and replacement shall be of quality equal to the original in materials and workmanship. All paint colors shall be subject to the prior approval of Authority.

SECTION 4.02 – ALTERATIONS, ADDITIONALS OR REPLACEMENTS

During the term of this Agreement or any extension thereof, Airline shall make no alterations, additions or replacements to the Leased Premises without the prior written approval of Authority.

Airline shall likewise obtain prior approval from Authority before installing, at its own expense, any additional equipment which requires new electrical or plumbing connections or changes in those already installed on the Lease Premises.

SECTION 4.03 – TRASH GARBAGE AND AIRCRAFT SEWAGE

Airline shall provide and use suitable receptacles that meet local health standards for all trash, garbage, aircraft sewage and all other refuse on or in connection with Leased Premises or in the operation of Airline's aircraft. Piling of receptacles, boxes, cartons, barrels or other similar items in an unsafe or unsightly manner in or about the leased premises shall not be permitted. The removal or disposal of such trash, garbage and aircraft sewage containers from the Airport will be at the expense of the Airlines.

SECTION 4.04 – TAXES AND LICENSES

Airlines shall pay all taxes of whatever nature that may be levied or charged upon Airline's leasehold improvements or operations hereunder and upon Airline's right to use the Leased Premises. Airline shall obtain and pay for all licenses or permits necessary or required by law for the construction of any additional improvements, the installation of equipment and furnishings, and any other licenses necessary for the conduct of its air transportation services. Authority shall assist Airline where necessary in obtaining said permits. Authority shall not be required to pay any taxes by reasons of Airline's use of the Leased Premises. Airline shall indemnify fully and save harmless Authority from any taxes imposed or levied against Authority by reason of Airline's use of the Leased Premises.

SECTION 4.05 – SECURITY SCREENING AND PUBLIC ADDRESS SYSTEM

Security screening equipment for passengers and their baggage, and a public address system, may be provided by Authority at the Airport to all airlines on a nondiscriminatory basis. The use of such facilities may be provided for in one or more separate agreements between the Authority and one or more airlines, and any airline desiring the use of such facilities may have such use in accordance with the terms of such agreement or agreements. Copies of such agreements are available for inspection at the offices of the Authority.

SECTION 4.06 – HAND-CARRIED ITEMS

Airline agrees that it will accept, free of charge, as accompanying baggage, merchandise purchased by a passenger from, or delivered to a passenger by, any concessionaire of the Authority, subject only to Airline's usual size and weight limitations on accompanying baggage, and to any and all governmental limitations on accompanying baggage.

ARTICLE 5: TERM

SECTION 5.01 – TERM

The term of this Agreement shall be for a period of 12 months, commencing on the ____ day of _____ through the ____ day of _____, and on a year-to-year basis thereafter. This Agreement may be terminated as of September 30th in each year by written notice from either party to the other given on or prior to August 31st of the year.

ARTICLE 6: CHARGES AND FEES

SECTION 6.01 – CHARGES FOR AIRLINE'S LEASED PREMISES

For the use of Airline's Exclusive Use Premises as described in Section 1.01 of this Agreement, its Common Use Premises as described in Section 1.02 of this Agreement, and its Non-Exclusive use Premises as described in Section 1.03 of this Agreement, Airline shall pay to the Authority a Departure Facility Service Charge, an International Arrival Facility Charge, and an In-Transit Passenger Service Charge, in the amounts specified in Parts 12.3, 12.4, and 12.6 of the Authority's Airport Rules and Regulations.

The parties expressly understand and agree that such charges are and may be computed on a per-passenger basis; that such charges do not constitute a tax, fee, head charge, or other charge, directly or indirectly on persons traveling in air commerce or on the carriage of persons in air commerce or on the sale of air transportation, within the meaning of 49 U. S. C. Appx. §1513 (a), but are rather reasonable rental charges or other service charges from aircraft operators for the use of Airport facilities, within the meaning of 49 U. S. C. Appx. §1513 (b); and that such charges, when computed on a per passenger basis, do not constitute discrimination against any airline within the meaning of 49 U. S. C. Appx. §1715 or any other provision of the laws of the United States.

SECTION 6.02 – OTHER FEES AND CHARGES

In addition to the charges provided for in Section 6.01 of this Agreement, Airline shall pay to Authority the other fees and charges set forth in Part 12 of the Authority's Airport Rules and Regulations which is attached hereto and incorporated herein as Exhibit C; provided however, such regulations and the charges and rates contained therein may be amended from time to time pursuant to 2 CMC §2141 et. seq. Such amended rates and charges shall be incorporated herein upon such amendments taking effect.

SECTION 6.03 – AMENDMENT OF FEES AND CHARGES

Authority may, in the manner provided in this Article 6, amend any of the fees and charges specified in its Rules and Regulations. Except when Authority acts pursuant to the provision of Section 6.09 of this Agreement, all amendments to such fees and charges shall take effect at the beginning of the Authority's fiscal year (October 1st), and shall continue thereafter until revised in accordance with this Agreement.

SECTION 6.04 – AIRLINE REPORTS

Airline shall file with Authority on forms prescribed by Authority, no later than the tenth (10th) day of each month, Airline's report showing the actual landings made at the Airport during the preceding month, which report shall include the number and type of aircraft. The Airline shall provide the Authority with FAA-approved certified maximum gross landing weights for each type of aircraft it operates at the Airport.

Airline shall also file with the Authority, no later than the tenth (10th) day of each month, Airline's report showing the actual number of enplaned passengers and the amount of enplaned and deplaned cargo and enplaned mail at the Airport during the preceding month.

Airline shall also provide to the Authority copies of other public statistical reports pertinent to the Airport as may be request by the Authority, without charge to the Authority, and within a reasonable time after such request.

Authority shall have the right to audit Airline's books and records, at any or all mutually convenient times, to determine the accuracy of Airline's reports to Authority pursuant to the provisions of the Section 6.04. All cost of such audit shall be borne by Authority; provided, that if such audit discloses an underpayment of fees or charges due from the Airlines to the Authority of a magnitude of 3% or greater, the Airline shall promptly reimburse the Authority for the total cost of such audit.

Airline shall have the right to audit the Authority's books and records, at any or all mutually convenient times, to determine whether the fees and charges paid by the Airline, and other airlines operating at the Airport, are consistent with the provisions of this Agreement. All cost of

such audit shall be borne by Airline.

SECTION 6.05 – ACCOUNTING PROCEDURE

Upon execution of this Agreement, Authority shall establish, and thereafter maintain, financial accounting records which reflect annual fiscal-year revenues, capital improvements and operating expenses, including administrative expenses of the Airport and documented expenses of Authority incurred for Airport purposes and charged to the Airport, for each of the Airport cost cents set forth in Section 6.06 (C). Such accounting records of this Section 6.05 will be hereafter referred to as Airline Traffic and Earnings Report and will be prepared for and submitted to the Airlines annually, no later than forty-five (45) days prior to any proposed adjustment by the Authority of Airport fees and charges, but in any event no less frequently than annually. Authority shall give due consideration to Airline's written comments if comments are received by Authority fifteen (15) days prior to adjustment.

The Airline Traffic and Earnings Report will be prepared in a format to indicate the appropriate items set forth in Section 6.06.

SECTION 6.06 – AIRLINE TRAFFIC AND EARNING REPORT

Factors that shall be considered in the preparation of the annual fiscal year Airline Traffic and Earnings Report to support adjustment of fees and charges are:

- (A) The actual costs incurred, during the preceding one-year period, of providing the Terminal Facilities and Landing Areas, charges for the use of which are made the subject of the adjustment, and the actual revenue derived therefrom during that period.
- (B) Authority's estimated costs and revenues, for the succeeding two-year period, of providing such facilities and areas, charges for the use of which are made the subject of the adjustment. Such estimate shall take into account:
 - 1) Such past actual costs as accurately and fairly shown by Authority's financial accounting records.
 - 2) The necessary increased cost resulting from:
 - a) Reasonable expenditures incurred by the Authority pursuant to orders or requirements of governmental authority including expenditures required under the Federal Aviation Administration's Federal Aviation Regulations, Part 139, as amended, or the corresponding future provision of any such law entitled "Certification and Operations: Land Airport Serving CAB-Certificated Scheduled Air Carriers Large Aircraft (other than Helicopters)," and 49 CFR Ch. XII, as amended, or the corresponding future provision of any such law entitled "Airport Security."
 - b) Additional maintenance and operational expenditures of

- Authority required for the reasonable and prudent operation and improvement of such facilities and areas, charges for the use of which are made the subject of the adjustment.
- c) Extraordinary expenditures for maintenance, renewal, and replacement as may be required. Such expenditures shall be amortized over a reasonable period of succeeding years.
- (C) Building and facilities, the charges for which are subject to this Article 6 shall be the following:
- 1) Terminal facilities cost center means each terminal building proper, including vehicular parking space and roadways in connection therewith. There shall be included all concessions operated in or in conjunction with the terminal facilities, such as restaurant, cocktail lounge, baggage, newsstand, ground transportation of passengers, automobile parking, etc., and all other building and area concessions and operations in the passenger terminal area.
 - 2) Landing Area cost center shall mean those portions of the airport, exclusive of buildings, hangers, and aircraft storage areas, provided for the landing and taking off, and handling, servicing, loading and unloading and other operation of aircraft, including without limitation, approach and turning zones within the Airport property, and aviation easements outside the Airport property, runways, taxiways, ramps, aprons, roadways, runway and taxiway lights, apron floodlights and other appurtenances in connection therewith. The servicing of aircraft with aviation fuels and lubricants shall be considered as a part of landing area operation.
 - 3) Aircraft storage shall mean the areas, other than hangers, designated by Authority for storage of Airline's aircraft.
 - 4) Any other building, appurtenances, facilities or other services requested or used by Airlines and not covered by this or a separate agreement.
- D) The depreciation of the Authority's investment (excluding Federal gifts and grants-in-aid); and/or the annual debt service requirements on all bonds issued and outstanding at the time of the adjustment. As to any one item, consideration is to be given to either debt service or depreciation and not both.
- E) In allocating cost and revenues to the various facilities as hereinabove defined, Authority will observe sound accounting principles.

SECTION 6.07 – COST EXCLUDED

The portion of capital costs of facilities and improvements paid by the Federal or other governmental gifts or grant-in-aid, and depreciation, amortization and interest charged thereon, if any, shall not be included in the cost factors herein.

SECTION 6.08 – ANNUAL AIRPORT BUDGET

Authority shall mail to Airlines, at least forty-five (45) days prior to final adoption by the

Authority, a copy of the proposed Airport budget for the next succeeding fiscal year commencing October 1st. The Authority shall give due consideration to Airline's written comments if comments are received by Authority fifteen (15) days prior to final adoption. Authority shall promptly furnish Airlines a copy of the adopted airport budget.

SECTION 6.09 – INSUFFICIENCY OF AIRPORT REVENUES, ADJUSTMENT OF FEES AND CHARGES

Notwithstanding any other provision hereof, if at any time while this Agreement shall remain in effect, Authority determines that Airport revenues are or will be insufficient to pay, when due, all principal of and interest and premium on, any bonds or other instruments of indebtedness issued by the Authority in connection with the airport, any item included in the Airline Traffic and Earning Reports prepared pursuant to this Article VI, or any other expense or cost in incidental or necessary to, or arising out of, the maintenance or operation of the Airport, including without limitation, emergency repairs or expenses, the costs of defending, settling, or satisfying any litigation which relates to the Airport, or any aspect thereof, or to compensate for the loss of Airport revenue, the Authority may, upon thirty (30) days notice to Airline, increase the fees and charges provided for herein to such amount as is sufficient to assure that all such items, expenses, and costs shall be paid in full, when due, solely from airport revenues.

SECTION 6.10 – DISPOSITION OF AIRPORT REVENUES

- (A) Revenues received or otherwise realized by Authority arising from its operations of public airports within the Commonwealth of the Northern Mariana Islands shall not be expended for any purpose other than acquiring, establishing, developing, operating, maintaining, and managing such airports, or satisfying obligations relating to such airports (including, without limitation, obligation under any concession agreement or bond indenture).
- (B) It is the policy of the Authority that each airport owned and operated by it should be financially self-sufficient; provided, however, that the foregoing policy is not intended by the parties to create any judicially-cognizable right in Airline, but is simply a statement of Authority's policy and nothing more. Further, nothing in this Agreement shall require that a particular facility or cost center within an airport shall be financially self-sustaining.
- (C) Nothing in this Agreement shall restrict or preclude the Authority from generating a surplus from airport-derived revenue, or from utilizing such surplus for any purpose not prohibited by this Agreement or by law.

SECTION 6.11 – TIME AND KIND OF PAYMENT

- (A) Airline agrees to pay Authority in lawful money of the United States of America.

- (B) For all fees and charges set forth in this Agreement, Airline shall tender monthly the amounts due hereunder within ten (10) days after receipt of invoice from Authority. In the event that an unpaid balance remains after thirty (30) days from such receipt:
 - i) an additional one percent (1%) per month of the unpaid balance shall become due and payable by Airline; and
 - ii) Airline shall be liable for all cost of collection, including reasonable attorney's fees and court costs.
- (C) In the event that Airline shall fail to tender any payment due hereunder, the Authority may tender statements of fees and charges due on a basis more frequent than monthly, and/or may require payment of such fees and charges upon presentation of statements; and/or may require that payment be made in cash or by cashier's check or money order if:
 - i) an unpaid balance remains after forty-five (45) days from receipt of the invoice; or
 - ii) the Airline has previously failed to tender the monthly amounts due as provided Section 6.11 (B) within the prior 12 months; or
 - iii) the Airline tenders a negotiable instrument as payment upon invoice and such instrument is not honored upon presentment.
- (D) All fees and charges due and owing by Airline hereunder are payable to Authority or its assignee under any security interest granted by the Authority' provided, that in the event of default by Authority under any bond indenture to which it is a party, such fees and charges shall be payable as the trustee of such bonds may from time to time direct.

SECTION 6.12 – PROCEDURES TO RECOVER OVER-PAYMENT

It is the obligation of Airline to pay all fees and charges levied against it pursuant to this Agreement, on or before the date due. In the event that Airline desires to contest the validity or amount of any such fees or charges, Airline shall first pay the same to Authority, and may then seek a refund in any appropriate forum.

SECTION 6.13 – CONFORMITY OF AGREEMENT; FEES AND CHARGES TO OTHERS

The Authority shall not hereafter during the term of this Agreement, offer to other air transportation companies more favorable terms or conditions for use of, or lease of space at, the airport than those provided in this Agreement for comparable rights and privileges, unless more favorable rates and conditions are offered to Airline at the same time.

In the event an air transportation company shall use the facilities or any services of the Airport without executing an agreement with the Authority substantially identical to this Agreement, such airline company shall pay fees to the Authority computed in accordance with the provisions of Part 12.00 of the Airport Rules and Regulations.

SECTION 6.14 – SURETY BOND

- A) **Amount:** Airline shall, at all times during the tendency of this Agreement, post a surety bond in an amount equal to the greater of:
- 1) \$75,000.00; or
 - 2) the sum of the following:
 - i) Three months' Departure Facility Service Charges, as provided in Section 6.01 of this Agreement. The three months' Departure Facility Service Charges provide herein shall equal one-quarter of the aggregate of Airline's Departure Facility Service Charge due and owing by the Airline over the immediately preceding twelve-month period. In the event that airline has not previously served the Airport for the entire preceding twelve-month period, Authority shall estimate the amount of Departure Facility Service Charges based upon prior Departure Facility Service Charges due and owing by the Airline to the Authority, if any, and/or the first and subsequent monthly flight schedules, if available, of airline for the Airport; plus.
 - ii) Three months' landing fees, as provided in Section 6.02 of this Agreement. The three months' landing fees shall equal one-quarter of the aggregate of Airline's landing fees due and owing for the immediately preceding twelve-month period. In the event Airline has not previously served the Airport for the entire preceding twelve-month period, Authority shall estimate the amount of landing fees based upon prior landing fees due and owing by the Airline to the Authority, if any, and/or the first and subsequent monthly flight schedules, if available, of the Airline. Authority reserves the right to adjust the security deposit, upward or downward, taking into consideration subsequent changes in estimated Departure Facility Service Charge and landing fees.
- B) **Bond:** The form of the surety bond required by Paragraph A of this Section 6.14, and the identity of the surety, shall be subject to this Section 6.14, and the identity of the surety shall be subject to this Section 6.14, and the identity of the surety, shall be subject to the approval of the Authority. Such surety bond shall provide that the bond may not be canceled or reduced except upon thirty (30) days prior written notice to the Authority. The terms and conditions of such bond shall further provide that, at any time Airline fails to pay, when due, any fees and charges due and owing pursuant to the terms of this Agreement, whether or not airline is in default of this Agreement, the surety shall, upon demand by Authority, pay to Authority such sums as are then due and owing by Airline to Authority. The surety bond shall survive the termination or expiration of this Agreement, if and to the extent that upon such expiration or termination Airline is indebted to Authority for any such fees and charges.

ARTICLE 7: RIGHTS AND PRIVILEGES RESERVED BY AUTHORITY

SECTION 7.01 – RIGHT TO CHARGE USE FEES

Nothing in this Agreement shall be deemed to restrict in any manner Authority's right to charge any person, partnership, firm, association or corporation, fees and rentals for the use of Authority's property or any improvements thereon where such use of said property or improvements is of a regular or permanent nature, or where the use is of such a nature as to constitute the performance of a commercial business at the Airport. Without limiting the generality hereof, Authority shall have the right to:

- a) Charge vehicles carrying passengers for hire including tour buses, hotel/motel vehicles, limousines and taxicabs.
- b) Charge persons, partnership, firms associations, or corporations (including Airlines or partnership, firms, associations or corporation owned in part or as a whole, or operated by Airline) a fee for the sale and serving of food and beverage to others for consumption at the airport.
- c) Impose reasonable and nondiscriminatory fees for use of the automobile parking lots, etc.
- d) Impose rental charges and/or concession fees to airport tenants that furnish services to the general public.
- e) Impose rental charges for exclusive use of land or facilities at the Airport other than Airline's Exclusive and Common Use premises, as defined herein.

SECTION 7.02 – RIGHT TO IMPROVE AND PROTECT THE AIRPORT

In addition to any other rights herein retained by it, Authority specifically reserves the following privileges:

- A) The right to further develop or improve the landing area and other portions of the Airport as it deems necessary. If feasible, such improvements shall be made in a manner, which will cause Airline as little inconvenience as possible.

The Authority shall review with and seek the timely comments of Airline, and give serious consideration to the comments of all signatory airlines, regarding capital improvement programs involving facilities utilized by Airline directly or indirectly. In the event a governmental order or requirement results in significantly increased cost or expense that may affect Airline, Authority shall notify Airline with reasonable promptness in the manner provided in Section 12.19.

Prior to the initiation by Authority of any capital improvement program for the construction of a facility, all or substantially all of which is to be used by one or more tenants to the exclusion of others, Authority shall require such tenant or tenants to agree in writing to lease such facility from Authority and to pay rental to the Authority in amounts sufficient to make such facility fully self-sustaining, including all maintenance and operating cost associated therewith, and Authority shall satisfy itself that any such tenant or tenants is/are financially responsible and can

fulfill all obligations to the Authority. Nothing herein shall restrict the Authority's right to construct facilities all or substantially all of which are for the exclusive use of one or more tenants to the exclusion of others, such as extension to or enlargement of the Terminal Building. But Airline shall have the right to participate in such project through its involvement in the budgetary process, in accordance with Article 6 of this Agreement.

Authority shall explore the possibility of long-term financing for any and all improvement and development projects to be undertaken by it at the Airport.

- B) The right to take any action it consider necessary to protect the aerial approaches of the Airport against obstructions, together with the right to prevent Airline from erecting or permitting to be erected any building or other structure on the Airport which, in the opinion of Authority, would constitute a hazard to aircraft or limit the usefulness of the Airport.
- C) The right during time of war or national emergency to lease the Airport or any part thereof to the United States Government for military use.

In the event any such lease is executed, the privileges of this Agreement insofar as they are inconsistent with the privilege of the lease to the government shall be suspended.

SECTION 7.03 – AIRPORT DEVELOPMENT

The parties understand and agree that the Authority has sold revenue bonds, for the construction and financing of certain capital improvements at the Saipan International Airport. A detailed description of such capital improvements is on file at the Authority's Saipan Office and is available for review by Airline during normal working hours.

The parties further agree that any change in any of the aforesaid improvements, or any change in the cost of any of the aforesaid improvements which equals or exceeds twenty percent (20%) of the estimated cost of such improvement, will require the approval of the majority in interest of the signatory airlines. As used herein, the term "majority in interest" shall mean those signatory airlines having a total of at least fifty-one percent (51%) of the enplaned passengers at the Airport during the immediately preceding twelve months, but in no event less than two (2) signatory airlines. Nothing this Section, however, shall require the assent of any of the airlines serving the Airport to any future bond issue by the Authority.

SECTION 7.04 – SPECIAL CAPITAL IMPROVEMENT FUND

The Authority has established a separate special fund, designated "Special Capital Improvement Fund." Contribution to such fund shall be made out of fees and charges to all airlines serving Saipan International Airport, in the following amounts:

- a) a sum equal to the total of all funds which are earmarked by any bond indenture to which the Authority is a party for the construction of capital improvement

- projects, and which at the completion of such projects are applied to debt service under such bond indenture; and
- b) such additional sum, not exceeding \$50,000.00 per year, as the Authority may budget for contribution to such fund; provided, that whenever and for so long as the balance in such Fund shall equal or exceed \$500,000, no portion of airline-derived revenues may be allocated to such Fund. Expenditures from the Fund may be made for any capital improvement project (including equipment purchases) at the Airport, without the necessity for consent by or approval of the Airline or any other signatory airline. Nothing in this Section or elsewhere in this Agreement shall preclude the Authority.
- i) from meeting federal matching fund requirements out of airline fees and charges, or
 - ii) from funding CIP projects out of airline fees and charges which projects have the approval of a majority in interest of the signatory airlines, as that term is defined in Section 7.03; or
 - iii) from funding CIP projects out of any surplus funds available to it, provided that depreciation of such projects is not charged to the airlines.

SECTION 7.05 – REPAYMENT RESERVE FUND

The Authority may, by a bond indenture, cause to be established a separate special fund, to be designated as the “Repayment Reserve Fund.” The Repayment Reserve Fund shall be funded in an amount equal to the sum of

- 1) any gross revenues derived from concession payments made by a Master concessionaire.
- 2) Following completion of the projects mentioned in Section 7.03 of this Agreement, any investment earning derived from the Bon Reserve Fund established by such indenture which are not required to be paid into the Rebate Fund established by such indenture, an
- 3) the amount which, when added to the amounts derived form (1) and (2) above, equals \$28,340 per month; provided, that, if the amount on deposit in the Repayment Reserve Fund is equal to or greater than \$1,700,000 no deposit shall be made to such fund. The repayment Reserve Fund shall be utilized as provided in such bond indenture.

ARTICLE 8: INDEMNIFICATION AND INSURANCE

SECTION 8.01 – INDEMNIFICATION

The parties agree that Airline is and shall be deemed to be an independent contractor and operator and not an agent or employee of the Authority with respect to its acts or omissions hereunder.

Airline agrees to indemnify and save harmless the Authority, its officers, and employees from and against any and all liabilities, losses, damages, cost and expenses, claims, suits, judgments, actions and proceedings resulting from any injuries to, or death of, any person or persons, or loss or damage to property (including property and officers, employees and agents of the Authority) arising out of the following except to the extent caused by the negligent acts or omission of the Authority or its agents, officers and employees:

- A) Suits alleging a taking of property or interest in property without just compensation, trespass, nuisance or similar suits based upon the use of the Airport for the landing and taking off of an aircraft;
- B) Airline's use or occupancy of the Airport (other than that covered by Subsection a of this Section 8.01);
- C) The condition of Airline's Exclusive Use Premises and/or Common Use Premises, including any equipment or facilities located thereon, and any repairs, construction and alteration thereto by Airline, its employees, agents, contractors or subcontractors;
- D) The violation by Airline of any covenant or condition of this Agreement, or the violation by airline of any other contract, law, ordinance, regulation or court order relating to the Airport;
- E) Acts and omissions of the Airline's employees and agents;
- F) Claims for environmental and pollution damages arising from the acts and omissions of the Airline and its employees; and
- G) Claims for environmental and pollution damages arising from the acts and omissions of the Airline and its employees; and
- H) Patent and trademark infringement claims arising from or related to Airline or its operations.

The Authority shall promptly notify Airline in writing of any claim or action brought against the Authority in respect of which indemnity may be sought by the Authority against Airline hereunder, furnishing Airline with a copy of all suits papers and legal process, Airline shall have the right to assume the defense thereof, including the right to employ counsel and the right to compromise or settle such claim or action to the extent of its interest.

SECTION 8.02 – AIRLINE'S INSURANCE

Airline agrees that at all times during the term of this Agreement and renewal and extension thereof, it will keep in effect the forms of insurance set forth in this Section 8.02. All policies or certificates shall contain a provision that written notice of cancellation, reduction in amount, non-renewal of coverage or any material change in said policy by the insurer shall be delivered to Authority thirty (30) days in advance to the effective date thereof.

All policies of insurance shall name Authority, its directors, offices, servants, agents and employees as additional insured. Airline shall furnish Authority with certificates of insurance from the insurance carrier evidencing all insurance required hereunder to be in full force and

effect during the entire term of this Agreement.

- a) **Property Insurance:** Airline shall insure for “all-risk” coverage for all of Airline’s improvements on its Leased Premises. Such insurance shall be in an amount equal to the full insurable replacement value of such improvements.

All property insurance policies shall name both parties as insured as their respective interest may appear hereunder. Authority agrees that any payments received by it from such insuring companies by reason of loss under such policy or policies shall be applied toward repair and reconstruction of said leasehold improvements, subject to the provisions of Section 9.01, 9.02 and 9.03 of this Agreement.

- b) **Aviation Liability Insurance:** Airline shall maintain in full force Aviation Liability Insurance which shall insure the Airline for aviation liability, including premises and operations, in an amount not less than the product of the maximum number of seats in the largest passenger aircraft operated by the Airline at the Airport times the sum of \$1,000,000.00, combined single limit of liability for bodily injury, property damage and passenger liability.
- c) **Automobile Liability Insurance:** Airline shall maintain in full force comprehensive Automobile Liability Insurance which will insure the Airline’s vehicles used on the Airport premises solely for transportation of Airline’s employees, agents, passengers, guest, patron, and suppliers in an amount not less than \$1,000,000.00 covering automobiles owned or operated by Airline or for which Airline may be liable.

All insurance policies shall be endorsed to provide that the Authority will be given 30 days prior written notice of any cancellation, non-renewal or material reduction in the amount of coverage. The Authority shall be provided with certificates of insurance evidencing the coverage in effect and the 30-day cancellation clause.

ARTICLE 9: DAMAGE OR DESTRUCTION OF LEASED PREMISES

SECTION 9.01 – PARTIAL DAMAGE

If Airline’s Exclusive Leased Premises are partially damaged by fire, explosion, the elements, the public enemy, or other casualty, but not rendered untenable Airline shall not be entitled to any abatement of or reduction in any of the fees and charges payable to the Authority under Article VI of this Agreement. Such damage will be repaired with due diligence by Authority, at its own cost and expense; provided, however, that if such damage is caused by an act or omission of Airline, its sublessee, agents, nominees, or employees, Airline shall reimburse Authority for its reasonable cost incurred in making such repairs.

SECTION 9.02 – EXTENSIVE DAMAGE

If Airline's Exclusive Use Premises are damaged by fire, explosion, the elements, the public enemy, or other casualty, and thereby rendered at least partially untenable, but capable of being repaired within ninety (90) days, Airline shall be entitled to a reduction in the fees and charges payable to the Authority pursuant to the provisions of Section 6.01 of this Agreement, in a percentage equal to the percentage of Airline's Exclusive Use Premises so rendered untenable, until such damage shall be repaired. Such damage shall be repaired with due diligence by Authority, at its own cost and expense, provided, however, that if such damage is caused by an act or omission of Airline, its sublessee, agents, nominees, or employees, Airline shall reimburse Authority for its reasonable cost incurred in making such repairs.

SECTION 9.03 – COMPLETE DESTRUCTION

If the Airline's Exclusive Leased Premises are damaged by fire, explosion, the elements, the public enemy, or other casualty, and thereby rendered at least partially untenable and not capable of being repaired within ninety (90) days, Airline shall be entitled to a reduction in the fees and charges payable to Authority, pursuant to the provisions of Section 6.01 of this Agreement, computed in the manner set forth in Section 9.02 of this Agreement. In such event, Authority shall be under no obligation to repair or reconstruct said premises. Authority may, in its discretion, repair the Leased premises at its own cost and expense; provided, however, that if such damage is caused by an act or omission of Airline, its sublessee, agents, nominees or employees, Airline shall reimburse authority for its reasonable cost incurred in making such repairs.

Airline shall not be entitled to any reduction in any fees and charges by reason of any damage to Airline's Common Use Premises, as described in Section 1.02 of this Agreement, or to Airline's Non-Exclusive Use Premises as described in Section 1.03 of this Agreement. Airline shall not be entitled to any abatement or reduction of any other charge payable to Authority pursuant to the provisions of Article 6 of this Agreement on account of any damage to its Exclusive Leased Premises.

SECTION 9.04 – RIGHT TO RECOVER DAMAGES

Nothing in this Agreement shall be construed as a waiver of the right of either Authority or Airline to recover damage from the other arising out of the fault or negligence of the other.

SECTION 9.05 – LIMIT OF AUTHORITY'S OBLIGATION DEFINED

It is understood that, in the application of the foregoing Section 9.01, 9.02 and 9.03, Authority's obligation (if any) shall be limited to repair and reconstruction of the terminal building to the same extent and of equal quality as obtained at the commencement of the operations hereunder. Redecoration and replacement of Airline's furniture, equipment and supplies in the Leased

Premises shall be the responsibility of Airline unless damages thereto are caused by an act or omission of the Authority, its lessee, sublessee, agents or employees, in which event the Authority shall be responsible for the redecoration and replacement. Any such redecoration and refurnishing/re-equipping shall be equivalent quality to that originally installed hereunder.

ARTICLE 10: CANCELLATION, ASSIGNMENT AND TRANSFER

SECTION 10.01 – CANCELLATION BY AIRLINE

This Agreement shall be subject to cancellation by Airline as to any Airport, after the occurrence of one or more of the following events:

- A) The permanent abandonment by the Authority of the Airport as an airline terminal.
- B) The lawful assumption by the United States Government or any authorized agency thereof, of the Airport or any substantial part or parts thereof, in such a manner as to substantially restrict Airline for a period of at least forty-five (45) days from operating thereon for the carrying of passengers, cargo, property and mail.
- C) The issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of the Airport or any part thereof for airport purposes, and the remaining in force of such injunction for a period of at least forty-five (45) days.
- D) The inability of Airline to use for a period of forty-five (45) days the airfield on the Airport, including approach areas, runways, taxiways, aprons, navigational aids, and lighting facilities, for the landing and taking off of Airline's aircraft, because of fire, explosion, earthquake, other casualty or acts of God or the public enemy, provide that same is not caused by negligence or willful acts or failure to act on part of Airline; or the inability of Airline to use for a period of forty-five (45) days any other premises, facilities, rights, licenses, services or privileges granted to Airline hereunder, except as otherwise provided hereinabove or Article IX herein.
- E) The default by Authority in the performance of any covenant or agreement herein required to be performed by Authority and the failure of Authority to remedy such default for a period of forty-five (45) days after receipt from Airline of written notice to remedy the same; provided, shall be of no force or effect if Authority shall have remedied the default or is diligently proceeding to remedy the default.
- F) The permanent cessation by Airline of all service to and from the Airport.

Airline may exercise such right of termination by giving Authority forty-five (45) days prior written notice at any time after the lapse of the applicable periods of time, and this Agreement shall terminate as of that date. Charges and fees due hereunder shall be payable only to the date

of said termination; provided, that if this Agreement is terminated by Airline pursuant to Paragraph (F) of this Section 10.01, and if fees and charges payable under Section 1.01 hereof shall be calculated, in whole or in part, on a per-square-foot basis, then Airline shall be liable to Authority for such fees and charges computed on a per-square-foot basis, for forty-five (45) days after the effective date of termination or for one-half of the fees and charges so computed which would have been due between the effective date of such termination and the end of the then-current term of the Agreement, whichever is less.

Airline's performance of all or any part of this Agreement for or during any period (s) after a default by Authority of any of the terms, covenants and conditions herein contained to be kept by Authority shall not be deemed a waiver of any right on the part of Airline to cancel this Agreement for any subsequent failure by Authority so to perform, keep or observe any of the terms, covenants or conditions hereof.

SECTION 10.02 – CANCELLATION BY AUTHORITY

This Agreement shall be subject to cancellation by Authority, by notice to Airline, upon the occurrence of any one of the following events:

- a) The abandonment by Airline of its conduct of air transportation at the Airport for a period of forty-five (45) days; provided, however, that a suspension of service as a result of a strike or other cause beyond Airline's control shall not be deemed to constitute abandonment.
- b) The default by Airline in the performance of any covenant or agreement herein required to be performed by Airline, other than the payment of fees and charge, and the failure of Airline to remedy such default for a period of thirty (30) days after receipt of written notice of Authority to remedy same.
- c) The default by Airline in the payment of any sums due and payable to the Authority hereunder, and the failure of Airline to completely cure such default within ten (10) days after receipt of written demand from Authority to do so.
- d) The lawful 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 or parts thereof, in such a manner as to substantially restrict Airline, for a period of at least ninety (90) days, from operating thereon for the carrying of passengers, cargo, property and mail.

In addition to the aforesaid events, and without limitation of any other remedies available to Authority under this Agreement or at law, and without any notice other than that provided for in this Section 10.02, and without any liability to Airline, Authority may take immediate possession of the Leased premises and remove all persons or property therefrom; and may take such steps as Authority's Executive Director, in his sole discretion, deems reasonable to prevent the use of Airport facilities by Airline.

It is agreed that failure to declare this Agreement terminated upon the default of Airline for any

of the reasons set forth above shall not operate to bar or destroy the right of Authority to declare this Agreement null and void by reason of any subsequent violation of the terms of this Agreement.

SECTION 10.03 – TERMINATION FOR FINANCIAL AID

In addition to the foregoing, all rights, privileges or interest acquired hereunder by Airline may, at the option of Authority and following prior written notice of thirty (30) days, be suspended or finally terminated if such suspension or termination is found by Authority, acting in good faith, to be necessary to secure financial aid provided by the United States Government for the development of the airport or for the development or promotion of aeronautical operation thereon; provided, however, that in the event that this Agreement is terminated by Authority pursuant to the provisions of this Section 10.03, Authority shall

- A) Be liable to Airline for the fair market value of all improvements, install by Airline upon the Leased Premises, and
- B) Utilize its best efforts to provide equivalent rights, privileges and interest in any new facilities constructed by Authority.

SECTION 10.04 – ASSIGNMENT AND SUBLETTING

Airline shall not sell, assign or this Agreement or transfer any part thereof and shall not sublease all or any portion of the Leased Premises without the prior written consent of Authority; provided, however, that upon thirty (30) days' prior written notice to Authority, Airline may assign this Agreement to any corporation with which Airline may merge or consolidate or which may succeed to the air transportation business of Airline.

ARTICLE 11: PROPERTY RIGHTS UPON TERMINATION

SECTION 11.01 – AIRLINE'S RIGHT OF REMOVAL

Upon termination of this Agreement for any reason, Airline shall have the right, subject to the provision of Section 2.02, for a period of thirty (30) days after the date of termination, to remove any or all of its property from the Airport; provided, however, that Airline shall not be in default in its payments to Authority hereunder and provided that Airline shall restore said premises to their original condition as of the beginning of occupancy, ordinary wear and tear, damage by the elements, fire, explosion or other causes beyond the control of Airline excepted.

SECTION 11.02 – AUTHORITY RIGHTS AT TERMINATION

Title to any and all property not removed by Airline prior to the expiration of the aforesaid 30-day period shall vest in Authority; provided, however, that Authority reserves the right to require Airline to remove such improvements and property, the cost of which shall be borne by Airline.

ARTICLE 12: GENERAL PROVISIONS

SECTION 12.01 – RULES AND REGULATIONS

The Authority shall at all times have the right to adopt and enforce uniform, reasonable and nondiscriminatory rules, regulations and standards with respect to the use of the Airport; provided that such rules, regulation and standards shall be consistent with safety and security and with all relevant rules, regulations and orders of the FAA with respect to operations at the Airport. At least thirty (30) days prior to adoption by the Authority of any proposed rule, regulation or order having a direct and substantial effect (except in emergency or extraordinary conditions) on Airline's rights and privileges granted by this Agreement, the Authority shall give Airline notice of the proposed rule, regulation or order and afford Airline the rights to present to Authority, within such thirty (30) day period, information and statements thereon. Upon request of a signatory airline, the Authority shall convene a meeting of the Airlines for the purpose of discussing the proposed rule, regulation, or order. Airline shall observe and obey all such reasonable rules, regulations, standards and orders and cause the same to be observed and obeyed by its employees, agents, contractors and representative. The Authority shall furnish Airline with two (2) copies of any such rules, regulations, standards and orders at least five days prior to their effective date (except in case of emergency), and all amendments thereto and revisions thereof.

SECTION 12.02 – COMPLIANCE WITH RULES AND REGULATIONS

Airline agrees to observe and obey all lawful rules and regulations of the Authority, which are now in effect or as may from time to time during the term hereof be promulgated, or any lawful rule or regulation of the FAA or any federal or CNMI agency which is binding at law on Airline, as the same are or may from time to time be amended or supplemented.

Airline covenants and agrees that it will not violate or permit its agents, contractors, or employees acting on Airline's behalf to violate any such rules and regulation which are now in effect or may from time to time during the term hereof take effect. To the extent it is authorized to do so by law, Authority may prescribe civil penalties and injunctive remedies for violations of its rules and regulations and same may be applied to Airline for violations of their agents, employees, and contractors acting on Airline's behalf; provided, however, Airline does not hereby waive rights to contest such laws, penalties or remedies.

In the event Authority shall be subject to any civil fine or penalty by reason of airline's violation of any governmental rules, regulations and standards as now or hereafter promulgated or enacted, the cost of such fine or penalty shall be borne by Airline. Airline shall indemnify fully and save harmless Authority from any fine or penalty charged against Authority by reason of airline's violation of any governmental rules, regulations and standards.

SECTION 12.03 – INTERPRETATION OF AGREEMENT

Nothing in this Agreement shall be construed or interpreted in any manner whatsoever as limiting, relinquishing or waiving any rights of ownership enjoyed by Authority in the Airport property, or in any manner waiving or limiting the Authority's control over the operation, maintenance and general administration of Airport property or operations, nor in derogation of, such governmental rights as Authority possesses, except as is specifically provided for herein. Upon termination of this Agreement, all rights of Airline with respect to the use of facilities at the Airport shall at once cease and terminate.

SECTION 12.04 – INVALID PROVISIONS

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

SECTION 12.05 – UNITED STATES GOVERNMENT

This Agreement shall be subordinate to the provisions of any existing or future agreement between:

- a) Authority and the United States of America relative to the maintenance and operation of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.
- b) Commonwealth of the Northern Mariana Islands and the United States of America relative to the joint use of the Airport.

SECTION 12.06 – CONSENT NOT TO BE UNREASONABLY WITHHELD

Whenever consent or approval is required hereunder by either Authority or Airline, such consent or approval is not to be unreasonably withheld or to be delayed for any unreasonable period of time.

SECTION 12.07 – REDELIVERY OF PREMISES

Except as otherwise provided for herein, Airline shall, upon termination of this Agreement, quit and deliver up the Leased Premises to Authority peaceable, quietly and in as good order and condition as the same now are or may hereafter be improved by Airline or Authority, reasonable use and wear, damage by the elements, fire, explosion or other causes beyond the control of

Airline excepted.

SECTION 12.08 – FEDERAL AVIATION ADMINISTRATION

Whenever the term ‘Federal Aviation Administration’ is used in this Agreement, it shall mean the Federal Aviation Administration created by the Federal Government under the Federal Aviation Act of 1958, or to such other Federal Government authority as may be the successor thereto or be vested with the same or similar authority.

SECTION 12.09 – NONDISCRIMINATION

- A) The Airline, for itself, its successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained or otherwise operated on the said property described in this Agreement for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Airline shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Sub-Title A. Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- B) The Airline, for itself, its successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that:
 - 1) No person on the grounds of race, color, creed or national origin shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination in the use of said facilities;
 - 2) In the construction of any improvements on, over or under such land, and the furnishing of services thereon, no person, on the grounds of race, color, creed or national origin shall or otherwise be subjected to discrimination; and
 - 3) That the Airline shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation-Effectuation of Title VI of the Civil Right Act of 1964, and as said Regulations may be amended.
- C) That in the event of breach of any of the above nondiscrimination covenants, the Authority shall have the right to terminate this Agreement and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

SECTION 12.10 – OTHER LEASES AND CONTRACTS

Nothing contained in this Agreement shall be deemed or construed to nullify, restrict or modify in any manner the provisions of any other leases or contract between Authority and Airline authorizing the use of the Airport, its facilities and appurtenance upon payment of rentals, fees and charges therein provided.

SECTION 12.11 – NO EXCLUSIVE RIGHT

It is hereby agreed that nothing herein contained shall be construed to grant or authorized the granting of an exclusive right prohibited by Section 308 of the Federal Aviation Act of 1958, as amended, and the Authority reserves the right to grant to others the privilege and right of conducting any one or all activity of the aeronautical nature.

SECTION 12.12 – INSPECTION

Authority, through its authorized agents, shall have the right at all reasonable times to enter upon the Leased Premises to inspect said Leased premises, to observe the performance by Airline of its obligations hereunder, and to do any act which Authority may be obligated to have the right to do under this Agreement.

SECTION 12.13 – COVENANT OF QUIET ENJOYMENT

Authority covenants and warrants that, upon payments of all rental and other charges due hereunder by Airline to Authority, and upon observance by Airline of all the remaining covenants of Airline provided for in this Agreement, Airline shall hold and may quietly enjoy the premises described in Section 1.01, 1.02, and 1.03 of this Agreement, during the term hereof and any extensions hereof.

SECTION 12.14 – PUBLIC AUDITOR

The Public Auditor of the Commonwealth of the Northern Mariana Islands shall, pursuant to 1 CMC § 7845, have the right to examine and copy any records, data or papers relevant to this Agreement for a period of three (3) years after final payment under this Agreement.

SECTION 12.15 – AGREEMENT MADE IN ACCORDANCE WITH LOCAL LAWS

This Agreement has been made in and shall be construed in accordance with the laws of the Commonwealth of the Northern Mariana Islands.

SECTION 12.16 – SUCCESSORS

This Agreement shall bind and inure to the benefits of any successor of Authority and any successor, assignee or sublessee of Airline.

SECTION 12.17 – HEADINGS

The article and section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provisions of this Agreement.

SECTION 12.18 – ATTORNEY’S FEES

If any suit or action is instituted in connection with any controversy arising under this Agreement, the prevailing party shall be entitled to recover and the losing party agrees to pay, in addition to court cost, such sum as the trial court may adjudge reasonable as attorney’s fees and upon appeal therefrom such sums as appellate court may adjudge reasonable as attorney’s fees. This provision shall survive termination by either party with respect to causes of suit or action that survive termination.

SECTION 12.19 – TIME OF ESSENCE

Time is of the essence of this Agreement.

SECTION 12.20 – NOTICES

Notice to Authority provided for herein shall be sufficient if sent by certified mail, postage prepaid, addressed to:

**The Commonwealth Ports Authority
Attention: Executive Director
Saipan International Airport
P.O. Box 501055
Saipan, MP 96950**

and notices to Airline, if sent by certified mail, postage prepaid, addressed to:

Attention: _____

or to such other address as the parties may designate to each other in writing from time to time.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

COMMONWEALTH PORTS AUTHORITY

AIRLINE:

By: _____

By: _____

Approved as to Form and Legality:

Legal Counsel, CPA

COMMONWEALTH OF THE NORTHERN)
MARIANA ISLANDS)
) ACKNOWLEDGEMENT
SAIPAN, MARIANA ISLANDS)

On this ____ day of _____, 20____, before me, a Notary Public in and for the Northern Mariana Islands, personally appeared _____, know to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

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

NOTARY PUBLIC

COMMONWEALTH OF THE NORTHERN)
MARIANA ISLANDS)
) ACKNOWLEDGEMENT
SAIPAN, MARIANA ISLANDS)

On this ____ day of _____, 20____, before me, a Notary Public in and for the Northern Mariana Islands, personally appeared _____, know to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

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

NOTARY PUBLIC