

LEASE & DEVELOPMENT AGREEMENT

for Tweed-New Haven Airport

between

TWEED-NEW HAVEN AIRPORT AUTHORITY

and

THE NEW HVN LLC

dated as of

August 19, 2022

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- Schedule 2A Terminal Facilities Operating Standards
- Schedule 2B Airfield Facilities Operating Standards
- Schedule 3 Authority Contracts and Assigned Contracts
- Schedule 4 Assigned Assets
- Schedule 5 Required Federal Provisions
- Schedule 6 Single Purpose Covenants

EXHIBITS

- Exhibit A Leased Property
- Exhibit B Terminal Footprint
- Exhibit C Form of Airfield Operating Budget
- Exhibit D West Terminal Facilities
- Exhibit E Overflow Lot Area
- Exhibit F Projects Schedule
- Exhibit G Alternative East Side Parking Schedule
- Exhibit H Form of City Letter

ANNEXES

- Annex A Definitions

This **LEASE & DEVELOPMENT AGREEMENT FOR THE TWEED-NEW HAVEN AIRPORT** (including Annex A and each Schedule and Exhibit hereto, as amended from time to time in accordance with its terms, this “**Agreement**”) is made and entered into as of this 19 day of August, 2022 (the “**Effective Date**”) by and between (a) the Tweed-New Haven Airport Authority, a political subdivision of the State of Connecticut existing under the laws of the State of Connecticut and having its principal office at 155 Burr Street, New Haven, CT 06512 (the “**Authority**”), and (b) The New HVN LLC, a Delaware limited liability company having its principal offices at 45025 Aviation Drive, Suite 100, Dulles, VA 20166-7524 (“**Lessee**”).

RECITALS

WHEREAS, the Authority operates and manages Tweed-New Haven Airport (the “**Airport**”) pursuant to the provisions of Connecticut General Statutes, Sec. 15-120g *et seq.*, as amended, and holds the Airport pursuant to that certain Amended and Restated Lease and Operating Agreement by and between The City of New Haven, a municipal corporation, duly organized and validly existing under the laws of the State of Connecticut (the “**City**”) and the Authority dated August 19, 2022, as amended, amended and restated, supplemented or otherwise modified from time to time (the “**Master Lease**”);

WHEREAS the Authority is the FAA sponsor of the Airport for purposes of federal regulation, federal grants-in-aid and obligations that attach to a federally obligated Airport, and nothing herein is intended to modify the Authority’s sponsorship status;

WHEREAS, the Authority and Lessee wish to enter into this Agreement to sublease to Lessee the Leased Property and to grant the right and obligation to Lessee to develop, operate, maintain and manage the Leased Property;

WHEREAS, pursuant to this Agreement, the Parties anticipate pursuing the Runway Project and the New Terminal Project in accordance with the Projects Schedule attached hereto as Exhibit F;

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants, representations, warranties, and agreements contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties (as defined herein) covenant and agree as follows:

ARTICLE 1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

Unless otherwise specified, including in Section 1.2, or as the context otherwise requires, terms set out in Annex A to this Agreement have the respective meanings given to them in such Annex A for all purposes of this Agreement.

1.2. Construction and Interpretation of Agreement

1.2.1. Headings and other internal references

- (a) Headings are inserted for convenience only and will not affect interpretation of this Agreement.

- (b) Except as the context may otherwise provide, the words “**herein**”, “**hereof**” and “**hereunder**”, and words of similar import, will be construed to refer to this Agreement in its entirety and not to any particular provision of this Agreement.
- (c) Except as otherwise expressly provided or as the context may otherwise provide, a reference to any Section within this Agreement is a reference to such Section of this Agreement (excluding the Schedules and Exhibits).

1.2.2. Common terms and references

- (a) The singular includes the plural and vice versa.
- (b) Words preceding “**include**”, “**includes**”, “**including**” and “**included**” will be construed without limitation by the words that follow.
- (c) The word “**promptly**” means as soon as reasonably practicable in light of then-prevailing circumstances.
- (d) The word “**discretion**” with respect to any Person means the sole and absolute discretion of such Person.
- (e) The phrase “**not be unreasonably withheld**” and “**not to be unreasonably withheld**” means with respect to any consent or assent that it will not be unreasonably withheld, delayed or made subject to the imposition of unreasonable conditions by such Person (where, for certainty, conditions that are necessary for a Party to comply with Law, an Authorization or a binding agreement are not inherently unreasonable), and “**unreasonably withhold**” will be similarly construed.
- (f) The word “**notice**” means written notice, unless specified otherwise.
- (g) All statements of, or references to, dollar amounts or money, including references to “**\$**” and “**dollars**”, are to the lawful currency of the United States of America.
- (h) A reference to a matter, action or thing being at a Party’s “**cost and expense**” includes both Parties’ incurred third-party fees, costs and expenses, including for external legal counsel and other external advisors.

1.2.3. References to agreements, documents, Law and Authorizations

Except as otherwise expressly provided in this Agreement, a reference:

- (a) to an agreement, document or Authorization will be construed to be a reference to the same as it may be amended, modified or supplemented from time to time pursuant to its terms or Law, as applicable; and
- (b) to any Law will be construed:
 - (i) as a reference to such Law as amended, replaced, consolidated, modified, supplemented or re-enacted (as applicable) from time to time;
 - (ii) as a reference to such Law as interpreted by a court of competent jurisdiction from time to time;

- (iii) to include all regulations and rules pertaining to or promulgated pursuant to such Law; and
- (iv) to include all future and successor Laws pertaining to the same or similar subject matter.

1.2.4. References to Persons

Except as otherwise expressly provided in this Agreement:

- (a) a reference to a Person includes such Person's permitted successors, assigns and transferees;
- (b) the feminine includes the masculine and vice-versa; and
- (c) the words "**they**", "**them**", "**themselves**", and "**their**" when used to refer to a single Person or a grammatically singular antecedent will be construed to mean an individual regardless of gender identity.

1.2.5. Professional language and terms of art

Except as otherwise expressly provided in this Agreement, words and phrases not otherwise defined herein:

- (a) that have well-known airport, aeronautical, transit, engineering, construction, or insurance industry meanings will be construed pursuant to such recognized meanings; and
- (b) of an accounting or financial nature will be construed consistent with GAAP, consistently applied,

in each case taking into account the context in which such words and phrases are used.

1.2.6. References to Deadlines, Times and Days

- (a) Unless specified otherwise, all statements of or references to a specific time in this Agreement are to Eastern Standard Time.
- (b) A period of Days will be deemed to begin on the first Day after the event that began the period and to end at 5:00 p.m. on the last Day of the period. If, however, the last Day of the period does not fall on a Business Day, the period will be deemed to end at 5:00 p.m. on the next Business Day.

1.3. Integrated Agreement and Resolution of Conflicts

1.3.1. Integrated and binding agreement

- (a) Subject to Section 19.8, the Parties agree and expressly intend that this Agreement, which includes its Schedules and Exhibits and any valid amendments, constitutes a single, non-severable, integrated agreement whose terms are interdependent and non-divisible.
- (b) Subject to the express terms of this Agreement, any term, condition, requirement, criteria or specification set out or referenced in any part of this Agreement is a binding contractual obligation.

1.3.2. Deemed incorporation of provisions required by Law

Provisions required by any existing or future Law to be inserted in this Agreement are deemed to be incorporated in this Agreement whether or not they appear in this Agreement or, upon application by either Party, this Agreement will be amended to make the insertion. In no event will the failure to insert any such provision before or after this Agreement is signed prevent the enforcement of such provision.

1.3.3. Standards for resolving conflicts and inconsistencies

- (a) If there is any conflict, ambiguity or inconsistency between or among any provision(s) of this Agreement (including Annex A, but excluding the Schedules and Exhibits) and/or any provision(s) of the Schedules (including the Terminal Facilities Operating Standards and the Airfield Facilities Operating Standards) or Exhibits, in each case that cannot be reconciled by reading all relevant provisions of this Agreement and the Schedules and Exhibits as mutually explanatory of one another, then this Agreement (including Annex A, but excluding the Schedules and Exhibits) will prevail over the Schedules and Exhibits; provided that:
- (i) in the event of any conflict, ambiguity or inconsistency between or among the provisions of this Agreement (including, for certainty, the Schedules and Exhibits) with an equal order of precedence, the most stringent requirement will take precedence;
 - (ii) notwithstanding anything to the contrary contained in this Agreement, in the event of any conflict, ambiguity or inconsistency between or among any applicable requirement under Law and any other requirement of this Agreement, the applicable requirement under Law will take precedence; and
 - (iii) additional or supplemental requirements that Lessee is required to comply with pursuant to this Agreement with a lower order of precedence relative to other parts of this Agreement as determined pursuant to this Section 1.3.3 will be given effect except to the extent such requirements conflict or are inconsistent with, or otherwise create an ambiguity in relation to, the provisions contained in a part of this Agreement with a higher order of precedence.
- (b) In the event of any such conflict, ambiguity or inconsistency, the Parties agree that the relevant terms of this Agreement will not be construed against the Person that prepared them and the Parties waive any Law with contrary effect which would otherwise be applicable in connection with the construction and interpretation of this Agreement.

1.3.4. Subordination to the United States Government

- (a) The Parties covenant and agree that this Agreement and any Mortgage shall be subordinated to the provisions of any existing or future agreement or assurances between the Lessee and the United States federal government, the execution of which has been or will be required as a condition precedent to the granting of

federal funds or the approval to impose or use PFCs for the development of the Airport.

- (b) In the event that this Agreement, either on its own terms or by any other reason, conflicts with or violates such agreement referred to in the prior paragraph, the Authority will promptly notify Lessee of such conflict or violation, and work with Lessee to amend, alter or otherwise modify the terms of this Agreement in order to resolve such conflict or violation in a manner reasonably acceptable to both Parties.

1.4. Standards for Approvals and Consents

1.4.1. General Standards for Inter-Party Consents

Where this Agreement requires one Party to provide a consent, approval, or like assent to the other Party and no express standard for such consent, approval, or like assent is given, then such consent, approval or like assent will be in writing and not be unreasonably withheld, conditioned or delayed.

1.4.2. Procedures for Approvals, Consents and Performance

Wherever the provisions of this Agreement require or provide for a consent, approval, or like assent by a Party of or to any action, Person, document or other matter contemplated by this Agreement, the following provisions will apply unless otherwise expressly provided:

- (a) such request for a consent must be clearly articulated in writing and made by the requesting Party; and
- (b) the consenting Party will, within any time period expressly provided (or if no time period is provided, within seven (7) Days, subject to the consenting Party's right to extend such period for an additional seven (7) Days) advise the requesting Party by notice either that it consents or that it withholds its consent, in which latter case it will set forth its reasons for withholding its consent.

1.4.3. Limitations on Reliance

- (a) Lessee may rely on consents, approvals or like assents, and any notice, from the Authority only for the limited purpose of establishing that the consent, approval or like assent occurred, or any notice, was given. Any such consent, approval or like assent, and any notice, by the Authority, is otherwise for the sole benefit of the Authority.
- (b) Except as otherwise provided in this Agreement or in writing by the Authority at the relevant time, no consent, approval or like assent, and no notice, comment, response, review, inspection, concurrence, verification, oversight, or payment, will:
 - (i) constitute a waiver (A) by the Authority of any breach of this Agreement by Lessee or (B) of any rights under this Agreement of any legal or equitable right of the Authority or of any other Person;

- (ii) estop or prevent the Authority from subsequently exercising its rights under this Agreement without being bound by the manner in which it previously exercised (or refrained from exercising) such rights;
- (iii) prejudice the Authority's rights against Lessee, whether under this Agreement, including any cause of action it may have arising out of this Agreement, or Law;
- (iv) relieve Lessee of any of its obligations hereunder or any surety of its liability under bond;
- (v) constitute a waiver of any rights under this Agreement of any legal or equitable right of the Authority, or of Lessee's obligation to fulfill the requirements of this Agreement; or
- (vi) be asserted by Lessee against the Authority as a legal or equitable defense to, or as a waiver of or relief from, Lessee's obligation to fulfill the requirements of this Agreement.

**ARTICLE 2. TERM; GRANTING PROVISION; INTENDED TAX TREATMENT;
PAYMENTS BY LESSEE; AUTHORITY ACCOUNTS**

2.1. Term

The term of this Agreement (the “**Term**”) shall be for a period of forty-three (43) years commencing on the Effective Date, unless terminated earlier in accordance with the terms of this Agreement.

2.2. Granting Provision

2.2.1. Grant of Rights

Upon the terms and subject to the conditions of this Agreement, for and during the Term:

- (a) the Authority hereby:
 - (i) leases to Lessee, free and clear of Encumbrances (other than Permitted Authority Encumbrances), the Leased Property for purposes of performing the Work and to otherwise operate, manage, maintain, improve, and develop the Leased Property for Airport Purposes in accordance with and pursuant to this Agreement, together with, as part of the Leased Property, all of the Authority’s rights and interests in and to those two (2) permanent easements, subject to Section 3.5.1, each sixty (60) feet wide for future Airport access roads to the East Side General Aviation Area, as more particularly set forth in that certain Quit Claim Deed dated December 30, 1986 and recorded January 7, 1987 in Volume 397 at Page 143 of the East Haven Land Records, and, to the extent necessary, the Authority hereby assigns to Lessee all of its rights and interests in and to the foregoing easements; and
 - (ii) grants to Lessee:
 - (A) the sole right and obligation to perform the Work and use the Terminal Facilities in accordance with and pursuant to this Agreement;
 - (B) the non-exclusive right to enter into and use the Authority Property as necessary for the sole purpose of performing the Work in accordance with the foregoing grant;
 - (C) the non-exclusive right to enter into any off-Airport land owned by the Authority or to which the Authority has access rights, subject to Permitted Authority Encumbrances, the rights of lessees, licensees, and holders of easements, including rights hereafter granted by the Authority, and directives issued by or on behalf of the Authority and applicable Law, as necessary to give effect to the foregoing lease and grant;
 - (D) the sole right to charge, collect and retain Terminal Facilities Fees;

provided that, with respect to the West Terminal Facilities following Substantial Completion of the New Terminal, each of clauses (A) and (B) above shall be subject to Sections 4.6 and 4.7; and

- (iii) assigns to Lessee each (and all) of (A) the Assigned Assets and (B) the Assigned Contracts;
- (b) Lessee hereby accepts each such lease, grant, and assignment and accepts its obligations under this Agreement with respect to (i) the Leased Property, (ii) the Terminal Facilities and (iii) performance of the Work (which it acknowledges and agrees shall not include any Prohibited Business Activities);
- (c) the Parties agree that as a result of such lease, grant, and assignment, Lessee holds a leasehold property interest in the Leased Property (but not over the Authority Property) and a non-real property interest right of entry and use (subject to Sections 4.6 and 4.7) with respect to the West Terminal Facilities;
- (d) the Parties agree that the grant of rights in Section 2.2.1(a)(ii) is not and shall not constitute a license; and
- (e) the Parties agree that Lessee is having survey and survey-related work conducted with respect to the Leased Property and all or a portion of the Authority Property to determine an exact legal description of the Leased Property, and agree to amend this Agreement to update Exhibit A based on such final survey and legal description so long as such final survey and legal description does not materially change the boundaries of the Leased Property set forth in Exhibit A as of the Effective Date. In the event that such final survey and legal description identifies a material inconsistency with the boundaries of the Leased Property set forth in Exhibit A, the Parties agree to work in good faith to determine the legal description of the Leased Property, and agree to amend this Agreement to update Exhibit A based on such determination.

2.2.2. Recordation of Lease

At the Effective Date, the Parties shall execute such documents as are necessary to enable Lessee, at its cost and expense, to record a memorandum or statutory notice of this Agreement in the land records of the City and the Town, and, as when applicable, any successor public records to such land records. To the extent that changes are made to this Agreement with respect to the Term, the legal description of the Leased Property, or other material matters, the Parties shall execute, deliver, and record, at Lessee's expense, an amendment to the recorded memorandum or statutory notice of this Agreement reflecting such changes to be recorded by Lessee at its cost and expense.

2.2.3. Quiet Enjoyment

The Authority covenants and warrants that, so long as no Lessee Default has occurred or is continuing, Lessee shall be entitled to and shall have the quiet possession and enjoyment of the Leased Property and the rights and privileges granted to Lessee hereunder with respect the Leased Property without interference by the Authority, its

agents, or persons claiming by or through the Authority, subject to the provisions contained in this Agreement. The Authority shall, at its cost and expense, and at all times during the Term, defend its interests in the Master Lease Premises and the Airport Facilities and Assets (including the Leased Property and the Terminal Facilities and Assets) and the rights granted to Lessee hereunder, or any portion thereof, against any Person claiming any interest adverse to the Authority or Lessee in the Master Lease Premises or the Airport Facilities and Assets (including the Leased Property and the Terminal Facilities and Assets), or any portion thereof, except where such adverse interest is a Permitted Authority Encumbrance with respect to which the Authority is not in default.

2.2.4. Present Condition

Subject to Section 2.2.7 with respect to the Excluded Liabilities, Lessee:

- (a) agrees and acknowledges that its Affiliate, the Manager, has had access to the Airport Facilities pursuant to the Management Contract and Lessee has inspected and is aware of the condition of (i) the Leased Property and the West Terminal Facilities, consistent with Section 2.2.6 below, and (ii) the Assigned Assets; and
- (b) acknowledges and agrees that:
 - (i) the Leased Property, the West Terminal Facilities, the Assigned Assets, and all other property, facilities, and structures made available to it from time to time under the terms of this Agreement are, as applicable, leased and otherwise made available to Lessee by the Authority:
 - (A) on an “as is”, “where is”, and “with all faults” basis without representation or warranty, express or implied, regarding the condition or suitability for purpose of the same (or any part thereof); and
 - (B) subject to any Permitted Authority Encumbrance, property restriction (including the rights and restrictions of access and use of third parties), environmental or other site or subsurface conditions that may exist from time to time on such property, facilities, and structures.

2.2.5. Subject to Master Lease

The parties acknowledge and agree that this Agreement is in all respects subject to the terms and conditions of the Master Lease and applicable Law. Lessee shall not permit or cause to be permitted on the Airport Facilities any act or omission which shall violate any term or condition of the Master Lease, subject to the requirements of applicable Law.

2.2.6. Due Diligence

- (a) Prior to the Effective Date, Lessee conducted or has been provided the following due diligence:
 - (i) Phase I Environmental Site Assessment dated August 16, 2021 prepared by Apex Companies, LLC;

- (ii) Phase II Limited Subsurface Investigation dated October 15, 2021 prepared by Apex Companies, LLC;
 - (iii) Hazardous Building Materials Inspection Report dated October 13, 2020, prepared by ATC Group Services LLC; and
 - (iv) Other assessments and investigations regarding the Leased Property and the West Terminal Facilities in accordance with the Baseline Standard of Practice.
- (b) Notwithstanding any documents, information, reports and materials (together, the “**Reference Information**”) having been made available by the Authority to Lessee in connection with its due diligence and the execution of this Agreement, Lessee acknowledges and agrees that neither the Authority nor any other Person that produced or provided any such Reference Information gives or has given any representation, warranty, undertaking, or guaranty as to the accuracy, completeness, relevance, fitness for purpose, or adequacy of such Reference Information or shall have any responsibility or liability to Lessee in respect of any such Reference Information.
- (c) Except with respect to Excluded Liabilities, Lessee shall bear all risk, including of delay and/or increased cost, resulting from or arising out of the use of any Reference Information or any other documents or information provided from time to time by the Authority (documents or information which shall be deemed provided on the same basis as Reference Information).

2.2.7. Assumed Liabilities and Excluded Liabilities

Lessee agrees to assume and discharge or perform as and when due all Assumed Liabilities, and the Authority will continue to perform and discharge as and when due all Excluded Liabilities, where:

- (a) the “**Assumed Liabilities**” are comprised of:
- (i) any debts, liabilities and obligations (whether such debts liabilities or obligations are initially charged to the Authority, Lessee or any other Person) relating to the Leased Property, the West Terminal Facilities or the Work that first occur, first arise out of or relate to, or are based on facts or actions first occurring during the Term but only to the extent such debts, liabilities or obligations, with respect to the West Terminal Facilities, arise from Lessee’s performance of the Work and, in any event, do not arise from or relate to (A) any breach by the Authority of any material covenant, representation, or warranty set forth in this Agreement or (B) the Authority’s negligence, misconduct, fraud, willful misconduct, criminal conduct, recklessness, bad faith, or breach of Law, Authorization or agreement (other than this Agreement); and
 - (ii) all debts, liabilities, and obligations of the Authority to the Manager relating to the Fifth Project Loan (but, for the avoidance of doubt, no other

debts, liabilities, or obligations of the Authority pursuant to the Management Contract);

in each case excluding the Excluded Liabilities; and

- (b) the “**Excluded Liabilities**” are comprised of any debts, liabilities, and obligations (whether such debts liabilities or obligations are initially charged to the Authority, Lessee, or any other Person):
 - (i) with respect to the Authority’s performance or non-performance of its rights and obligations under this Agreement;
 - (ii) arising out of or relating to:
 - (A) the Authority’s negligence, misconduct, fraud, willful misconduct, criminal conduct, recklessness, bad faith, or breach of Law, Authorization, or agreement (other than this Agreement) prior to the Effective Date or during the Term;
 - (B) facts, circumstances, or conditions occurring or existing prior to the Effective Date with respect to the Leased Property, the Authority Property, the Airport Facilities and Assets, the Authority Contracts or the Assigned Contracts;
 - (C) any obligation of the Authority (and not the Lessee) pursuant to Section 2.2.8 to investigate, remediate, or monitor Hazardous Materials;
 - (D) any Authority Contracts; or
 - (E) the access to and use of the Airport Facilities by the Authority and its Representatives on and from the Effective Date for purposes other than the exercise of a right under this Agreement;
 - (iii) with respect to any act or omission by, or obligation or liability of, the Authority (or any of its Representatives) under State employment and labor laws or under any contracts or arrangements with or regarding any Airport Employee related to the period prior to the Effective Date.

2.2.8. Hazardous Materials Management and Disposal Responsibility

- (a) Lessee shall notify the Authority and, if required, the applicable Governmental Authority, regarding any discovery or Release of Hazardous Materials, including as required by Section 7.2.2(a)(ii). Notwithstanding anything to the contrary herein, there shall be a presumption that: (i) Hazardous Materials either referred to or identified in any environmental report predating the Effective Date and concerning the Leased Property and/or the Authority Property, whether found in a different location or in a different amount or concentration on the Leased Property and/or the Authority Property, occurred prior to the Effective Date and, as between the Authority and Lessee, are the responsibility of the Authority and not the responsibility of Lessee; and (ii) Hazardous Materials that are detected on or after the Effective Date at, on, or emanating to or from the Leased Property and/or

the Authority Property first occurred prior to the Effective Date and are the responsibility of the Authority, provided, however, that any documented Release of Hazardous Materials after the Effective Date is the responsibility of Lessee to the extent caused or permitted by Lessee during the Term. With respect to any such documented Release of Hazardous Materials after the Effective Date, Lessee will be responsible for the investigation, remediation, and monitoring to the extent required by Environmental Laws, as well as related Claims (including third-party bodily injury, property damage, or other toxic tort Claims).

- (b) As between the Authority and Lessee:
 - (i) Lessee shall be deemed the generator under 40 C.F.R. Part 262 and the arranger under CERCLA Section 107(a) with respect to any Hazardous Materials, including a Release, which is within the scope of the Assumed Liabilities; and
 - (ii) the Authority shall be deemed the generator under 40 C.F.R. Part 262 and the arranger under CERCLA Section 107(a) with respect to any Hazardous Materials, including a Release, which is within the scope of the Excluded Liabilities, provided that, to the extent that Lessee fails to either utilize disposal sites or transporters of such Hazardous Materials that are approved by the Authority or manage such Hazardous Materials in compliance with Environmental Laws, Lessee shall be deemed to be the generator and arranger of such Hazardous Materials.
- (c) With respect to Projects and Lessee Airfield Projects:
 - (i) After the Effective Date but before commencing construction, where required or necessary, Lessee will engage an LEP to prepare a draft scope of work for further environmental due diligence, which shall be provided to the Authority in advance for its reasonable comments, which comments Lessee shall consider in good faith but which shall not be binding on Lessee. Based on the results of such further environmental due diligence and any supplemental diligence the Authority may provide (which information Lessee shall consider in good faith but which shall not be binding on the Lessee), the LEP will provide a cost estimate to remediate or otherwise address any Hazardous Materials identified above relevant RSR criteria and/or other applicable criteria (the “**LEP Cost Estimate**”). The parties agree that an LEP Cost Estimate is required for prior to commencing construction of the New Terminal Project. Lessee will determine, in its sole discretion, after receiving the LEP Cost Estimate and prior to the applicable financial closing date, whether to proceed with any Project or Lessee Airfield Project. Lessee will not decline to proceed solely for environmental reasons if the LEP Cost Estimate is less than five percent (5%) of the overall project budget. If Lessee does not obtain an LEP Cost Estimate, a Differing Site Condition cannot be triggered.

- (ii) If Lessee chooses to proceed, then:
 - (A) Subject to paragraph (B) below, Lessee shall be responsible for the investigation, remediation, and monitoring to the extent required by Environmental Laws, including all costs associated therewith (including reasonable and related cost overruns), related to Hazardous Materials as projected by the LEP Cost Estimate, including manifests (including generator signature only to the extent required by Section 2.2.8(b)), transport, disposal, recordkeeping, and handling.
 - (B) The Authority will be responsible for any additional investigation, remediation, and monitoring costs, subject to Section 2.2.8(f)(iv), whether required by Environmental Laws or by the Authority, to address a Change in Law or Hazardous Materials not identified in the LEP Cost Estimate but nonetheless encountered above relevant RSR criteria and/or other applicable criteria.
- (d) With respect to Authority Airfield Projects:
 - (i) After the Effective Date but before commencing construction, Lessee will engage an LEP, to be agreed to by the Parties in advance and at the Authority's sole cost and expense, to perform further environmental due diligence, the scope of which shall be approved by the Authority, such approval not to be unreasonably withheld, and provide the LEP Cost Estimate. The Authority and Lessee will determine, after receiving the LEP Cost Estimate and prior to the applicable financial closing date, whether to proceed with any Authority Airfield Project.
 - (ii) If the Parties agree to proceed with an Authority Airfield Project, then:
 - (A) The Authority shall be responsible for, at its sole cost and expense, subject to Section 2.2.8(f)(iv), all investigation, remediation, and monitoring to the extent required by Environmental Laws (including any Change in Law) related to Hazardous Materials (except with respect to Releases of Hazardous Materials to the extent caused or permitted by Lessee during the Term), including manifests (including generator signature only to the extent required by Section 2.2.8(b)), transport, disposal, recordkeeping, and handling.
 - (B) Lessee will perform the Authority Airfield Project and keep the Authority reasonably informed as to the status and costs of any investigation and remediation efforts.
- (e) With respect to a Change in Law, only if directed by the Authority or otherwise required by applicable Environmental Laws, Lessee will engage an LEP, perform the work required by the Change in Law, and keep the Authority reasonably informed as to the status and costs, which costs shall be the sole responsibility of the Authority subject to Section 2.2.8(f)(iv).

- (f) With respect to any environmental investigation, remediation or monitoring undertaken by or on behalf of either Lessee or the Authority in connection with a Project, an Airfield Project, or a Change in Law:
- (i) Such investigation shall be performed in accordance with prevailing standards and guidelines and such remediation shall be risk-based and consistent with the industrial/commercial (as opposed to the residential) criteria established pursuant to the RSRs, making use of any engineered and/or institutional controls, including EURs, available under the RSRs.
 - (ii) If Lessee encounters Hazardous Materials for which it reasonably believes the Authority may be liable or responsible, then Lessee will notify the Authority, keep the Authority reasonably informed and consult with the Authority regarding any investigation, management and remediation prior to taking any such actions, except in an emergency or necessary to respond to an imminent threat to human health or the environment.
 - (iii) Claims (including third-party bodily injury, property damage, or other toxic tort Claims) related to Hazardous Materials shall remain, as between Lessee and the Authority, the responsibility of the Authority, except to the extent that such Claims arise directly from excavation, disturbance or demolition undertaken by or on behalf of Lessee (e.g., worker health and safety Claims from Lessee's contractors) shall be the responsibility of Lessee.
 - (iv) If the Authority bears responsibility for the cost and expense of environmental investigation, remediation, and monitoring pursuant to this Agreement and Lessee agrees to do such work,
 - (A) the Parties agree to first (i) seek funding for such cost and expense from available pollution legal liability insurance, to be maintained by Lessee with the Authority paying the deductible on such insurance, and (ii) seek in good faith and use Reasonable Efforts to obtain from Governmental Authorities (including from the City to the extent the City may have liability for such costs and expenses pursuant to the Master Lease) funding or grants which may be available in connection with such investigation, remediation or monitoring costs; and
 - (B) thereafter, any remaining costs and expenses shall constitute a Hazardous Materials Compensation Event and shall be addressed in accordance with Article 13.
 - (v) If Lessee bears responsibility for the cost and expense of environmental investigation, remediation, and monitoring pursuant to this Agreement, the Parties will seek in good faith and use Reasonable Efforts to obtain from Governmental Authorities (including, in the case of the Authority, the City to the extent the City may have liability for such costs and expenses

pursuant to the Master Lease) funding or grants which may be available in connection with such investigation, remediation or monitoring costs.

- (vi) No activities conducted by or on behalf of Lessee shall limit Lessee's rights with respect to any Supervening Event.
- (g) If Lessee chooses not to proceed with a Project or a Lessee Airfield Project, or the Parties agree not to proceed with an Authority Airfield Project, then:
 - (i) Lessee will not be responsible for investigating, remediating any identified Hazardous Materials associated with such project. For the avoidance of doubt, investigations performed as part of environmental due diligence shall not be considered excavation, physical disturbance, demolition, or construction for the purposes of allocating liability and responsibility under this Agreement.
 - (ii) The Authority may require Lessee to undertake additional investigation, remediation, and/or monitoring, in which case, the costs, obligations, and liabilities shall be assigned in accordance with Section 2.2.8(d).
 - (iii) If Lessee is nevertheless required by Environmental Laws to undertake additional investigation, remediation, and/or monitoring, then the costs, obligations, and liabilities shall be assigned in accordance with Section 2.2.8(d).
- (h) To the extent the Authority assumes responsibility, in whole or in part, for the identification, management, removal and/or disposal of Hazardous Materials or is otherwise liable for costs associated with Hazardous Materials in connection with a Supervening Event, the Authority may take such actions necessary to preserve its claims against other potentially responsible parties for any such costs, provided such actions do not materially impact Lessee's costs or liability except to the extent such impact, costs or liability are taken into account in connection with the resolution of a Supervening Event.

2.3. Intended Tax Treatment

For income Tax purposes, the Parties intend that the Agreement and transactions contemplated thereby shall have the treatment described in this Section 2.3. The Authority, as a federally tax-exempt entity, does not intend to take a federal income tax position contrary to Lessee's intended treatment for federal income tax purposes. The Authority expresses no opinion and makes no representation, express or implied, as to the treatment for federal income tax purposes of the provisions of this Section 2.3 or Sections 4.1.3 and 4.6, or any other provision related to income Tax or the inclusion of such provisions in this Agreement. Lessee acknowledges that the Authority has agreed to the Tax treatment under this Section 2.3 and Sections 4.1.3 and 4.6 at the request of Lessee.

- (a) This Agreement is intended for United States federal income tax purposes to be:
 - (i) with respect to the transfer (or purchases after the Effective Date) of the Assigned Assets and Assigned Contracts:

- (A) a sale to Lessee of those portions of the Assigned Assets and Assigned Contracts that are tangible property having useful lives of less than or equal to the Term, and
 - (B) a lease to Lessee of the portions of the Assigned Assets that are tangible property having useful lives greater than the Term,
 - (ii) with respect to the use of the West Terminal Facilities and the New Terminal Facilities, a lease to Lessee of the West Terminal Facilities and the New Terminal Facilities, and
 - (iii) the acquisition by Lessee of one or more Section 197 intangibles within the meaning of Section 197(d) of the U.S. Revenue Code.
- (b) The Parties agree that for income Tax purposes the unreimbursed direct and indirect capital expenditures incurred by Lessee in connection with the West Terminal Work and the New Terminal Work are intended to be treated and shall be treated as rental payments by Lessee to the Authority. Any unreimbursed Work funded by Lessee shall be treated as unreimbursed capital expenditures that are treated as rent paid by Lessee to the Authority. Any property taxes paid by Lessee pursuant to Section 3.11 shall be treated as rental payments made by Lessee to the Authority with respect to the West Terminal Facilities or the New Terminal Facilities.
- (c) Governmentally Owned Property; Waiver of Depreciation
- (i) The Parties acknowledge their intent, and the Authority (to the extent within its control) and Lessee each covenants that:
 - (A) for federal income tax purposes, the Bond-Financed Assets will be owned by a governmental unit (within the meaning of section 142(b)(1) of the Code) and leased to Lessee pursuant to this Agreement; and
 - (B) the Term of this Agreement is not more than eighty percent (80%) of the weighted average Reasonably Expected Economic Life of the Bond-Financed Assets to which proceeds of any “issue” (as defined in Treasury Regulations Section 1.150-1(c)) of Tax-Exempt Bonds have been allocated, determined on an issue-by-issue basis.
 - (ii) Lessee hereby irrevocably elects in accordance with section 142(b)(1)(B)(i) of the Code, as amended, not to claim for purposes of federal, state or local taxation of income any depreciation deductions or investment credits with respect to the Bond-Financed Assets unless, after all Lessee Tax-Exempt Bonds are no longer outstanding for federal income tax purposes, Lessee receives a written opinion, with respect to each issue of Lessee Tax-Exempt Bonds, of nationally recognized bond counsel that is reasonably acceptable to the Applicable Issuer of the respective issue of Lessee Tax-Exempt Bonds that any such claim for

depreciation deductions or investment credits thereafter will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the respective issue of Lessee Tax-Exempt Bonds. Lessee shall promptly provide to all Applicable Issuers a copy of such election not to claim depreciation deductions or investment credits except upon receipt of such written opinion and after all Lessee Tax-Exempt Bonds are no longer outstanding for federal income tax purposes. Lessee further agrees that this irrevocable election shall be binding upon its successors in interest, if any, under this Agreement, and as a condition of any permitted sale or assignment of Lessee's interest under this Agreement any successor in interest shall make an irrevocable election in writing and in accordance with the above requirements and the requirements of section 142(b)(1)(B)(i) of the Code, and shall promptly provide a copy of such election to all Applicable Issuers of any Tax-Exempt Bonds. The foregoing shall not grant or be deemed to grant to Lessee the right to sell or assign, in any manner, its interests under this Agreement.

- (iii) In the event Lessee records any documents in lieu of recording this Agreement, said documents shall incorporate the substance of Section 2.3(c)(ii).
- (iv) Notwithstanding that any fee title to the Airport Assets shall be in the Authority or the City, Lessee shall not take any position for title, Tax and accounting purposes which is inconsistent with the Authority or the City being the owner of the Bond-Financed Assets.
- (v) The Parties acknowledge their intent that all of the Tax-Exempt Bonds will be issued subject to and in accordance with the provisions of Sections 103 and 141 through 150 of the Code, and that the interest on the Tax-Exempt Bonds will not be includible, for federal income tax purposes, in the gross income of the recipients thereof under Section 103(a) of the Code except for any period that the Tax-Exempt Bonds shall be held by a "substantial user" or "related person" of facilities provided from the proceeds of the Tax-Exempt Bonds, within the meaning of Section 147(a) of the Code. To that end, each of the Authority (to the extent within its control) and Lessee (in the case of Tax-Exempt Bonds other than Lessee Tax-Exempt Bonds, to the extent within Lessee's control) covenants for the benefit of the holders of the Tax-Exempt Bonds that it (1) shall take any and all actions under the Code to assure that no portion of the proceeds of the Tax-Exempt Bonds will be used in a manner, and that it (2) shall neither take any actions nor fail to take any actions under the Code with respect to the use of the Bond-Financed Assets, the revenues therefrom and the proceeds of the Tax-Exempt Bonds, in either case as would cause interest on the Tax-Exempt Bonds to be includible, for federal income tax purposes, in the gross income of the recipients thereof (except as aforesaid) under Section 103(a) of the Code.

- (d) Any unreimbursed Work that is treated as rental payments pursuant to this Agreement are anticipated to constitute and shall be treated as contingent rent as for purposes of Section 467 of the Code and the Treasury Regulations promulgated thereunder.
 - (i) Any Work funded by the Authority for the West Terminal Facilities, the Runway Project and the New Terminal Facilities, including but not limited to related amounts set forth in Section 9.2, shall be treated as tenant improvement allowances funded by the Authority. Any PFAs received by Lessee shall be treated as paid for and allocable to (i) Manager's performance of the West Terminal Work, including any demolition with respect to the West Terminal Facilities, or (ii) Lessee's performance of the New Terminal Work (including principal and interest payments on any debt issued to finance the New Terminal Facilities). Any PFAs that are received by Lessee that are in excess of the amounts described in (i) and (ii) above shall be classified and treated as a tenant allowance with respect to the West Terminal Facilities and the New Terminal Facilities.
 - (ii) The Parties agree, in the absence of a change of Law or final adverse determination by the Internal Revenue Service, to report the transactions contemplated herein consistently with the intentions expressed in this Section 2.3 for U.S. federal income tax purposes, to treat the Agreement consistently with such intentions and not to take any positions inconsistent with such treatment.
- (e) For income tax purposes for Lessee only, and not for any other purposes, the value of the use of the space made available to the Authority by Lessee pursuant to Section 4.6(f) shall be treated as additional rental payments made by Lessee to the Authority with respect to the West Terminal Facilities and the New Terminal Facilities and rent payments by the Authority to Lessee with respect to the use of any such space in the West Terminal Facilities.

2.4. Payments by Lessee

2.4.1. General Obligation

Upon the terms and subject to the conditions of this Agreement, Lessee agrees to pay (a) the Base Rent described in Section 2.4.2, (b) the Authority Revenue Rent described in Section 2.4.3, (c) the Airfield Operating Deficit Amount described in Section 2.4.4, and (d) additional rent consisting of Lessee's unreimbursed expenditures for the Work funded by Lessee.

2.4.2. Base Rent

- (a) For each Fiscal Year or portion thereof occurring during the Term, Lessee will pay to the Authority a rental amount equal to five hundred fifty thousand dollars (\$550,000), as such amount is adjusted annually in accordance with Section 2.4.2(c) (such annual amount, the "**Base Rent**"), for use of the Leased Property.

- (b) The Base Rent shall be payable by Lessee in advance on the Effective Date and monthly thereafter on the first Day of each calendar month, in an amount equal to one-twelfth (1/12) of the annual applicable Base Rent; provided that if (i) the Effective Date shall be other than the first Day of a calendar month, the first monthly installment of Base Rent shall be the monthly installment prorated by the fraction consisting of the number of Days elapsed from and including the Effective Date to the last Day of the calendar month in which the Effective Date occurred, divided by the actual number of Days in such month, and (ii) the last date of the Term shall be other than the last Day of a calendar month, the last monthly installment of Base Rent shall be prorated by the fraction consisting of the number of Days elapsed from and including the first Day of such calendar month to the last Day of the Term, divided by the actual number of Days in such month.
- (c) As of July 1st of each Fiscal Year during the Term following the first anniversary of the Effective Date, the Base Rent for such new Fiscal Year shall be Adjusted for Inflation (with respect to the first such adjustment, since the Effective Date through the month of May then most recently ended, and thereafter on an annual basis through the month of May most recently ended immediately prior to the date of adjustment), but in any event shall not be less than five hundred fifty thousand dollars (\$550,000).

2.4.3. Authority Revenue Rent

- (a) For each Fiscal Year or portion thereof during the Term, Lessee shall pay to the Authority an amount equal to:
 - (i) until Substantial Completion of the New Terminal Project, one percent (1%) and, thereafter, zero percent (0%), of the portion of gross Lessee Revenue less than or equal to twenty million dollars (\$20,000,000);
 - (ii) one percent (1%) of the portion of gross Lessee Revenue greater than twenty million dollars (\$20,000,000) but less than or equal to thirty million dollars (\$30,000,000);
 - (iii) three percent (3%) of the portion of gross Lessee Revenue greater than thirty million dollars (\$30,000,000) but less than or equal to thirty-five million dollars (\$35,000,000);
 - (iv) six percent (6%) of the portion of gross Lessee Revenue greater than thirty-five million dollars (\$35,000,000) but less than or equal to forty million dollars (\$40,000,000); and
 - (v) eight percent (8%) of the portion of gross Lessee Revenue greater than forty million dollars (\$40,000,000)

(such amount, the “**Authority Revenue Rent**”), provided that with respect to the Fiscal Year in which Substantial Completion of the New Terminal Project occurs, the Authority Revenue Rent will equal the greater of such amount calculated with

respect to such year and the Authority Revenue Rent calculated with respect to the prior year.

- (b) The Authority Revenue Rent shall be paid (i) until Substantial Completion of the New Terminal Project, in an amount equal to one percent (1%) of gross Lessee Revenue on a quarterly basis within thirty (30) days following any quarter up to fifty thousand dollars (\$50,000) per quarter and (ii) in an amount equal to any remaining Authority Revenue Rent on an annual basis by the earlier of (i) thirty (30) days following issuance of Lessee's audited financial statements and (ii) one hundred eighty (180) Days following each Fiscal Year.

2.4.4. Airfield Operating Deficit Amounts

- (a) For each month or portion thereof during the Term, Lessee shall pay to the Authority an amount equal to the excess of (i) Airfield Operating Expenses over (ii) Available Airfield Operating Funds (such excess amount, the "**Airfield Operating Deficit Amount**"), as determined by the Approved Airfield Operating Budget for the applicable month. The Airfield Operating Deficit Amount shall be paid on a monthly basis within thirty (30) days following any month.
- (b) Within sixty (60) Days following each Fiscal Year, the Authority shall deliver to Lessee a statement setting forth, in reasonable detail, the aggregate Authority Airport Revenue for such Fiscal Year (the "**Annual Authority Airport Revenue Statement**").
 - (i) If the aggregate Airfield Operating Expenses for such Fiscal Year exceeds the aggregate Authority Airport Revenue actually collected for such Fiscal Year, Lessee shall pay to the Authority an amount equal to such excess amount within thirty (30) Days following receipt of the Annual Authority Airport Revenue Statement.
 - (ii) If the aggregate Authority Airport Revenue actually collected for such Fiscal Year exceeds the aggregate Airfield Operating Expenses for such Fiscal Year, Lessee shall be credited an amount equal to such excess amount and such credit shall be applied to Airfield Operating Deficit Amounts to be paid by Lessee to the Authority in the then-current Fiscal Year until such credit equals zero dollars (\$0). The payment of any such credit shall be subordinate to any Grant Assurance requirements. If no Airfield Operating Deficit Amounts are required during the then-current Fiscal Year, the Authority shall pay the amount of such credit to Lessee in cash within sixty (60) Days following the end of the then-current Fiscal Year.
 - (iii) If Lessee disputes the calculation of Authority Airport Revenue in an Annual Authority Airport Revenue Statement, then Lessee shall notify the Authority not more than thirty (30) Days after Lessee has received the applicable Annual Authority Airport Revenue Statement from the Authority. In such event, such dispute will be resolved in accordance with Section 16.7.

2.5. Authority Accounts

2.5.1. Airfield Operating Account

- (a) The Authority has established under the Authority's control a segregated "**Airfield Operating Account**" to be funded and used in accordance with the terms of this Agreement.
- (b) At all times during the Term, the Authority will deposit all Authority Airport Revenue into the Airfield Operating Account.
- (c) The Authority will use funds on deposit in the Airfield Operating Account solely for purposes of Airfield Operating Expenses.

2.5.2. Airport Reserve Fund

- (a) The Authority has established under the Authority's control an "**Airport Reserve Fund**" to be funded and used in accordance with the terms of this Agreement.
- (b) Within one hundred eighty (180) Days after the end of each Fiscal Year, the Authority will deposit into the Airport Reserve Fund an amount equal to the excess of (i) the gross Authority Lease Revenue with respect to such Fiscal Year over (ii) the Authority's actual costs and expenses (other than Airfield Operating Expenses and costs and expenses reimbursed pursuant to Section 4.12) with respect to such Fiscal Year (paid, payable, or reasonably anticipated).
- (c) The Authority's obligations hereunder shall be limited by applicable federal Law, the Authority's Grant Assurance obligations and the FAA Revenue Use Policy concerning accumulation of an unreasonable surplus and at no time shall the obligations to deposit funds into the Airport Reserve Fund act to create such an unreasonable surplus.
- (d) The Authority, from time to time, upon the request of the Executive Director or Lessee, will use (or retain pursuant to applicable Law) funds on deposit in the Airport Reserve Fund for any lawful Airport purpose under federal Law, with priority being given to the following expenditures:
 - (i) for capital improvements at the Airport,
 - (ii) to repay to Lessee those Authority transaction expenses previously reimbursed by Lessee (including transaction expenses reimbursed by Lessee pursuant to Section 4.12),
 - (iii) for costs and expenses incurred by the Authority, which the Authority has not previously reserved for, and
 - (iv) to otherwise enhance the Airport's ability to attract commercial airline activity.
- (e) Notwithstanding the foregoing, if immediately following the annual deposit of funds under Section 2.5.2(b):
 - (i) the dollar amount of the Lessee's prior reimbursement of the Authority under Section 4.12(b), net of any prior Authority repayment of the same, is

greater than zero dollars (\$0) (such net amount, the “**Remaining Transaction Balance**”); and

- (ii) the Airport Reserve Fund exceeds two hundred percent (200%) of the Base Rent in the Fiscal Year most recently ended (the “**Installment Threshold**”),

then the Authority shall pay to Lessee the lesser of:

- (iii) the Remaining Transaction Balance; and
- (iv) an amount equal to fifty percent (50%) of the “**Airport Reserve Fund Surplus**”, which will be calculated as the difference of the following (each expressed as a positive number):
 - (A) the Airport Reserve Fund balance, *less*
 - (B) the Installment Threshold (expressed in dollars), *less*
 - (C) any portion of such remaining otherwise surplus funds which has been committed or is required to pay an identified Authority expenditure out of the Airport Reserve Fund in the then-current Fiscal Year which expenditure either has been approved by the Lessee or is otherwise necessary for the Authority to restore its compliance with this Agreement.

- (f) For certainty:

- (i) Section 2.5.2(e) shall not affect or limit the Authority’s ability to make any additional repayment under Section 2.5.2(d)(ii) or to consider in good faith any Lessee request for the same;
- (ii) the Authority shall not be obligated to make any payment under Section 2.5.2(e) which would cause the balance of the Airport Reserve Fund to be less than the Installment Threshold; and
- (iii) without limiting the Authority’s obligation to otherwise pay any amount which is due and owing, the Executive Director may under Section 2.5.2(d) elect to retain funds on deposit in the Airport Reserve Fund which the Lessee has requested be expended under Section 2.5.2(d) and which are not otherwise mandatorily required to be paid to the Lessee under Section 2.5.2(e).

2.5.3. Advancing of Funds

If, during the Term, the Authority incurs unexpected costs and expenses that it is unable to satisfy from funds received by the Authority pursuant to this Agreement or otherwise (including funds in the Airport Reserve Fund) or other funds available to it on commercially reasonable terms acceptable to the Authority, which costs and expenses Lessee is not otherwise obligated to fund, refund, or pay in accordance with the terms of this Agreement, Lessee and the Authority will meet to discuss and develop arrangements to enable the Authority to satisfy such costs and expenses, including consideration of

Lessee advancing the necessary funds to the Authority, on similar terms and conditions as the Manager advanced to the Authority prior to the Effective Date pursuant to the Management Contract; provided that Lessee will not have any obligation to advance any such funds in such manner.

ARTICLE 3. PRINCIPAL TERMS OF THE AGREEMENT

3.1. Right and Obligation to Operate and Use

Subject to the terms, conditions and requirements of this Agreement, Lessee hereby:

- (a) undertakes to perform the Work and pursuant to and in compliance with:
 - (i) this Agreement;
 - (ii) the Terminal Facilities Operating Standards;
 - (iii) applicable Law and all Authorizations in effect from time to time, including compliance with the Airport Operating Certificate, the Airport Certification Manual, Airport Emergency Plan, and the Airport Security Program;
 - (iv) the Assigned Contracts; and
 - (v) the Baseline Standard of Practice;
- (b) accepts all risks, obligations, costs, and liabilities in connection with delivering the Work and use of the West Terminal Facilities and the New Terminal Facilities, including the absence of any public subsidy (excluding the Authority's express obligations under this Agreement) or any usage or revenue guaranty; and
- (c) without limiting its warranty obligations under Section 4.10, agrees to repair or pay for the repair of (A) any damage directly caused by the Work or (B) any defect or deficiency in the Work, as determined by Lessee's compliance with this Agreement and the Terminal Facilities Operating Standards.

3.2. Performance of Terminal Facilities Services and Subcontracting

3.2.1. Relationship to Management Contract

- (a) The Parties hereto acknowledge that the Authority and the Manager are parties to the Management Contract and Lessee has received a copy of the Management Contract.
- (b) Lessee agrees to cooperate and coordinate with the Manager, as the Authority's agent, and any replacement thereof during the Term.

3.2.2. Responsibility for Work; Limitations on Subcontracting

- (a) Except as otherwise specifically provided in this Agreement, Lessee will at all times during the performance of the Work:
 - (i) be responsible for all aspects of the Work and cause the Work to be performed in accordance with the provisions of this Agreement, including Section 3.1; and
 - (ii) retain and maintain qualified, licensed, experienced, and competent personnel sufficient to perform (or, to the extent performed through Subcontractors, supervise and manage) the Terminal Facilities Services in accordance with this Agreement.

- (b) The retention of any Subcontractor (of any tier) by Lessee in accordance with this Agreement shall neither relieve Lessee of its obligations and liabilities nor increase the Authority's obligations and liabilities, or deprive the Authority of any rights, in each case under this Agreement. As such, as between Lessee and the Authority, Lessee will be responsible for the performance, acts, defaults, omissions, breaches and negligence of its Subcontractors.

3.2.3. Contracting and Subcontracting

- (a) Without limiting its rights under Article 17, Lessee may negotiate, enter into, administer, and enforce:
 - (i) contracts, agreements, subleases (for certainty, subleases shall be limited to the Leased Property), documents and other instruments with Subcontractors (which may include sublessees and Affiliates of Lessee or its Equity Participants) in connection with the performance of the Work; provided that:
 - (A) Lessee will at all times be responsible for the selection, supervision, payment, and performance of all Subcontractors (of every tier), and for the Acts and Faults of all Subcontractors; and
 - (B) no such contract or agreement will:
 - (I) relieve Lessee of its responsibility and liability for the performance of all of its obligations under this Agreement and compliance with all applicable Authorizations and applicable Law; or
 - (II) affect the rights of the Authority to exercise any rights or remedies provided in this Agreement, except pursuant to Article 17;
 - (ii) contracts, agreements, subleases (for certainty, subleases shall be limited to the Leased Property), documents, and other instruments with any Governmental Authority, as Lessee deems necessary and appropriate for purposes of performing the Work,
with respect to both paragraphs (i) and (ii) above, provided that no such contract, agreement, document, or instrument will, absent approval by the Authority (not to be unreasonably withheld, conditioned, or delayed):
 - (iii) contravene the Master Lease;
 - (iv) extend beyond the Term or conflict with this Agreement;
 - (v) be entered into with any Governmental Authority relating to the Airport, the Airport Facilities and Assets or the Terminal Facilities Services; provided that, in the event the absence of such agreement would cause Lessee or the Terminal Facilities Services to fail to be in compliance with applicable Law or this Agreement, Lessee may enter into such Government Agreement upon notice to the Authority;

- (vi) include the Authority as a party or otherwise bind the Authority;
 - (vii) relieve Lessee of its responsibility and liability for the performance of all of its obligations under this Agreement and compliance with all applicable Authorizations and applicable Law; or
 - (viii) affect the rights of the Authority to exercise any rights or remedies provided in this Agreement, except pursuant to Article 17.
- (b) Lessee shall have the right to have Work directly or indirectly performed by Affiliates of itself or any of its Equity Participants only if the following conditions are satisfied:
- (i) the Affiliate shall be qualified, experienced, licensed, and capable in the performance of such part of the Work assigned;
 - (ii) Lessee shall execute, or have a Subcontractor execute, a written subcontract with the Affiliate which subcontract shall:
 - (A) be on terms consistent with this Agreement;
 - (B) be on terms no less favorable to Lessee (or, as applicable, its Subcontractor) than those that Lessee (or such Subcontractor) could reasonably obtain in an arms' length, competitive transaction with an unaffiliated Subcontractor; and
 - (iii) Lessee shall make no payments to Affiliates for work or services in advance of provision of such work or services under the terms of a subcontract, except for reasonable mobilization payments or other payments consistent with arm's length, competitive transactions of similar scope.
- (c) The Authority will consult with Lessee prior to entering into any contract with a third party (including any Governmental Authority) during the Term which could reasonably be expected to have an impact on the Leased Property, the Work or Lessee. The Authority will not enter into any contract with a third party (including any Governmental Authority) during the Term which could reasonably be expected to have a material adverse impact on the Leased Property, the Work or Lessee or would contravene or otherwise be expressly prohibited by this Agreement without the prior written consent of Lessee, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, the foregoing sentence shall not apply to any agreements that the FAA requires the Authority to enter into to maintain its status as FAA sponsor or comply with Grant Assurance requirements.

3.2.4. Costs and Expenses

Except as otherwise specifically provided herein, Lessee will, at all times during the Term, pay or cause to be paid all costs and expenses relating to providing and performing the Work as and when the same are due and payable; provided, however, that Lessee shall not be responsible, and shall not be required to reimburse the Authority, for costs

and expenses incurred by the Authority in connection with the Work following the Effective Date, except as otherwise specifically provided herein.

3.3. Compliance with Terminal Facilities Operating Standards

3.3.1. Obligation to Comply with Terminal Facilities Operating Standards

- (a) Lessee will, and will cause the Terminal Facilities Services to, comply with and implement the Terminal Facilities Operating Standards in all material respects at all times during the Term (including any changes or modifications to the Terminal Facilities Operating Standards made pursuant to Section 3.3.2 or 3.3.3).
- (b) The Authority and Lessee acknowledge and agree that the Terminal Facilities Operating Standards shall be construed flexibly in light of their objectives.
- (c) To the extent that any term or provision of the Terminal Facilities Operating Standards conflicts with Law, including any term or provision otherwise specified in Title 14 CFR Federal Aviation Regulations, FAA Orders, FAA Directives, Advisory Circulars, other FAA guidance, the Airport Certification Manual (including any subsequently-issued amendments thereto as issued by the FAA or the TSA-approved Airport Security Program (including any subsequently issued requirements thereunder as issued by the TSA)), the Part 139 Airport Certification Manual (including any subsequently-issued amendments thereto as issued by the FAA), Chapter XII of Title 49 CFR, or the TSA-approved Airport Security Program (including any subsequently-issued requirements thereunder as issued by the TSA), as reasonably determined by Lessee, then such term or provision of the foregoing, as applicable, shall govern and shall supersede any such conflicting term or provision in the Terminal Facilities Operating Standards.
- (d) Notwithstanding anything contained in this Section 3.3, Lessee will not be deemed to be in violation of its obligations under this Agreement by occasional or incidental, and otherwise immaterial, acts or omissions, including any occasional or incidental, and otherwise immaterial, failure to comply with specific requirements set forth in the Terminal Facilities Operating Standards, and any immaterial failure to meet specific time limits, durations or frequencies set forth in the Terminal Facilities Operating Standards will not constitute a violation of the Terminal Facilities Operating Standards; provided that any such failure:
 - (i) is not inconsistent with procedures that are reasonably designed to achieve compliance with the requirements set forth in the Terminal Facilities Operating Standards; and
 - (ii) does not violate an express provision of this Agreement (other than the Terminal Facilities Operating Standards).

3.3.2. Modifications to the Terminal Facilities Operating Standards Because of a Change in Law

- (a) The Authority shall have the right, and Lessee shall have the obligation, at any time during the Term, to propose a change to the Terminal Facilities Operating Standards, upon reasonable notice to the other Party, to comply with any new Law

or FAA or TSA directive or requirement applicable to the Terminal Facilities, in each case subject to Lessee's rights with respect to the corresponding Change in Law. Neither Party may withhold, delay or condition the approval of any such proposed change to the Terminal Facilities Operating Standards if such proposed change is necessary to comply with the Airport Operating Certificate, the Airport Certification Manual or Airport Security Program or any other requirements of Law or FAA or TSA directive or requirement, as reasonably determined by such Party; provided that Lessee reserves the right to contest any such proposed change, including by seeking FAA or TSA guidance or interpretation to the extent that Lessee reasonably believes that such proposed change is not reasonably designed to achieve the objective of compliance with either the Airport Operating Certificate, the Airport Security Program or other requirement of Law or by seeking an exemption thereto or an alternative means of compliance, or otherwise.

- (b) In the event that the Parties change the Terminal Facilities Operating Standards in accordance with the foregoing, Lessee, at its cost and expense, shall take all actions necessary to implement such change and shall comply (or cause compliance) with such changed Terminal Facilities Operating Standards in accordance with this Agreement subject to Lessee's rights with respect to the Change in Law.
- (c) For the avoidance of doubt, each Party will have the right to challenge any modified Terminal Facilities Operating Standards pursuant to the Dispute Resolution Procedures on the basis that it does not meet the requirements set forth above.

3.3.3. Modifications to the Terminal Facilities Operating Standards at a Party's Request

- (a) The Authority shall have the right, at any time during the Term, to propose a change to the Terminal Facilities Operating Standards by submission of a proposed modification to Lessee in accordance with Section 3.3.3(c) to conform the Terminal Facilities Operating Standards to standards or practices generally adopted at Comparable Airport Facilities or which the Authority otherwise believes is necessary or desirable, including to conform to the Baseline Standard of Practice. Lessee may object to the Authority's proposed modification if there is a reasonable basis to determine that the Authority's proposed changes are not necessary to achieve the standards or practices generally adopted at Comparable Airport Facilities or to conform to the Baseline Standard of Practice. Until the modifications are approved by Lessee, Lessee shall not implement the proposed modifications.
- (b) Lessee shall have the right, at any time during the Term, to propose a change to the Terminal Facilities Operating Standards by submission of a proposed modification to the Authority in accordance with Section 3.3.3(c). The Authority may object to Lessee's proposed modification only if there is a reasonable basis to determine that Lessee's proposed changes are not reasonably designed to achieve the objectives of the applicable Terminal Facilities Operating Standards or do not otherwise comply with the terms of this Agreement. Notwithstanding anything to

the contrary, the Authority may not withhold, delay or condition the approval of any proposed modification to the Terminal Facilities Operating Standards if such proposed modification is necessary to comply with the Airport Operating Certificate, the Airport Security Program or any other requirements of Law or FAA or TSA directive or requirement; provided that the Authority reserves the right to contest any such modification proposal, including by seeking FAA or TSA guidance or interpretation to the extent that the Authority reasonably believes that such proposed modification is not reasonably designed to achieve the objective of compliance with either the Airport Operating Certificate, the Airport Security Program or other requirement of Law or by seeking an exemption thereto or an alternative means of compliance, or otherwise. Until the modifications are approved by the Authority, Lessee shall not implement the proposed modifications.

- (c) Following delivery by either Party of a proposed modification to the Terminal Facilities Operating Standards pursuant to this Section 3.3.3, the Parties will exchange such information and materials as each may reasonably request from the other to enable them to determine whether it objects to the proposed modification as set forth herein. Each Party will bear its own costs when preparing any proposed modification or any response to the same, including any information or materials required to be exchanged in accordance with this Section 3.3.3(c).

3.4. Authorizations and Qualifications

3.4.1. Authorizations

- (a)
 - (i) The Parties acknowledge and agree that the Authority will retain its status as the FAA sponsor and holder of the Airport Operating Certificate at the Airport. In furtherance of the foregoing, the Authority will comply with, promptly renew and maintain in good standing the Airport Operating Certificate, the Authority's entitlement to PFCs, AIP Grants and any other federal or state funding available to the Authority by reason of its status as the holder of the Airport Operating Certificate, including by compliance with the Grant Assurances.
 - (ii) The Authority will:
 - (A) complete the Environmental Assessment on or before September 30, 2022, but in no event later than December 31, 2022, and, thereafter, diligently pursue and obtain, comply with, promptly renew and maintain in good standing, the NEPA Approval Documents, and satisfy any requirements of the applicable Governmental Authorities with respect to such NEPA Approval Documents;
 - (B) complete applications and other required submissions for all other Authorizations required from Governmental Authorities for commencement of construction of the Runway Project (including

those required by DEEP) within ninety (90) days following receipt of the NEPA Approval Documents, but in no event later than one hundred eighty (180) days following receipt of the NEPA Approval Documents, and, thereafter, diligently pursue and obtain, comply with, promptly renew and maintain in good standing, such Authorizations, and satisfy any requirements of the applicable Governmental Authorities with respect to such Authorizations for the Runway Project; and

- (C) diligently pursue and obtain, comply with, promptly renew, and maintain in good standing all other Authorizations required from Governmental Authorities in connection with the Runway Project and other projects under the Airport Development Plans under this Agreement to the extent such Authorizations are required to be obtained by the Authority;

in each case, provided that the Authority shall not be deemed to be in breach of its obligations under this Section 3.4.1(a)(ii) to the extent that such breach is caused by (A) a breach by the Manager of its obligations under the Management Contract; (B) the negligence or willful misconduct of the Manager; or (C) delays by applicable Governmental Authorities in completing tasks that are necessary for completion of the Environmental Assessment or other applications referred to herein.

- (b) Except for Authorizations for which the Authority is responsible pursuant to Section 3.4.1(a), Lessee will obtain, comply with, promptly renew and maintain in good standing all Authorizations necessary to comply with its obligations under this Agreement; provided, however, that the Authority shall, as and when expressly provided in this Agreement and otherwise at the reasonable request of Lessee, where necessary to obtain, modify, renew or extend any Authorization for which Lessee is otherwise responsible, cooperate in good faith to assist Lessee in obtaining such Authorization, including by (i) executing such documents as can only be executed by the Authority, (ii) making make such applications or recordings, either in its own name or jointly with Lessee, as can only be made by the Authority or in joint names of Lessee and the Authority, and (iii) subject to Law, promptly deliver to Lessee a copy of any notice, summons, letter or other communication in respect of any such Authorization following the Authority's receipt thereof.
- (c) Nothing in this Agreement will be deemed to waive or modify any Authorization required to be obtained by Lessee or any other Person in connection with the Terminal Facilities and Assets, the Work, or any activities generating Terminal Facilities Fees.
- (d) The Parties acknowledge and agree that some Authorizations could require the signature of the City as the "owner" of the Airport Facilities and Assets, and that the City and Authority have acknowledged that the Authority is authorized by the City to sign as the "owner" of the Airport Facilities and Assets on any such

Authorization pursuant to a letter substantially in the form attached hereto as Exhibit H (Form of City Letter).

3.4.2. Qualifications

Lessee will, at all times during the Term, maintain in full force and effect its existence and all qualifications necessary to carry on the Terminal Facilities Services in accordance with applicable Law and as set forth in the Terminal Facilities Operating Standards, and perform the Work, including all rights, franchises, licenses, privileges and qualifications required in connection with its interests the Terminal Facilities and Assets, the performance of the Work or any activities generating Terminal Facilities Fees.

3.5. Reservation of Authority Rights

3.5.1. Reservation of Rights

(a) Without otherwise limiting its rights under this Agreement, the Authority reserves (for itself and any of its Representatives, grantees, tenants, mortgagees, licensees, and other claiming by, through or under the Authority) and will, at all times during the Term, have the right to enter the Leased Property and the Terminal Facilities in response to any of the following events, circumstances, or purposes:

- (i) following reasonable prior notice, to inspect the Leased Property and Terminal Facilities and Assets (“**Inspection**”) to determine whether or not Lessee is in compliance with its obligations under this Agreement or applicable Law, including if the Authority reasonably believes that such Inspection is needed to maintain its regulatory compliance obligations to the FAA, TSA, or other Governmental Authority as the FAA sponsor, and Lessee shall provide proper facilities for safe access to allow proper Inspection of the same;
- (ii) if a Lessee Default then exists, subject to the cure rights of any Secured Party, to make any necessary repairs to the Terminal Facilities and Assets and perform any work therein pursuant to Section 3.5.1(c), with the costs and expenses of such repairs to be reimbursed by Lessee to the Authority; and
- (iii) in the event of an Emergency with respect to the Leased Property or Terminal Facilities, if Lessee is not then taking all necessary steps to rectify or deal with such Emergency, to take actions as may be reasonably necessary (or as directed by the FAA, TSA, or other affected federal agency) to rectify such Emergency;

provided that the Authority will not be obligated to make any payments to Lessee for such access and the Authority will use Reasonable Efforts to minimize interference with the Terminal Facilities Services in connection with any such entry.

(b) Without otherwise limiting its rights under this Agreement, the Authority, at its own cost and expense (except as otherwise expressly provided in this Agreement) and solely in accordance with the terms hereof, will have the right to do any other

act or thing that the Authority may be obligated to do or have a right to do under this Agreement.

- (c) To the extent that the Authority undertakes work or repairs in the Terminal Facilities and Assets pursuant to the foregoing, such work will be commenced and diligently completed in a good and workmanlike manner, in accordance with any applicable Terminal Facilities Operating Standards and in such a manner as to not materially interfere with Lessee's conduct of business in or use of such space to the extent reasonably possible.
- (d) Notwithstanding the foregoing, nothing in this Agreement will impair the rights of existing tenants to access their leasehold and the East Side General Aviation ramp area.

3.5.2. Effect of Reservations

- (a) Any reservation of a right by the Authority and any of its Representatives, grantees, tenants, licensees and others claiming by, through or under the Authority to enter the Leased Property and the Terminal Facilities and to make or perform work in, to, above, or about the Terminal Facilities which is Lessee's obligation pursuant to this Agreement, under Section 3.5.1 or any other provision of this Agreement will not be deemed to:
 - (i) impose any obligation on the Authority to do so;
 - (ii) render the Authority liable to Lessee or any other Person for the failure to do so; or
 - (iii) relieve Lessee from any obligation to indemnify the Authority as otherwise provided in this Agreement.
- (b) Nothing in this Agreement will impose any duty upon the part of the Authority to do any work required to be performed by Lessee hereunder and performance of any such work by the Authority and any of its Representatives, grantees, tenants, mortgagees, licensees and others claiming by, through or under the Authority will not constitute a waiver of Lessee's default in failing to perform the same.

3.6. Utilities

3.6.1. Provision and Payment of Utilities

- (a) The Authority shall cause provision of any utilities within its control as of the Effective Date, and maintain and preserve, for the length of the Term, all legal rights and easements in its possession related to utility services to the extent necessary for Lessee to operate the Terminal Facilities and Assets in accordance with this Agreement and all applicable Law. The Authority does not warrant that any utility services will be free from interruptions caused by war, insurrection, civil commotion, riots, acts of God, government action, terrorism, repairs, renewals, improvements, alterations, strikes, lockouts, picketing, whether legal or illegal, accidents, inability to obtain fuel or supplies or any other causes, and any such interruption of utility services shall never be deemed an Adverse Action or

an eviction or disturbance of Lessee's use and possession of the Terminal Facilities or any part thereof, or render the Authority liable to Lessee for damages or, unless the same constitutes a Delay Event, relieve Lessee from performance of Lessee's obligations under this Agreement.

- (b) Lessee shall obtain or provide all other utilities (to the extent within the control of Lessee) necessary to operate the Terminal Facilities and Assets in accordance with this Agreement and all applicable Law.
- (c) Lessee shall pay, or cause to be paid, when due all charges (including all applicable Taxes and fees) for such utilities.

3.6.2. Utility Coordination

Subject to Section 4.9.2, Lessee shall be responsible for coordinating (or ensuring the coordination of) all Work with utilities and Persons having service lines, pipelines, transmission lines and other equipment, cables, systems and other apparatus in, on, under, over or adjacent to the Leased Property and Terminal Facilities. Lessee shall cause provision to be made for the removal or temporary or permanent relocation and restoration of utilities and other services and any lines, equipment, cables, systems and other apparatus that intersect, interfere with, interface with or otherwise affect the Work and shall arrange for temporary rights of entry and access to utilities and other services to be made available that are necessary in connection with the Work or as may exist under this Agreement or applicable Law, in each case at the sole cost and expense of such utilities or other Persons or Lessee. The Authority shall cooperate with Lessee with respect to its obligations under this Section 3.6.2.

3.7. Naming Rights, Signage and Wayfinding, Licensing

3.7.1. Naming Rights; License of Names

- (a) The name designated for the Airport is "Tweed-New Haven Airport" and "HVN". The Authority retains the exclusive naming rights with respect to the name of the Airport, including the right to sell, lease, license or otherwise monetize the same; provided that, during the Term, without the prior consent of Lessee (not to be unreasonably withheld), the Authority will not change, or permit a third party to change, the name of the Airport other than at the direction of City or State Law.
- (b) The Authority grants to Lessee a non-exclusive, non-transferable (except pursuant to an assignment permitted under Article 15), royalty-free license during the Term to use the names "Tweed-New Haven Airport" and "HVN" together with all existing and future developed logos and marks (not including, however, the Authority seal) solely in connection with the performance of Lessee's obligations and exercise of rights pursuant to this Agreement. Lessee may grant sublicenses of the same on the same terms and conditions as Lessee's rights under this Section 3.7.1(b).

3.7.2. Advertising, Branding and Marketing Rights

- (a) Subject to applicable Law, Lessee shall have the right to itself place or enter into agreements on such terms as it may deem appropriate regarding the placement or

use of any advertising or promotional materials or activities of any medium in, on or in connection with the Leased Property and the Terminal Facilities. Any such advertising must not promote illegal activity.

- (b) Lessee shall have the reasonable right to (i) sell or lease any naming rights for the Leased Property and the Terminal Facilities, or any portion of the Leased Property or the Terminal Facilities, to any third-party and (ii) change the name of the Leased Property or the Terminal Facilities or to sell or lease naming rights for the Leased Property or the Terminal Facilities or any portion thereof. Any naming rights granted hereunder must not promote illegal activity.
- (c) Lessee will (i) develop an advertising and branding policy for the Leased Property and the Terminal Facilities and (ii) consult with the Authority on an annual basis to preview, and to solicit advice on, anticipated advertising and branding campaigns permitted pursuant to this Agreement and otherwise keep the Authority reasonably informed on advertising and branding activities permitted pursuant to this Agreement.
- (d) Lessee will (i) consult with the Authority on an annual basis to preview, and solicit advice on, anticipated marketing campaigns with respect to the Airport, (ii) cooperate with the City and regional promotional boards with respect to marketing campaigns with respect to the Airport and (iii) otherwise keep the Authority reasonably informed on marketing activities with respect to the Airport. The Authority will cooperate with Lessee, the City, and regional promotional boards with respect to marketing campaigns with respect to the Airport.
- (e) The Authority will not engage in advertising, branding, or marketing activity without the prior consent of Lessee, such consent not to be unreasonably conditioned, withheld, or delayed.

3.7.3. Signage and Wayfinding

Lessee will have the obligation, in its discretion, to install, replace, display, and maintain signage (including any signage that relates to wayfinding, identification, trademarks and / or services marks) in, on and around the Leased Property and the Terminal Facilities, including that signage described in the Terminal Facilities Operating Standards.

3.8. Safety, Security and Enforcement

3.8.1. Law Enforcement, Security, and Emergency Response

- (a) At all times during the Term, the Authority will cause the Airport (including the Terminal Facilities) to be serviced by law enforcement as required by the TSA or other federal agencies at a level that satisfies the approved Airport Security Program.
- (b) At all times during the Term, the Authority shall be responsible for providing (or causing the provision of) aircraft rescue and firefighting services in compliance with the Airport Certification Manual.

- (c) Notwithstanding any other provision of this Agreement, and subject to all applicable FAA, TSA and other Governmental Authority requirements, Lessee shall, at its cost and expense, have the right to contract with the City and Town Police Departments, other police departments or private security and emergency service providers for enhanced levels of service on the Leased Property and at the Terminal Facilities. The Parties acknowledge and agree that, as of the Effective Date, the Authority is party to the Authority Contracts and the Authority shall keep all such Authority Contracts (or any replacements thereof) in full force and effect throughout the Term but only to the extent such Authority Contracts govern law enforcement, firefighting, emergency services, air traffic control, and any other agreements with Governmental Authorities which is essential for Airport operations or as otherwise reasonably requested by Lessee to the extent such are essential for Airport operations. At Lessee's request, and cost and expense, the Authority will amend, renew or replace any such Authority Contracts.
- (d) As part of the Approved Airfield Operating Budget, Lessee shall reimburse the Authority for the law enforcement labor costs (including employee benefits and allocated costs for the applicable patrol car) invoiced to the Authority during the Term related to the provision of law enforcement services to provide Terminal Facilities and perimeter security (and other law enforcement services) solely to the extent such services are necessary to comply with, and directly related to, the provisions of the Airport Security Program ("**Reimbursable Law Enforcement Costs**"). The Parties do not contemplate that the Authority will incur expenses in excess of the Reimbursable Law Enforcement Costs hereunder. Any cost or expense incurred by the Authority during the Term related to the provision of police and perimeter security in excess of Reimbursable Law Enforcement Costs will not be reimbursed by Lessee. Notwithstanding the foregoing, the Authority shall use its Reasonable Efforts to seek reimbursement for the costs and expenses of providing police, perimeter security and aircraft rescue and firefighting services that may be available from the TSA or another Governmental Authority. Lessee shall provide the Authority with all reasonable assistance as may be requested by the Authority in connection with the application for and administration of any reimbursement program referred to in the previous sentence.
- (e) Notwithstanding any other provision of this Agreement, neither Party shall be obligated to provide, or fund, law enforcement and related services in excess of what is required by the TSA, other federal agencies, or other applicable Law.
- (f) Notwithstanding any other provision of this Agreement, at all times during the Term and without notice or compensation to Lessee:
 - (i) any police, fire and emergency services and any other security or emergency personnel retained by or on behalf of the Authority will have access, as required by such services or personnel, to the Leased Property and Terminal Facilities and Assets for performance of their duties;

- (ii) Governmental Authorities with traffic management authority under Law, shall, without obligation or liability to Lessee, have the right to conduct traffic management activities pursuant to standard practices and procedures in effect from time to time on and about the Airport, including in response to Emergencies;
 - (iii) the Authority will have access to the Terminal Facilities and Assets as necessary for the protection of public safety; and
 - (iv) any Governmental Authority with jurisdiction over the Airport Facilities and Assets will have access to the Airport Facilities and Assets as necessary for emergency management and homeland security purposes, including the prevention of or response to a public safety emergency.
- (g) Lessee agrees to cooperate with police, fire and emergency services and any other security or emergency personnel, including the armed forces, in respect of such emergency management and homeland security purposes.

3.8.2. Additional Safety and Security Obligations

Notwithstanding any other provision of this Agreement, Lessee will at all times:

- (a) ensure that the Terminal Facilities and any site at which construction work is being performed are adequately secured in compliance with TSA requirements and the Airport Security Program;
- (b) provide the Authority (and other Governmental Authorities with jurisdiction) access to all video and audio security feeds monitoring the Terminal Facilities as reasonably necessary to perform its functions as the FAA sponsor or as required by Law; and
- (c) establish and maintain safeguards against the theft, or unauthorized access, destruction, loss, or alteration of Authority, airline or other third-party data, or Privacy Records that Lessee may gain access to or be in possession of from time to time.

3.9. Obligations of the Authority

3.9.1. Operation and Maintenance of the Airfield Facilities

Subject to the terms and conditions of this Agreement and applicable Law, the Authority agrees to operate, maintain, and manage the Airfield Facilities pursuant to and in compliance with the Airfield Facilities Operating Standards. The Authority shall keep the Airfield Facilities open for scheduled air transportation operations at all times, except where a closure is necessary in the case of a Force Majeure Event or Emergency or as directed by the FAA.

3.9.2. Obligation to Comply with Airfield Facilities Operating Standards

- (a) The Authority will comply with and implement the Airfield Facilities Operating Standards in all material respects at all times during the Term (including any changes or modifications to the Airfield Facilities Operating Standards made

pursuant to Section 3.9.3 or 3.9.4); provided that, the Authority shall not be in breach of its obligations under this Section 3.9.2(a) if the Authority has proposed for inclusion in the ACIP Submittal pursuant to Section 4.1.2(b) an Airfield Facility capital project that is required to maintain compliance with the Airfield Facilities Operating Standards and Lessee either (i) fails to include such Airfield Facility capital project in the Airport Development Plan or (ii) Lessee has included such Airfield Facility capital project in the Airport Development Plan but Lessee has not provided funding for such Authority Airfield Project or otherwise pursued such Authority Airfield Project in accordance with Sections 4.5(b) or 4.5(c).

- (b) The Authority and Lessee acknowledge and agree that the Airfield Facilities Operating Standards shall be construed flexibly in light of their objectives.
- (c) To the extent that any term or provision of the Airfield Facilities Operating Standards conflicts with Law, including any term or provision otherwise specified in Title 14 CFR Federal Aviation Regulations, FAA Orders, FAA Directives, Advisory Circulars, other FAA guidance, the Airport Certification Manual (including any subsequently-issued amendments thereto as issued by the FAA or the TSA-approved Airport Security Program (including any subsequently issued requirements thereunder as issued by the TSA)), the Part 139 Airport Certification Manual (including any subsequently-issued amendments thereto as issued by the FAA), Chapter XII of Title 49 CFR, or the TSA-approved Airport Security Program (including any subsequently-issued requirements thereunder as issued by the TSA), as reasonably determined by the Authority, then such term or provision of the foregoing, as applicable, shall govern and shall supersede any such conflicting term or provision in the Airfield Facilities Operating Standards.
- (d) Notwithstanding anything contained in this Section 3.9.2, the Authority will not be deemed to be in violation of its obligations under this Agreement by occasional or incidental, and otherwise immaterial, acts or omissions, including any occasional or incidental, and otherwise immaterial, failure to comply with specific requirements set forth in the Airfield Facilities Operating Standards, and any immaterial failure to meet specific time limits, durations or frequencies set forth in the Airfield Facilities Operating Standards will not constitute a violation of the Airfield Facilities Operating Standards; provided that any such failure:
 - (i) is not inconsistent with procedures that are reasonably designed to achieve compliance with the requirements set forth in the Airfield Facilities Operating Standards; and
 - (ii) does not violate an express provision of this Agreement (other than the Airfield Facilities Operating Standards).

3.9.3. Modifications to the Airfield Facilities Operating Standards Because of a Change in Law

- (a) Lessee shall have the right, and the Authority shall have the obligation, at any time during the Term, to propose a change to the Airfield Facilities Operating Standards, upon reasonable notice to the other Party, to comply with any new Law

or FAA or TSA directive or requirement applicable to the Airfield Facilities. Neither Party may withhold, delay or condition the approval of any such proposed change to the Airfield Facilities Operating Standards if such proposed change is necessary to comply with the Airport Operating Certificate, the Airport Certification Manual or Airport Security Program or any other requirements of Law or FAA or TSA directive or requirement, as reasonably determined by such Party; provided that the Authority reserves the right to contest any such proposed change, including by seeking FAA or TSA guidance or interpretation to the extent that the Authority reasonably believes that such proposed change is not reasonably designed to achieve the objective of compliance with either the Airport Operating Certificate, the Airport Security Program or other requirement of Law or by seeking an exemption thereto or an alternative means of compliance, or otherwise.

- (b) In the event that the Parties change the Airfield Facilities Operating Standards in accordance with the foregoing, the Authority, at its cost and expense, shall take all actions necessary to implement such change and shall comply (or cause compliance) with such changed Airfield Facilities Operating Standards in accordance with this Agreement.
- (c) For the avoidance of doubt, each Party will have the right to challenge any modified Airfield Facilities Operating Standards pursuant to the Dispute Resolution Procedures on the basis that it does not meet the requirements set forth above.

3.9.4. Modifications to the Airfield Facilities Operating Standards at a Party's Request

- (a) Lessee shall have the right, at any time during the Term, to propose a change to the Airfield Facilities Operating Standards by submission of a proposed modification to the Authority in accordance with Section 3.9.4(c) to conform the Airfield Facilities Operating Standards to standards or practices generally adopted at Comparable Airport Facilities or which Lessee otherwise believes is necessary or desirable. The Authority may object to Lessee's proposed modification if there is a reasonable basis to determine that Lessee's proposed changes are not necessary to achieve the standards or practices generally adopted at Comparable Airport Facilities. Until the modifications are approved by the Authority, the Authority shall not implement the proposed modifications.
- (b) The Authority shall have the right, at any time during the Term, to propose a change to the Airfield Facilities Operating Standards by submission of a proposed modification to Lessee in accordance with Section 3.9.4(c). Lessee may object to the Authority's proposed modification only if there is a reasonable basis to determine that the Authority's proposed changes are not reasonably designed to achieve the objectives of the applicable Airfield Facilities Operating Standards, or do not otherwise comply with the terms of this Agreement. Notwithstanding anything to the contrary, Lessee may not withhold, delay or condition the approval of any proposed modification to the Airfield Facilities Operating Standards if such proposed modification is necessary to comply with the Airport

Operating Certificate, the Airport Security Program or any other requirements of Law or FAA or TSA directive or requirement; provided that Lessee reserves the right to contest any such modification proposal, including by seeking FAA or TSA guidance or interpretation to the extent that Lessee reasonably believes that such proposed modification is not reasonably designed to achieve the objective of compliance with either the Airport Operating Certificate, the Airport Security Program or other requirement of Law or by seeking an exemption thereto or an alternative means of compliance, or otherwise. Until the modifications are approved by Lessee, the Authority shall not implement the proposed modifications.

- (c) Following delivery by either Party of a proposed modification to the Airfield Facilities Operating Standards pursuant to this Section 3.9.4, the Parties will exchange such information and materials as each may reasonably request from the other to enable them to determine whether it objects to the proposed modification as set forth herein. Each Party will bear its own costs when preparing any proposed modification or any response to the same, including any information or materials required to be exchanged in accordance with this Section 3.9.4(c).

3.9.5. Approved Airfield Operating Budget

- (a) The Authority and Lessee will consult with each other on at least an annual basis with respect to the ongoing and anticipated operations and maintenance requirements of the Airfield Facilities.
- (b) The Authority shall prepare (or cause to be prepared) and, no later than March 1st of each Calendar Year, submit to Lessee an operating plan and budget for the Airfield Facilities, substantially in the form attached hereto as Exhibit C (Form of Airfield Operating Budget), which sets forth the anticipated Airfield Operating Expenses for the applicable Fiscal Year. Unless approval by Lessee is required pursuant to clause (c) below, such operating plan and budget will automatically become an “**Approved Airfield Operating Budget**” for the Fiscal Year to which it relates.
- (c) If, with respect to any Fiscal Year, the aggregate Airfield Operating Expenses in the proposed operating budget for such Fiscal Year are greater than the aggregate Airfield Operating Expenses in the Approved Airfield Operating Budget for the prior Fiscal Year (without reference to any Immaterial Variance during such prior Fiscal Year) as Adjusted for Inflation, then such proposed operating budget will not be adopted without the prior approval of Lessee. Until the annual operating budget for a Fiscal Year is approved as provided herein, the operating budget for such Fiscal Year shall be the prior year’s Approved Airfield Operating Budget (without reference to any Immaterial Variance during such prior Fiscal Year), as Adjusted for Inflation and, until an operating budget is approved in accordance with this Section 3.9.5, shall be deemed to have been approved by Lessee for purposes of this Agreement.

- (d) The Authority may from time to time during a Fiscal Year amend the Approved Airfield Operating Budget to increase or decrease expected expenditures without the further consent of Lessee, and as so amended, any such budget shall be an Approved Airfield Operating Budget for purposes of this Agreement; provided that the aggregate operating and maintenance costs in the proposed operating budget for such Fiscal Year remains no greater than (i) the Approved Airfield Operating Budget for the prior Fiscal Year, as Adjusted for Inflation plus (ii) necessary and reasonable costs related to snow removal, flooding, or similar events that threaten uninterrupted use of the Airfield Facilities or that are required under the terms of the ACM plus (iii) if the Authority terminates the Management Agreement due to a material breach by the Manager thereunder, a markup not to exceed fifteen percent (15%) for ongoing support services by the Manager under the Management Agreement (collectively, an “**Immaterial Variance**”). Any variances from an Approved Airfield Operating Budget in excess of an Immaterial Variance shall require notice to and the approval of Lessee, and if so approved, each such variance shall be added to the Approved Airfield Operating Budget, which, as so amended, shall thereafter be the Approved Airfield Operating Budget for such Fiscal Year.
- (e) Notwithstanding the process set forth in paragraphs (a) through (d),
 - (i) if the Authority terminates the Management Contract due to a material breach by the Manager thereunder,
 - (A) then Lessee shall promptly (but in any event, no more than thirty (30) Days after such termination) provide to the Authority a reasonable breakdown of Lessee’s cost allocation between the Airfield Facilities and Terminal Facilities, including at a minimum the cost allocation of salaries and other personnel costs, separately metered utilities, purchase orders for equipment and supplies or maintenance work occurring within clearly delineated areas within the Airfield Facilities and Terminal Facilities, as applicable; and
 - (B) the Parties agree to amend the Approved Airfield Operating Budget to reflect the Airfield Facilities cost allocation provided by Lessee pursuant to clause (i) above; and
 - (ii) if, in any Fiscal Year, commercial air traffic at the Airport is expected to be materially less than in the prior Fiscal Year, the Parties agree to consult in good faith with each other and reasonably consider any amendments to the Approved Airfield Operating Budget to reflect such decreased commercial air traffic.
- (f) The Parties agree that any management fee included in the Approved Airfield Operating Budget shall be reasonable and in line with industry standards.

3.9.6. Subject to Section 3.9.7, the Authority will, at the reasonable request of Lessee and, where appropriate in its reasonable discretion, acting through its Representatives:

- (a) attend meetings and cooperate with any relevant Governmental Authority or third party as reasonably requested by Lessee;
- (b) negotiate, enter into, amend, or replace any third-party agreement (including any Government Agreement) relating to or which affects the Leased Property, the Terminal Facilities, the Work or Lessee, on terms satisfactory to Lessee in its discretion;
- (c) where necessary or otherwise mutually beneficial, identify Authority personnel or agents to participate in working groups or serve as points of contact with Lessee for purposes of coordinating the Terminal Facilities Services;
- (d) without limiting its other obligations under this Agreement, cooperate and coordinate with Lessee, as reasonably requested by Lessee, with regard to the performance of Lessee's and the Authority's obligations under this Agreement, and otherwise use Reasonable Efforts in order to minimize any material adverse impact on the Leased Property, the Terminal Facilities and Assets, the Work and the Terminal Facilities Fees; and
- (e) use Reasonable Efforts to provide to Lessee access to plans, surveys, drawings, specifications, reports and other documents and information in the possession of, or otherwise accessible by, the Authority pertaining to the Leased Property, the Terminal Facilities and Assets and the Work,

in each case within a reasonable period of time after being requested to do so by Lessee.

3.9.7. Limitations on Authority Undertakings

- (a) Nothing in this Agreement will fetter or otherwise interfere with any existing right and authority of the Authority or the City to enact, administer, apply and enforce any Law. Except as expressly provided for in connection with any Supervening Events or if compensation or other relief is otherwise available or provided for pursuant to applicable Law or this Agreement, Lessee will not be entitled to claim or receive any compensation or other relief whatsoever as a result of the enactment, administration, application or enforcement of any Law by the Authority or the City.
- (b) Notwithstanding Section 3.9, and except as otherwise expressly required pursuant to this Agreement, the Authority will not be required to itself (or request the City to):
 - (i) undertake any activity that would cause the Authority or the City to incur or assume any material cost, expense, liability or risk;
 - (ii) take any action that is contrary to this Agreement or applicable Law, or any Authorization or agreement binding on the Authority, or the public interest, or decline, refrain or abstain from taking any action that is in the public interest, as determined by the Authority in its discretion; or
 - (iii) exercise any right with respect to eminent domain or any right to initiate or participate in litigation.

3.10. No Encumbrances; Removal of Encumbrances

3.10.1. No Encumbrances by Lessee

- (a) Lessee will not do any act or thing that will create any Encumbrance (other than a Permitted Lessee Encumbrance) against the Terminal Facilities and Assets and will promptly remove any Encumbrance (other than a Permitted Lessee Encumbrance) against such Terminal Facilities and Assets unless the Encumbrance came into existence as a result of Acts and Faults by the Authority or a Person claiming through the Authority which in turn was not caused by Acts and Faults of Lessee.
- (b) Lessee will not do any act or thing that will create any Encumbrance (other than a Permitted Lessee Encumbrance) against the Authority Property and will promptly remove any Encumbrance (other than a Permitted Lessee Encumbrance) against the Authority Property unless the Encumbrance came into existence as a result of Acts and Faults by the Authority or a Person claiming through the Authority which in turn was not caused by Acts and Faults of Lessee.
- (c) Lessee will not be deemed to be in breach under Section 3.10.1(a) or 3.10.1(b) if Lessee continuously, diligently and in good faith contests any such Encumbrance, or the validity thereof (or causes such contest), by appropriate legal proceedings that will operate to prevent the foreclosure of any such Encumbrance; provided that Lessee has:
 - (i) provided advance notification to the Authority that it is the intent of Lessee to contest the validity or collection thereof or cause such contest; and
 - (ii) unless a bond or other security is provided in connection with such proceedings, (A) provided a satisfactory indemnity to the Authority or (B) deposited with the Authority a Letter of Credit, indemnity bond, surety bond, cash or Eligible Investment reasonably satisfactory to the Authority in an amount equal to the amount of the Encumbrance, plus such interest and penalties, court costs, or other charges as the Authority may reasonably estimate to be payable by Lessee at the conclusion of such contest or as is required to provide insurance over any potential Encumbrance; provided, that in the event such Letter of Credit, bond, cash or Eligible Investment has been deposited with the Authority, the same will be held by the Authority until such Encumbrance has been released and discharged and will thereupon be promptly returned to Lessee, less any amounts reasonably expended by the Authority to procure such release or discharge or any loss, cost, damage, reasonable attorneys' fees or expense incurred by the Authority by virtue of the contest of such Encumbrance.

3.10.2. No Encumbrances by the Authority

- (a) The Authority will not take any act or thing that will create any Encumbrance (other than a Permitted Authority Encumbrance) against the Leased Property or

the Airport Facilities and Assets and will promptly remove any Encumbrance (other than a Permitted Authority Encumbrance) against the Airport Facilities and Assets that came into existence as a result of any Acts and Faults by the Authority or a Person claiming through the Authority.

- (b) The Authority will not be deemed to be in default under Section 3.10.2(a) if the Authority continuously, diligently and in good faith contests any such Encumbrance, or the validity thereof (or causes such contest), by appropriate legal proceedings that will operate to prevent the foreclosure of any such Encumbrance; provided that the Authority has provided advance notification to Lessee that it is the intent of the Authority to contest the validity or collection thereof or cause such contest.

3.10.3. Removal of Encumbrances

Each Party, if requested by the other Party and at such other Party's cost and expense, will use its Reasonable Efforts to assist such other Party in attempting to remove any Encumbrance that has come into existence as a result of any Act or Fault by such other Party; provided that nothing herein will obligate the Authority to waive, modify or otherwise limit or affect the enforcement by the Authority of any applicable Law with respect to the Airport Facilities and Assets or any activities generating revenues at the Airport Facilities or anything unrelated thereto, provided further, that the costs and expenses incurred by any Party in connection with such efforts shall be borne by the Party whose act or omission has given rise to such Encumbrance.

3.11. Taxes

3.11.1. Payment of Taxes

- (a) Except as otherwise provided in Section 3.11.2, Lessee will pay when due all Taxes levied or imposed on it or otherwise in respect of or arising from Lessee's:
 - (i) use, operations at, occupancy of or conduct of business in or from the Terminal Facilities and Assets;
 - (ii) interests in and rights to all Assigned Assets;
 - (iii) collection of and rights to Lessee Revenue (other than Airfield Fees); and
 - (iv) this Agreement.
- (b) The Authority will not be responsible for any Taxes of the kind referenced above or otherwise levied or imposed on Lessee.
- (c) Lessee accepts sole responsibility for, and agrees that it will have no right to claim a Supervening Event or to any other Claim for relief due to, its misinterpretation of Laws in relation to Taxes or incorrect assumptions regarding applicability of Taxes.
- (d) The Authority reserves the right, without being obligated to do so, to pay the amount of any Taxes imposed on Lessee which are:
 - (i) not timely paid by Lessee; and

- (ii) not being contested by Lessee,
where the amount so paid by the Authority will be deemed additional consideration hereunder, due and payable by Lessee within twenty (20) Business Days after written demand by the Authority.
- (e) Lessee will have the right to contest in good faith the validity or amount of any Taxes which it is responsible to pay under this Section 3.11; provided that:
 - (i) Lessee has given prior notice to the Authority of each such contest;
 - (ii) no contest by Lessee may involve a reasonable possibility of forfeiture or sale of the Airport Facilities and Assets; and
 - (iii) upon the final determination of any contest by Lessee, if Lessee has not already done so, Lessee will pay any amount found to be due, together with any costs, penalties and interest.
- (f) Any sales or usage Taxes imposed on and attributable only to the services for which Terminal Facilities Fees are charged may, to the extent permitted by Law, be passed through by Lessee to the users otherwise paying such Terminal Facilities Fees for use of the Terminal Facilities and Assets.

3.11.2. Exemption from Taxes

The Authority agrees that, during the Term, Lessee shall not be responsible for, and Lessee, the Leased Property and Terminal Facilities and Assets (which, for certainty, shall be owned by the Authority at all times) shall not be subject to, (i) any real property Tax imposed on or measured by the value of the Leased Property or Terminal Facilities and Assets that is imposed by any Governmental Authority of the State or that is imposed on the “owner” of the Airport Facilities and Assets (including relating to future expenditures for real property) or (ii) any personal property tax on personal property owned by the Authority and used by Lessee exclusively in the Terminal Facilities and Assets or in the operations conducted therein that is imposed by any Governmental Authority of the State. If a Governmental Authority seeks to impose any such Tax, the Parties agree to work in good faith to oppose the imposition of such Tax, including by joining as co-parties in an appeal or otherwise litigating the validity of such Tax. Lessee shall pay for or reimburse the Authority’s litigation costs including reasonable attorneys’ fees in connection with the foregoing. Without limiting Lessee’s rights in the case of a Supervening Event, in the event Taxes are imposed on Lessee, Lessee shall be solely responsible for paying such Taxes to the relevant Governmental Authority.

3.12. Single Purpose Covenants

Lessee will, at all times during the Term, comply with the single purpose attached to this Agreement as Schedule 6.

3.13. Accommodating Requesting Aeronautical Users

- (a) The Parties acknowledge and agree that Grant Assurances require that the Airport be available as an airport for public use on reasonable terms and without unjust

discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the Airport.

- (b) If the Authority receives an expression of interest from an aeronautical user who is not presently accommodated at the West Terminal or the New Terminal, as applicable, or from an incumbent aeronautical user who desires to increase service at the West Terminal or the New Terminal, as applicable, the Authority shall instruct such aeronautical user to contact and coordinate with Lessee with respect to such expression of interest.
- (c) Lessee shall use its best efforts to accommodate all aeronautical users based on the circumstances then existing at the airport, consistent with FAA Grant Assurances. If Lessee is not reasonably able to accommodate an aeronautical user, it shall inform the Authority and shall work cooperatively with the Authority to ensure compliance with any applicable Grant Assurance obligations.
- (d) The Authority will not itself construct or operate a passenger terminal or other aeronautical facilities, or enter into an agreement with any person or entity for the construction or operation of a passenger terminal or other aeronautical facilities (except that, for the avoidance of doubt, the Authority's entry into the Management Contract and any replacement of the Management Contract following its termination shall not be a breach of this Section 3.13(d)).

ARTICLE 4. CAPITAL IMPROVEMENTS AND DEVELOPMENT PROJECTS

4.1. Capital Improvements

4.1.1. Required Capital Improvements

- (a) Lessee's Obligations
 - (i) Lessee's capital improvement obligations under this Agreement will be comprised of the West Terminal Project and those capital improvement projects required to be completed by Lessee during the Term in accordance with the terms of this Agreement.
 - (ii) Any capital or financing decision made by Lessee after the Effective Date with respect to the use of PFC revenue shall be subject to applicable Law governing use of PFCs and Lessee will, on behalf of the Authority, directly pay any undisputed penalties assessed pursuant to applicable Law with respect thereto.
- (b) The Authority's Obligations
 - (i) The Authority's capital improvement obligations under this Agreement will be comprised of the Runway Project and those capital improvement projects required to be completed by the Authority during the Term in accordance with the terms of this Agreement.
 - (ii) If all Authorizations required from Governmental Authorities for commencement of construction of the Runway Work (including, by way of example but not by way of exclusion, the NEPA Approval Documents and the DEEP Approval Documents, but excluding, for certainty, any operational Authorizations with respect to the Runway Project, other than Authorizations needed to operate the Airfield Facilities during construction) are obtained:
 - (A) on or prior to November 1, 2022, subject to the occurrence of any Delay Events, the Authority will commence the Runway Work on or prior to May 1, 2023; or
 - (B) after November 1, 2022, subject to the occurrence of any Delay Events, the Authority will commence the Runway Work on or prior to the later of (i) one hundred eighty (180) days from the receipt of all such Authorizations and (ii) sixty (60) days following receipt of the first AIP discretionary grant pursuant to 49 U.S.C. §§ 47115 - 47116 related to the Runway Project, which grant and further such grants the Authority agrees to pursue in good faith (the date on which the Authority commences the Runway Work, the "**Runway Construction Commencement Date**").
 - (iii) The Authority will achieve Substantial Completion of the Runway Work no later than forty-eight (48) months from the Runway Construction Commencement Date (the "**Runway Project Outside Date**"); provided

that the Authority shall not be deemed to be in breach of such obligation to the extent that such failure to achieve the Runway Project Outside Date is caused by:

- (A) a breach by the Manager of its obligations under the Management Contract;
- (B) the negligence or willful misconduct of the Manager; or
- (C) occurrence of “delay events” (as defined in the Management Contract), except to the extent such “delay events” are caused by (I) “adverse actions” (as defined in the Management Contract) taken by the Authority, (II) a “change in law” (as defined in the Management Contract) taken by the Authority, (III) a failure by the Authority to perform any of its material covenants or obligations under the Management Contract, (IV) any direction or instruction of the Authority in the nature of a mandated directive letter or (V) Acts or Faults of the Authority that result in a failure to obtain, or a delay in obtaining, any Authorization from a Governmental Authority.

4.1.2. Capital Development Plans

- (a) The Parties intend to cooperate in good faith with respect to capital projects at the Airport. Accordingly, Lessee will consult, including with respect to scope and timing, at least annually with the Authority with respect to capital projects proposed as part of the Airport Development Plan.
- (b) Subject to the procedures for development of the Airport Development Plan set forth in this Section 4.1.2(b), the Authority will develop and prepare, and submit to the FAA, all information necessary for the FAA to prepare its ACIP (the “**ACIP Submittal**”). Lessee will supplement the ACIP Submittal with additional information about its own five-year capital program for the Airport including those elements that are not eligible for inclusion in the FAA’s ACIP. The ACIP Submittal and Lessee’s development plans, together, shall be known as the “**Airport Development Plan.**” The Airport Development Plan will be developed in accordance with the following procedures:
 - (i) At least ninety (90) Days prior to the date on which the Authority is required to provide the final ACIP Submittal to the FAA for preparation of the ACIP, the Authority will deliver to Lessee, for its review and approval, a draft of the ACIP Submittal, which shall include the Authority’s proposed Airfield Facilities capital projects.
 - (ii) At least sixty (60) Days prior the date on which the Authority is required to provide the final ACIP Submittal to the FAA for preparation of the ACIP, Lessee will deliver to the Authority a draft of the Airport Development Plan (which shall, among other things, reflect Lessee’s modifications, supplements or other changes to the Authority’s draft ACIP Submittal delivered to Lessee pursuant to clause (i) above). Without

limiting Lessee's consent rights with respect to the ACIP Submittal, Lessee will give highest priority to any Airfield Facilities capital projects included in the Authority's draft ACIP Submittal that are required to maintain compliance with the Part 139 Airport Certification Manual or the TSA-approved Airport Security Program.

- (iii) The Authority may object to a capital project included in the Airport Development Plan prepared by Lessee, by written notice delivered to Lessee at least thirty (30) Days prior to the date on which the ACIP Submittal is required to be submitted to the FAA. The Authority may object to any project that is included in the Airport Development Plan regardless of FAA funding eligibility, if such project (A) is scheduled to commence in the following Year and (B) has a total cost greater than five million dollars (\$5,000,000). If the Authority objects to such a project, Lessee will defer the objected-to project for a one (1) Year period (and make appropriate changes to the Airport Development Plan to reflect such deferral). During such one (1) Year deferral period, the Parties will discuss and consult with each other to resolve any objections that the Authority has to such project.
 - (A) Notwithstanding any objection to a capital project by the Authority and so long as the Parties have consulted with one another, in each case pursuant to Section 4.1.2(b)(iii), except in the case of capital projects that are subject to the Authority's approval pursuant to Section 4.1.2(b)(iii)(B) below, Lessee will be permitted to include an objected-to project in a subsequent Year's Airport Development Plan and the Authority shall submit the applicable Airport Development Plan to the FAA with the objected-to project included at the direction of Lessee.
 - (B) Notwithstanding anything to the contrary herein any Lessee capital expenditure that contemplates or requires an expansion of the footprint of the New Terminal beyond the terminal footprint reflected on Exhibit B shall require affirmative approval by a supermajority of the Authority Board, as determined by the Authority's bylaws. Such terminal footprint reflected on Exhibit B constitutes the building footprint of the East Terminal described in the Master Lease and incorporated into this Agreement pursuant to Exhibit D of the Master Lease.
- (iv) The Authority will be permitted to supplement the list of capital projects in the final ACIP Submittal with the consent of Lessee.
- (v) Together with the Airport Development Plan, Lessee will prepare and submit to the Authority (i) a report of Lessee which will describe the purpose and need for each capital project eligible for inclusion in the FAA's ACIP that is scheduled to commence during the following Year; (ii) any documentation required by the FAA for eligibility for inclusion in the

ACIP; and (iii) a description of any capital project that the Authority has objected to pursuant to Section 4.1.2(b)(ii). The Authority will not be responsible for costs and expenses incurred in the preparation and submission of such reports, documentation, and other related materials set forth in this Section 4.1.2(b)(v) (including, by way of example, the cost of preparing environmental documentation and cost-benefit analyses).

- (vi) For certainty, Lessee shall not be permitted to develop, or to seek FAA funding for, any project that is not included in the Airport Development Plan.
- (c) The Authority will file and submit all necessary AIP Grant and PFC applications, and other applications for any other grants, subsidies, fees, taxes, or other funding which may be available from the FAA or any other Governmental Authority from time to time, and any other necessary supporting documentation to the FAA or other Governmental Authority as required to obtain eligibility for funding pursuant to requirements of the FAA or other Governmental Authority for any capital project in the Airport Development Plan which is eligible for AIP, PFC or other funding. The Authority will not be responsible for costs and expenses incurred in the preparation and submission of such applications, supporting documentation, and related materials set forth in this Section 4.1.2(c) (including, by way of example, the cost of preparing environmental documentation, cost-benefit analyses, RFP/RFQ costs, preliminary studies or analysis), except for such costs and expenses related to the Authority's supplemental list of capital projects under Section 4.1.2(b)(iii). To the extent eligible, the Authority may include its own (and shall include Lessee's) administrative, planning, engineering, compliance, and oversight costs in any AIP Grant, PFC application, or other application from any Governmental Authority.

4.1.3. Unreimbursed Amounts

Any unreimbursed amounts incurred by Lessee pursuant to this Section 4.1 or Sections 4.2, 4.4 or 4.9 shall be treated as amounts in lieu of rent and shall be treated as additional rental payments for income tax purposes.

4.2. West Terminal Project

- (a) Prior to the Effective Date, pursuant to the Management Contract, the Manager, on behalf of the Authority, commenced design and construction of the West Terminal Project.
- (b) Lessee agrees to pursue and complete, at its sole cost and expense, the West Terminal Project.

4.3. Financial Close

- (a) Following issuance of the NEPA Approval Documents and the DEEP Approval Documents, Lessee shall diligently pursue Financial Close with respect to the New Terminal Project.

- (b) Following issuance of the NEPA Approval Documents and the DEEP Approval Documents and until Financial Close with respect to the New Terminal Project, Lessee will meet with the Executive Director (or the Executive Director's designee), on at least a monthly basis, to provide updates on the status of efforts to secure Financial Close with respect to the New Terminal Project. In such meeting, Lessee shall discuss a proposed timeline for achieving Financial Close, an explanation for any change in the prior timelines, an explanation of any new or unforeseen challenges or hurdles to Financial Close that arose since the last meeting, and a description of any actions by any Governmental Authority that are conditions precedent to Financial Close.

4.4. New Terminal Project

- (a) Following issuance of the NEPA Approval Documents and the DEEP Approval Documents, in addition to any other uses permitted hereby, Lessee shall be permitted to use the Leased Property and Authority Property for the New Terminal Project and other uses ancillary and incidental thereto in accordance with the terms and provisions of this Agreement; provided that Lessee agrees that:
 - (i) it will collaborate and consult with the Authority during the design phase of the New Terminal Project by sharing customary drawings, renderings, and related documentations and through workshops and design committees for purpose of determining square footage, quality of the design, aesthetics, and other factors, and the New Terminal Project will be built substantially in accordance with drawings, renderings and related documents as previously shared with the Authority including any updates thereto;
 - (ii) it will incorporate into the design any remedial measures to the extent required by Environmental Laws to mitigate potential health and safety issues associated with the presence of Hazardous Materials, such as, without limitation, vapor mitigation measures and measures set forth in the LEP Cost Estimate;
 - (iii) in recognition of the importance to the community of sustainable design principles, including carbon neutral and LEED principles, these factors will be employed in the design of the New Terminal Project.
- (b) Promptly following the occurrence of Financial Close with respect to the New Terminal Project, Lessee will provide the Authority notice thereof (the date of delivery of such notice, the "**New Terminal Financial Close Date**") and shall deliver to the Authority the then-current design drawings and specifications for the New Terminal Facilities.
- (c) Subject to the occurrence of any Supervening Events, Lessee shall commence the New Terminal Work within one hundred eighty (180) days following the New Terminal Financial Close Date (the "**New Terminal Construction Commencement Date**").

- (d) Subject to the occurrence of any Supervening Events, Lessee will achieve Substantial Completion of the New Terminal Work within thirty (30) months from the New Terminal Construction Commencement Date (the “**Expected Terminal Substantial Completion Date**”). If Lessee fails to achieve Substantial Completion of the New Terminal Work on or before the Expected Terminal Substantial Completion Date, Lessee shall, at the Authority’s request: (i) deliver monthly construction progress reports to the Authority until Substantial Completion of the New Terminal Work is achieved; (ii) prepare and submit a detailed work plan that shall set forth a schedule and specific actions to be taken by Lessee to achieve Substantial Completion of the New Terminal Work by the Substantial Completion Deadline, which work plan shall be reviewed and confirmed by an independent engineer hired by the Authority and paid by Lessee; (iii) provide an explanation for any delays in achieving Substantial Completion of the New Terminal Work; and (iv) provide a new proposed Expected Terminal Substantial Completion Date.
- (e) Following issuance of (i) the DEEP Approval Documents with respect to the New Terminal Project or the Runway Project (whichever is issued first) and (ii) the NEPA Approval Documents until the New Terminal Financial Close Date, Lessee may in its discretion terminate this Agreement by giving twenty (20) Business Days’ written notice to the Authority.
- (f) The Parties agree as follows:
 - (i) prior to commencement of the New Terminal Work, the Authority or Lessee shall invest in overflow parking off-airport and shuttle services if such parking and services prove necessary to support commercial operations at the West Terminal;
 - (ii) if, three (3) years after the Effective Date, Lessee has not started work on the New Terminal, Lessee will in good faith seek any required FAA approval to relocate a portion of the vehicle parking spaces from the West Terminal Facilities to the Leased Property by developing one thousand (1,000) parking spaces that take advantage of existing pavement on the east side of the Airport and Existing Airport Gate 23 on Thompson Avenue in accordance with the Alternative East Side Parking Schedule attached hereto as Exhibit G;
 - (iii) two (2) years from the issuance of a notice to proceed by Lessee for the New Terminal Project, the Overflow Lot Area will no longer be used for vehicle parking;
 - (iv) In the event Lessee fails to achieve Substantial Completion of the New Terminal Work by the Substantial Completion Deadline:
 - (A) the size and capacity of the West Terminal will not exceed the size and capacity of the West Terminal as approved by the New Haven City Plan Commission (1590-02 and 1590-03) dated August 18, 2021; and

(B) the capacity of vehicle parking on the West Terminal Facilities will not exceed the aggregate of the passenger parking area and overflow lots at such time,

in each case, without the prior approval of the Authority; and

(v) upon Substantial Completion of the New Terminal Project, all passenger vehicle parking facilities will be moved from the then-existing location on the West Terminal Facilities to a new location within the New Terminal Facilities of the Leased Property.

4.5. Airfield Capital Projects

(a) Either Lessee or the Authority may propose Airfield Facilities capital projects to be included in an Airport Development Plan pursuant to Section 4.1.2 (any such Airfield Facilities capital project that Lessee includes in an Airport Development Plan, being a “**Lessee Airfield Project**” or an “**Authority Airfield Project**”, respectively; collectively, an “**Airfield Project**”). The Authority may request that Lessee provide any necessary additional funding for such Airfield Project, as and to the extent such additional funding is contemplated by the Airport Development Plan.

(b) Lessee shall be obligated to provide any necessary funding for such Airfield Project so long as the Authority has obtained the approval of the FAA or other appropriate Governmental Authority for, as applicable:

- (i) AIP Grants in the amounts set forth in the ACIP and approved by the FAA;
- (ii) PFCs that Lessee estimates to have available at the time; or
- (iii) any other grants, subsidies, fees, taxes, or other funding which may require approval from the FAA or any other Governmental Authority from time to time,

in each case, as and to the extent such funding is contemplated by the Airport Development Plan as may be amended by Lessee from time to time.

(c) If Lessee is required to provide funding for an Airfield Project pursuant to Section (b), Lessee shall have the sole right and obligation to pursue such Airfield Project pursuant to, and in compliance with, the applicable terms and conditions of this Agreement and applicable Law. Lessee will be permitted to access and use the Authority Property in connection with any Airfield Project and for other uses ancillary and incidental thereto in accordance with the terms and provisions of this Agreement.

(d) The Parties agree that this Section 4.5 shall not apply to the Runway Project.

4.6. West Terminal Facilities Upon New Terminal Opening

Upon Substantial Completion of the New Terminal Work, Lessee shall have the following rights with respect to the elements of the West Terminal Facilities set forth below.

- (a) With respect to the “**Terminal and Admin Buildings**” and “**West Ramp Area**” as marked on Exhibit D:
- (i) Lessee shall, without any further Authority consent and subject to Section 4.6(e),
- (A) have the sole right and obligation to:
- (I) perform the Work with respect to the Terminal and Admin Buildings and West Ramp Area (other than the West Terminal Work and the New Terminal Work), except that Lessee’s right and obligation to perform capital improvement projects with respect to the Terminal and Admin Buildings and West Ramp Area shall be limited to capital improvement projects involving (1) renovation, retrofitting or other capital improvement work in the nature of fit-out of the Terminal and Admin Buildings and West Ramp Area for the use of such Terminal and Admin Buildings and West Ramp Area for permitted purposes or otherwise performed in connection with Lessee’s operation and maintenance responsibilities with respect to such Terminal and Admin Buildings and West Ramp Area following Substantial Completion of the New Terminal Work and (2) removal of any temporary facilities no longer necessary at such Terminal and Admin Buildings and West Ramp Area following Substantial Completion of the New Terminal Work; and
- (II) use the Terminal and Admin Buildings and West Ramp Area for Airport Purposes;
- (B) have the right to enter into contracts, agreements, documents and other instruments with Subcontractors and any Governmental Authority in connection with Lessee’s performance of its rights pursuant to Section 4.6(a)(i)(A), in all cases subject to the terms and conditions of this Agreement, including the provisions of Section 3.2.3; and
- (ii) Lessee shall, with the consent of the Authority, be permitted to demolish all or any material portion of the Terminal and Admin Buildings and West Ramp Area at Lessee’s cost and expense; provided that:
- (A) if the Authority does not consent to such demolition, the Parties agree that responsibility for the cost and expense of operation and maintenance of the applicable portion of the Terminal and Admin Buildings or West Ramp Area (and the right to any revenue earned therefrom) shall shift from Lessee to the Authority upon notice from Lessee to the Authority following the Authority’s failure to consent; and

- (B) if the Authority consents to such demolition, following any demolition of the applicable portion of the Terminal and Admin Buildings or West Ramp Area, Lessee shall not be permitted to redevelop, use, and earn revenue from, the site of whatever Terminal and Admin Buildings or West Ramp Area have been demolished, without the prior approval of the Authority.
- (b) With respect to the “**Parking Lots**” as marked on Exhibit D:
 - (i) Lessee shall, without any further Authority consent and subject to Section 4.6(e),
 - (A) have the sole right and obligation to:
 - (I) perform the Work with respect to the Parking Lots (other than the West Terminal Work and the New Terminal Work), except that Lessee’s right and obligation to perform capital improvement projects with respect to the Parking Lots shall be limited to capital improvement projects involving (1) renovation, retrofitting or other capital improvement work in the nature of fit-out of the Parking Lots for the use of such Parking Lots for permitted purposes or otherwise performed in connection with Lessee’s operation and maintenance responsibilities with respect to such Parking Lots following Substantial Completion of the New Terminal Work and (2) removal of any temporary facilities no longer necessary at such Parking Lots following Substantial Completion of the New Terminal Work; and
 - (II) use the Parking Lots for vehicular parking and for no other purpose;
 - (B) have the right to enter into contracts, agreements, documents and other instruments with Subcontractors and any Governmental Authority in connection with Lessee’s performance of its rights pursuant to Section 4.6(b)(i)(A), in all cases subject to the terms and conditions of this Agreement, including the provisions of Section 3.2.3; and
 - (ii) Lessee shall, with the consent of the Authority, be permitted to demolish all or any material portion of the Parking Lots at Lessee’s sole cost and expense; provided that:
 - (A) if the Authority does not consent to such demolition, the Parties agree that responsibility for the cost and expense of operation and maintenance of the Parking Lots (and the right to any revenue earned therefrom) shall shift from Lessee to the Authority upon notice from Lessee to the Authority following the Authority’s failure to consent; and

- (B) if the Authority consents to such demolition, following any demolition of the Parking Lots, Lessee shall not be permitted to redevelop, use, and earn revenue from, the site of whatever Parking Lots have been demolished, without the prior approval of the Authority.
- (c) With respect to the “**Authority Development Area**” as marked on Exhibit D,
 - (i) Lessee shall, without any further Authority consent,
 - (A) subject to Section 4.6(c)(ii) below, have the sole right and obligation to:
 - (I) perform the Work with respect to the Authority Development Area (other than the West Terminal Work and the New Terminal Work), except that Lessee’s right and obligation to perform capital improvement projects with respect to the Authority Development Area shall be limited to capital improvement projects involving (1) renovation, retrofitting or other capital improvement work in the nature of fit-out of the Authority Development Area for the use of such Authority Development Area for permitted purposes or otherwise performed in connection with Lessee’s operation and maintenance responsibilities with respect to such Authority Development Area following Substantial Completion of the New Terminal Work and (2) removal of any temporary facilities no longer necessary at such Authority Development Area following Substantial Completion of the New Terminal Work; and
 - (II) use the Authority Development Area for Airport Purposes;
 - (B) have the right to enter into contracts, agreements, documents and other instruments with Subcontractors and any Governmental Authority in connection with the performance of Lessee’s rights pursuant to 4.6(c)(i)(A), in all cases subject to the terms and conditions of this Agreement, including the provisions of Section 3.2.3, except that any such contract, agreement, document or other instruction shall include an express provision (and Lessee shall enforce such provision at its sole cost and expense) that such contract, agreement, document or other instrument shall be terminable by Lessee upon thirty (30) Days’ notice upon the Authority’s exercise of its rights set forth in Section 4.6(c)(ii) below; and
 - (ii) notwithstanding Lessee’s rights and obligations with respect to the Authority Development Area, the Authority may at any time and upon at least thirty (30) Days’ notice to Lessee, terminate Lessee’s use on the Authority Development Area for development of a new project on such

property in accordance with Section 4.7 and, if Lessee has entered into a contract, agreement, document or other instrument with respect to such Authority Development Area, Lessee shall promptly terminate such contract, agreement, document or other instrument and the cost and expense of terminating such contract, agreement, document or other instrument shall be at Lessee's sole cost and expense.

- (d) With respect to any other portions of the West Terminal Facilities not specifically delineated under paragraphs (a) through (c), each Parties' rights and obligations shall be governed by paragraph (c) above.
- (e) Except with respect to Lessee's rights to perform certain capital improvements pursuant to Section 4.6(a), 4.6(b), and 4.6(c), nothing in this Agreement shall be construed to provide Lessee the right to develop or redevelop any portion of the West Terminal Facilities during the Term. For purposes of this Section 4.6, the term "develop" or "redevelop" shall be deemed to refer to any project involving (a) the construction of any new structures, facilities or similar physical improvements that make up the West Terminal Facilities or (b) the expansion of any existing structures, facilities or similar physical improvements that make up the West Terminal Facilities, in each case excluding
 - (i) renovation, retrofitting or other capital improvement work in the nature of fit-out of the West Terminal Facilities for the use of such West Terminal Facilities for permitted purposes or otherwise performed in connection with Lessee's operation and maintenance responsibilities with respect to such West Terminal Facilities following Substantial Completion of the New Terminal Work, or
 - (ii) removal of any temporary facilities no longer necessary at the West Terminal Facilities following Substantial Completion of the New Terminal Work.
- (f) Unless Lessee has made reasonable alternative space available for Authority staff at a location on the Leased Property, Lessee shall make reasonable space available in the West Terminal Facilities for the Authority staff, at Lessee's cost and expense. Available space shall include office space for all Authority staff (which may change from time to time) in accordance with industry standards and nonexclusive meeting space for use of the Authority Board for its meetings.

4.7. Additional Development Rights Provisions

- (a) Except as otherwise expressly provided in this Agreement, the Authority's right to develop new projects on Authority Property is set forth this Section 4.7, except that, for the avoidance of doubt, nothing in this Section 4.7 shall apply to or permit the development of a passenger terminal or other aeronautical facility on Authority Property by the Authority, which is governed by Section 3.13(d).
- (b) Subject to the Authority's compliance with the provisions of Sections 4.7(c) and 4.7(d), as applicable,

- (i) the Authority shall be permitted to develop new projects within the Authority Development Area at any time following Substantial Completion of the New Terminal Work, as set forth in Section 4.6(c);
- (ii) the Authority shall be permitted develop new projects within any other portion of the West Terminal Facilities only if:
 - (A) the Authority has failed to consent to Lessee's proposed demolition of all or any portion of the West Terminal Facilities and the Authority has subsequently assumed responsibility for the operation and maintenance of the West Terminal Facilities pursuant to Sections 4.6(a)(ii)(A) and/or 4.6(b)(ii)(A), as applicable; or
 - (B) the Authority has consented to Lessee's proposed demolition of all or any portion of the West Terminal Facilities, in which case Sections 4.6(a)(ii)(B) and/or 4.6(b)(ii)(B), as applicable, shall apply.
- (c) Should the Authority receive an unsolicited proposal for the development of the Authority Property which is not a passenger terminal or other aeronautical facilities (the development of which are governed by Section 3.13(d)) and the Authority is permitted to pursue such development pursuant to Section 4.7(b), if such proposal is under review by the Authority, the Authority will notify and provide Lessee of such proposal promptly (not to exceed thirty (30) days after Authority's receipt of such proposal) and give Lessee a reasonable opportunity to make a counteroffer (not to exceed ninety (90) days after Lessee's receipt of such notice, unless extended by mutual agreement). If Lessee's counteroffer, in the Authority's reasonable discretion, (a) meets (or provides more advantageous) terms and conditions relative to the unsolicited proposal referred to above with respect to material financial and operational terms and conditions and (b) serves the needs of the community in at least an equivalent manner, the Authority and Lessee will negotiate in good faith the terms and conditions for such development (such terms and conditions shall not be subject to the Authority Revenue Rent provisions set forth in Section 2.4.3). If, despite good faith efforts, the Authority and Lessee are unable to enter into a definitive agreement with respect to such development, the Authority will no longer be subject to this Section 4.7(c) with respect to the subject development and Lessee shall no longer have any development rights with respect to the subject development.
- (d) Should the Authority determine to solicit proposals for development of the Authority Property which is not a passenger terminal or other aeronautical facilities (the development of which are governed by Section 3.13(d)) and the Authority is permitted to pursue such development pursuant to Section 4.7(b), the Authority will promptly notify Lessee of its desire to proceed with a solicitation and, prior to the release of any such solicitation, give Lessee a reasonable opportunity to make a first offer with respect to such development. If Lessee's offer, in the Authority's reasonable discretion: (i) meets (or provides more advantageous) terms and conditions relative to proposal to be solicited by the

Authority referred to above with respect to material financial and operational terms and conditions; and (ii) serves the needs of the community in at least an equivalent manner, the Authority and Lessee will negotiate in good faith the terms and conditions for such development (such terms and conditions shall not be subject to the Authority Revenue Rent provisions set forth in Section 2.4.3). If, despite good faith efforts, the Authority and Lessee are unable to enter into a definitive agreement with respect to such development, the Authority will no longer be subject to this Section 4.7(d) with respect to the subject development and Lessee shall no longer have any development rights with respect to the subject development.

- (e) Lessee may at any time make its own unsolicited offer for development of the Authority Property for non-Airport Purposes which the Authority will reasonably consider and negotiate. In any such negotiations, the Authority will reasonably consider the views of the City and the Town consistent with its legal obligations to the FAA.
- (f) Any development which the Authority is permitted to pursue under this Section 4.7 may not prevent or materially interfere with Lessee's ingress or egress to or from or Lessee's reasonable use of the West Terminal Facilities.

4.8. Provisions Governing Projects and Airfield Projects

- (a) Except as provided in this Section 4.8(a), the New Terminal Project and any project contemplated by the Airport Development Plan shall be constructed in a manner consistent with the NEPA Approval Documents and the DEEP Approval Documents. If Lessee desires to construct facilities for which FAA has not otherwise provided environmental clearance and regulatory approvals, Lessee shall be responsible for securing any FAA approvals if such approvals are required for such facilities at its cost and expense. The Authority will cooperate with Lessee in its effort to seek such additional approvals and promptly execute all necessary applications and other documentation as may be required in connection therewith.
- (b) Lessee will, with reasonable diligence, and at its sole cost and expense (except as otherwise provided herein), complete or cause the completion of the Projects and Airfield Projects in a good and workmanlike manner in accordance with the terms of this Agreement.
- (c) All Projects and Airfield Projects will comply with applicable requirements imposed by federal regulatory agencies including the TSA, FAA, and (if applicable) Customs and Border Protection.
- (d) All Projects and Airfield Projects will be performed:
 - (i) in a safe manner; and
 - (ii) so as not to materially interfere with the use of the Authority Property.
- (e) Lessee will perform the Projects and Airfield Projects in a manner that complies with, and so that the Terminal Facilities can be operated in compliance with,

Environmental Laws. Except as otherwise provided in this Agreement, including Sections 2.2.8 and 4.11, Lessee will be responsible for all costs, Losses, liabilities, damages and operational requirements arising under Environmental Laws during the performance of the Projects, including, for the avoidance of doubt, with respect to any measures to the extent required by Environmental Laws related to the health and safety of workers and passengers and to manage any detected vapor intrusion in the buildings from soil or groundwater.

- (f) Subject to compliance with any of the Authority's statutory or Grant Assurance obligations to the federal government, neither Party shall construct any new improvements or change the use of existing improvements at the Airport so as to accommodate all-cargo operations without first obtaining a Site Plan Approval from the City Plan Commission. Further, the Parties acknowledge that, pursuant to the Master Lease, the Authority shall consult with the City prior to entering into any sublease of any portion of the Airport for the primary purpose of accommodating all-cargo operations.

4.9. Coordination

4.9.1. Adjacent Property Coordination

- (a) Lessee shall be responsible for coordinating (or ensuring the coordination of) all Projects with Adjacent Property and the Airfield Facilities including cooperating and coordinating with the Authority, the Manager (or a replacement third-party manager), a Governmental Authority, or a third-party undertaking any project or activity on the Adjacent Property or the Authority Property, but shall have no responsibility for such Adjacent Property or Authority Property (except as otherwise set forth herein).
- (b) Lessee agrees to include in the design and construction of any new or reconstructed Terminal Facility projects any elements necessary to effect surface transportation and utility integration with Adjacent Properties and Airfield Facilities.
- (c) The Authority shall cooperate with Lessee with respect to its obligations under this Section 4.9.1.

4.9.2. FAA and Other Intergovernmental Coordination

The Authority shall consult with, and keep Lessee promptly informed of, any and all informal or formal actions by the FAA or TSA in connection with, without limitation, 49 C.F.R. 1542 or 14 C.F.R. Part 13, 16, 139 or 302 or any audits or letters of investigation, administrative actions, enforcement actions, or matters connected in any way with submission of an Airport Layout Plan. The Authority shall not make any written submissions pursuant to, without limitation, 49 C.F.R. 1542 or 14 C.F.R. Part 13, 16, 139 or 302, or any other provision of law or regulation that requires submissions, formal or otherwise, by an airport sponsor without first consulting with, receiving comments from and reasonably coordinating with Lessee with regard to any position that Authority is taking with respect to such matters, in each case in a timely manner. Subject to the

consultation contemplated in this paragraph, the Authority retains the authority and obligation to maintain and submit the Airport Layout Plan as required by law.

4.9.3. No Interference

The Parties understand and agree that (i) nothing in the foregoing Sections 3.6.2 and 4.9.1 is in any way intended to interfere with the Terminal Facilities Services and (ii) the Authority shall cooperate with Lessee in minimizing any effect that the obligations of Lessee under this Section 4.9 may have on the Terminal Facilities Services and the revenues of the Terminal Facilities.

4.10. Warranties

4.10.1. Warranties for Work on Authority Property

(a) With respect to any element of the Work performed on Authority Property, including an Airfield Project, or any element of design or construction Work which is self-performed by Lessee, Lessee will obtain for itself warranties from third parties performing Work (or, with respect to such self-performed Work, itself warranty) that such Work:

- (i) will be fit for use and be designed, constructed, and completed in a manner that meets all applicable requirements of this Agreement and complies with the Baseline Standard of Practice;
- (ii) with respect to construction work (excluding any design, architectural, engineering or project management services performed as part of the Work) will be of good quality;
- (iii) will be free from unpermitted deviations and from any faults or defects affecting the condition, use, functionality, or operation of such element, including from any applicable defects in materials or workmanship (but not design); and
- (iv) will be free from any other fault or defect, including of design, that would be recognized to exist as a matter of Law,

or such other form of warranties as the Authority may approve in its discretion.

(b) The warranty period for any Work that is subject to the foregoing will commence on the completion date of the relevant Work and end on the latest of:

- (i) the first anniversary thereof with respect to all Work;
- (ii) with respect to any corrective work performed to remedy a defect or breach of warranty, the first anniversary of the completion of such work; and
- (iii) with respect to warranties that exist as a matter of Law, any such later date as is provided for under such Law.

(c) Any third-party warranties obtained by Lessee in accordance with this Section will be fully transferrable and assignable to the Authority, or such other Persons as the Authority may reasonably request, upon the earliest of (i) the end of the Term

and (ii) at such time as the Authority, or such other Person, takes control of the warrantied element of the Work.

- (d) Any warranties to be provided directly by Lessee for design and construction portions of the Work will be enforceable by the Authority, or such other Persons as the Authority may reasonably require, on and from the earliest of (i) the end of the Term and (ii) at such time as the Authority, or such other Persons as the Authority may reasonably request, takes control of the warrantied element of the Work. For certainty, if such enforcement period were to begin after the end of the warranty period specified in Section 4.10.1(b), then such warranty rights will be deemed to have lapsed.
- (e) Lessee will (at its own risk, cost, and expense) promptly investigate, repair, replace, or otherwise correct and fully remedy any defect in the work (as reasonably determined by Lessee) covered by the foregoing warranties or any breach of the foregoing warranties.

4.10.2. Warranties for Work on Leased Property and West Terminal Facilities

- (a) Subject to Section 4.10.1, Lessee will procure for itself customary Subcontractor, supplier, manufacturer, and other third-party warranties in accordance with the Baseline Standard of Practice with respect to any work performed, project delivered, or equipment procured under this Agreement on the Leased Property or the West Terminal Facilities.
- (b) Lessee shall consult with the Authority in advance of agreeing to the terms of any warranty for the New Terminal Project to verify that such proposed warranties conform to the foregoing standards.
- (c) The warranties obtained by Lessee in accordance with this Section:
 - (i) will run for the period customarily provided by a Subcontractor, supplier, manufacturer, or third-party with respect to such work, delivery, or equipment, which period, with respect to any facility design and construction project, shall be not less than one year following completion of construction; and
 - (ii) will be fully transferrable and assignable to the Authority, or such other Persons as the Authority may reasonably request, upon the end of the earliest of the end of the Term or at such time as the Authority, or such other Person, takes control of the warrantied element of the Work.
- (d) Lessee will (at its own risk, cost, and expense) enforce foregoing warranties and ensure that any defect or other breach of the foregoing warranties is promptly investigated, repaired, replaced, or otherwise corrected and otherwise remedied.

4.10.3. No Limitations

The rights and remedies of the Authority or any other warranty beneficiary arising with respect to any breach of the warranties referenced in this Section 4.10 will not limit Lessee's liability or responsibility, or the Authority's rights and remedies, under this

Agreement or Law with respect to the Work.

4.11. Site Conditions

- (a) Lessee will perform, and promptly share with the Authority, if requested, the results of material site investigations and environmental regulatory correspondence in accordance with Baseline Standard of Practice and applicable Environmental Laws prior to undertaking any excavation, demolition or physical site disturbance activities in connection with the Projects or Lessee Airfield Projects, including any Phase I and Phase II environment site assessments.

4.12. Reimbursement of Authority Costs

- (a) Lessee will reimburse the Authority for its reasonable and documented costs for its outside experts, consultants, and counsel in connection with the New Terminal Project and the Runway Project up to two hundred thousand dollars (\$200,000) per Fiscal Year following the Effective Date until the date that is six (6) months following Substantial Completion of the New Terminal Work and the Runway Work, whichever is later (pro-rated for any partial year), provided that the Authority will not be entitled to such reimbursement with respect to any Fiscal Year for which the Authority deposits funds into the Airport Reserve Fund under Section 2.5.2(b). Such funds shall be used for hiring of consultants, counsel, and experts necessary to ensure compliance with this Agreement. Such funds will be in addition to any other reimbursable costs or expenses as set forth in this Agreement.
- (b) Lessee will reimburse the Authority for its reasonable and documented costs (including financial consultants, engineers, planners, and counsel) in connection with the negotiation of this Agreement, the Master Lease, Amendment No. 5 to the Agreement between the Authority and Avports (as amended), the Management Contract, the Letter of Intent between the Authority and Avports, preparation of airlines agreements or permits, review of the construction contract and related documents for the West Terminal Project, and all ancillary matters related thereto, incurred after November 1, 2020 through the Effective Date up to a ceiling of one million six hundred thousand dollars (\$1.6 million).
- (c) The Authority acknowledges and agrees that the costs and expenses reimbursed by Lessee pursuant to Section 4.12(b) shall be repaid by the Authority in accordance with Section 2.5.2.

ARTICLE 5. MODIFICATIONS AND DIRECTIVE LETTERS

5.1. Modification Proposals

- (a) Without limiting the Parties' rights under this Agreement, including the provisions of Article 4, either Party may in its discretion propose a Modification by delivery of a notice to the other Party detailing such proposal (a "**Modification Proposal**").
- (b) Following delivery of a Modification Proposal, the Parties will exchange such information and materials as each may reasonably request from the other to enable them to exercise any consent rights under this Article 5. The Parties will negotiate in good faith to agree the resolution of any Modification Proposal.
- (c) Each Party will bear its own costs when preparing any Modification Proposal or any response to the same, including any information or materials required to be exchanged in accordance with Section 5.1(b).

5.2. Consent to Modification Proposals

All Modification Proposals will be subject to the consent of the Party receiving such Modification Proposal, which consent shall not be unreasonably withheld, conditioned, or delayed.

5.3. Modification Agreement

- (a) If the Parties agree on the terms of the Modification, they will memorialize their agreement in a written agreement (a "**Modification Agreement**") in a form to be prepared by the party proposing the modification setting out the details of such agreement which agreement will take effect when executed by the Parties.
- (b) If the Parties do not reach such an agreement and any dispute in relation to the relevant matters is resolved pursuant to the Dispute Resolution Procedures, to the extent that the Dispute Resolution Procedure does not result in a written record of such resolution equivalent to a Modification Agreement, the Parties will execute such a Modification Agreement to document such resolution.

5.4. Directive Letters

- (a) If the Parties cannot agree on the terms of a Modification Proposal proposed by the Authority, and for so long as the Parties have not reached a final agreement and executed a Modification Agreement, and solely to the extent that such Modification is required by the Authority in order for it to discharge a duty imposed on it as a result of it holding the Airport Operating Certificate, then the Authority may (in its discretion) deliver to Lessee a notice (a "**Directive Letter**") directing Lessee to implement and perform the Modification Proposal under terms set forth by the Authority.
- (b) The Authority's delivery of a Directive Letter will constitute a Supervening Event under this Agreement; provided that Lessee will have no entitlement to claim such an event to the extent it impermissibly withheld its consent to such Modification Proposal.

- (c) Promptly upon receipt of any Directive Letter, Lessee will implement and perform the relevant Modification as directed by the Authority.

5.5. Performance Standard for Modifications

Lessee will:

- (a) ensure that any Modification which it undertakes pursuant to this Agreement will be performed in compliance with the applicable Modification Proposal, Directive Letter or Modification Agreement and otherwise in compliance with this Agreement, including with the Baseline Standard of Practice and applicable Law; and
- (b) use Reasonable Efforts in order to minimize any adverse impact on the Authority, the Airport and Airport operations as a result of it implementing such Modification.

ARTICLE 6. REVENUES AND FEES

6.1. Revenues

- (a) Lessee will, at all times during the Term, have the right and obligation to collect and retain all Lessee Revenue (other than Airfield Fees) and will have no right to retain any Authority Airport Revenue.
- (b) Lessee will promptly pay to the Authority any Authority Airport Revenue collected by Lessee following receipt thereof.
- (c) The Authority will promptly pay to Lessee any Lessee Revenue (other than Airfield Fees) collected by the Authority following receipt thereof.

6.2. Terminal Facilities Fees; Fee Setting and Enforcement

- (a) Subject to compliance with Law and any Authorization, Lessee will, at all times during the Term, have the right to set, impose, levy, and enforce the payment of rates, charges, and fees for any and all permitted activities on the Leased Property and the West Terminal Facilities (“**Terminal Facilities Fees**”).
- (b) The Parties acknowledge and agree that Lessee has the right to set rates, charges, and fees to be imposed on aeronautical users of the Airport for their aeronautical use of the Airport (for the avoidance if doubt, including landing fees and fuel-flowage fees) subject to the Authority’s Grant Assurance obligations to the federal government, applicable Law, and any FBO Agreement. In the event that any rates, charges, or fees set by Lessee pursuant to this Agreement are found to be in violation of the Authority’s Grant Assurance obligations to the federal government or applicable Law, Lessee will be responsible for any financial penalties or reimbursements required thereafter.
- (c) Lessee will consult with the Authority (and any other parties required to be consulted by Law) and reasonably consider its recommendations and comments prior to publication and implementation of any changes to rates and charges after the Effective Date imposed on aeronautical users of the Airport for their aeronautical use of the Airport.
- (d) Lessee will consult with the Authority with respect to, and explain, any changes to rates and charges directly imposed by Lessee on non-aeronautical users of the Leased Property and the Terminal Facilities.

ARTICLE 7. OVERSIGHT

7.1. Meetings

- (a) Lessee will, following the prior written request from the Authority, use Reasonable Efforts to:
 - (i) appear in person or, where a physical presence is not reasonably required or possible, via conference or video call, before and make a presentation to the Authority for the purpose of informing the Authority about the Terminal Facilities and Assets, the Terminal Facilities Services, the Terminal Facilities Fees, and this Agreement in connection with public oversight of the same; and
 - (ii) attend in person or, where a physical presence is not reasonably required or possible, via conference or video call, such other conferences, and meetings with, and make presentations to, Representatives of the Authority, and other interested parties as may otherwise be reasonably required by the Authority on reasonable prior written notice by the Authority.
- (b) On an annual basis, the Authority and Lessee shall jointly hold a community meeting with the alder(s) whose district(s) encompass or abut the Airport. Such meetings shall be open to the public and allow for public comment.

7.2. Reports

7.2.1. Regular Reporting

- (a) Lessee will deliver to the Authority each of the reports listed in Section 1.2.5 of the Terminal Facilities Operating Standards as and when required by the Terminal Facilities Operating Standards. Lessee will provide with each such report a certification that information set forth in each such report will be true, complete, and correct, in all material respects, as of the date thereof.
- (b) The Authority will deliver to Lessee each of the reports listed in Section 1.2.5 of the Airfield Facilities Operating Standards as and when required by the Airfield Facilities Operating Standards. The Authority will provide with each such report a certification that information set forth in each such report will be true, complete, and correct, in all material respects, as of the date thereof.

7.2.2. Incident Management and Notifications

Lessee will:

- (a) provide notice to the Authority as soon as practicable of:
 - (i) all Emergencies, with such notice being given as promptly as possible, and, in any event, not later than twenty-four (24) hours of such Emergency being known to Lessee;

- (ii) any material Release of Hazardous Materials on, under or with respect to the Terminal Facilities and Assets or through the performance of the Terminal Facilities Services;
 - (iii) all other material accidents and incidents occurring on or with respect to the Terminal Facilities and Assets;
 - (iv) to the extent not otherwise notified, all material Claims made by or against Lessee of which Lessee has knowledge, or potential material Claims that Lessee reasonably expects to make against, or to be made against it by, third parties;
 - (v) any aircraft accident that is reportable to the National Transportation Safety Board pursuant to 49 U.S.C § 830.5, to the extent of, and immediately following Lessee's knowledge of such accident; and
 - (vi) if Lessee becomes aware that a Lessee Default has occurred (or with the passage of time will occur) under this Agreement (provided, however, that the failure to give such notice will not constitute an independent Lessee Default); and
- (b) establish a means for collecting complaints and citizen inquiries with respect to Terminal Facility operations and aircraft activities in accordance with the Terminal Facilities Operating Standards and provide access (via a database or other reasonable means) to the Executive Director of:
- (i) such complaints and citizen inquiries; and
 - (ii) any notices delivered by Lessee to airlines or aircraft operators with respect to aircraft noise.

7.2.3. Financial Reports

- (a) Lessee will timely prepare and deliver to the Authority for submission to the FAA, the financial statements pertaining to Lessee's operations at the Airport that the Authority is required to file with the FAA on an annual basis as part of its compliance with the Airport Operating Certificate and FAA requirements.
- (b) At the Authority's request, Lessee will provide, at Lessee's cost and expense, requisite information to enable the Authority to fulfill its financial reporting and audit obligations.

7.3. Authority Information, Audit and Review Rights

7.3.1. General Information Rights

At the reasonable request of the Authority, Lessee will, at Lessee's cost and expense and at all reasonable times during the Term not more frequently than once each Quarter (and at additional times if the Authority reasonably believes that Lessee is in breach of its obligations pursuant to this Agreement) make available or cause to be made available (and, if requested by the Authority, furnish or cause to be furnished) to the Authority any documents and information relating to this Agreement, the Terminal Facilities Services,

the Terminal Facilities or the Leased Property, as may be specified in such request and as will be in the possession or control of Lessee or its Representatives.

7.3.2. Audit and Review Rights

- (a) In addition to the rights set out in Section 7.3.1:
 - (i) once each Year;
 - (ii) at any time as requested by State auditors or any Governmental Authority with jurisdiction; and
 - (iii) when a Lessee Default has actually occurred, or with the passage of time or giving of notice, would occur absent cure;

the Authority may, at reasonable times, upon ten (10) Business Days' prior notice with respect to paragraph (i) and otherwise as soon as reasonably practicable, cause a Representative designated by it to carry out an Audit and Review of the materials and information required to be maintained or delivered by Lessee under this Agreement for the purpose of verifying the information contained therein, to otherwise track operational information, or for any purpose stated in a State audit request, and will be entitled to make copies thereof and to take extracts therefrom, at the Authority's expense but, in any event, subject to Section 7.4.

- (b) Lessee will, at reasonable times, make available or cause to be made available to the Authority or its designated Representative such reasonable information and material as may reasonably be required by the Authority or its designated Representative for purposes of any such Audit and Review and otherwise provide such cooperation as may be reasonably required by the Authority in connection with any such Audit and Review.

7.3.3. Tests

- (a) Without limiting the Authority's rights under Section 3.5.1, the Authority and its Representatives, with the prior written consent of Lessee (which consent shall not be unreasonably withheld, conditioned, or delayed), may be entitled, at the sole cost and expense of the Authority and at any time and from time to time, to perform or cause to be performed any test, study, or investigation ("**Test**") in connection with the Terminal Facilities and Assets or the Work as the Authority may reasonably determine to be necessary in the circumstances. In the event the Authority requests Lessee's consent to a physically invasive Test (e.g., soil or groundwater sampling), the Authority shall submit to Lessee the scope of the work intended to be performed and the contract with the party proposed to be conducting the Test. The Authority will (i) promptly provide Lessee with all reports (including sampling data and laboratory reports) that result from any Test; (ii) promptly provide any correspondence and all other documents, materials and information that the Authority either intends to submit to or receives from any Governmental Authority relating to either the Leased Property or any Test; and (iii) have the party conducting the Test (a) provide Lessee with legal reliance on any final report under the same terms and conditions as the Authority at no extra

cost to Lessee and (b) name Lessee (and its affiliates) as an additional insured and provide certificates of insurance, policies and endorsements proving same. For the avoidance of doubt, the Authority will not submit any documents, materials, or information to any Governmental Authority relating to a Test on the Leased Property without first obtaining Lessee's written consent, except as otherwise required by applicable Law.

- (b) Lessee, at its cost and expense, will, and will cause its Representatives to, furnish the Authority or its Representatives with reasonable assistance in connection with carrying out such Tests.

7.3.4. No Undue Interference

When carrying out any Audit and Review, Test, or Inspection on the Leased Property pursuant to this Agreement, the Authority will use Reasonable Efforts to avoid and minimize any disruption to or impairment of the Work and the generation and collection of Terminal Facilities Fees, or of Lessee's rights or responsibilities under this Agreement.

7.3.5. Response to Fault or Breach

- (a) If an Audit and Review, Test, or Inspection conducted pursuant to this Agreement identifies, or the Authority otherwise becomes aware of, any Lessee breach or Lessee Default, or any risk to the health, safety, or security threat of any person, the environment, the community, or property due to any Lessee Acts and Faults, the Authority may, as applicable and in its discretion:
 - (i) notify Lessee of the issue and request that Lessee undertake rectification and/or remedial work;
 - (ii) require that Lessee develop a remediation plan therefor, consistent with and as required by applicable Law and consistent with Baseline Standard of Practice, to address and remedy such breach or Lessee Default at Lessee's cost and expense;
 - (iii) without altering Lessee's obligations hereunder, specify a reasonable period consistent with applicable Law within which Lessee must carry out any rectification and/or remedial work, or where rectification or remediation work cannot resolve the issue, to take reasonable steps consistent with applicable Law to mitigate such issue and prevent its recurrence; and/or
 - (iv) be reimbursed by Lessee for the reasonable cost and expense of any Audit and Review, Test, or Inspection and oversight actually incurred by the Authority in relation to such issue.
- (b) Without limiting any Lessee Default that may arise due to Lessee's failure to cure any breach or Lessee Default or address any risk described in paragraph (a) above, Lessee will not separately trigger a Lessee Default as a result of its failure to comply with its obligations in paragraph (a) above.

7.4. Confidentiality and Public Records

7.4.1. Unless disclosure is required by applicable Law, the Authority shall keep confidential any Information obtained from Lessee or its Representatives that:

- (a) constitutes (i) trade secrets, which for purposes of this Section 7.4, consists of Information that (A) derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from their disclosure or use, and (B) are the subject of efforts that are reasonable under the circumstances to maintain secrecy, or (ii) commercial or financial information, given in confidence, not required by statute; and
- (b) is designated as confidential by Lessee in writing to the Authority.

7.4.2. If a Connecticut Freedom of Information Act or other request is submitted to the Authority seeking any confidential information, the Authority shall promptly notify Lessee before providing any such confidential information to any third party. Lessee will have the burden, cost and expense of establishing the availability of any exemption from disclosure before the Connecticut Freedom of Information Commission or in any other legal proceeding related to the disclosure of the confidential information, and shall have the right, at its cost and expense, to initiate, prosecute or defend any legal proceeding or to seek to secure any protective order or other relief to prevent disclosure of any confidential information; provided, however, that the Authority may make such disclosures of confidential information (i) as the Authority is required by law, regulation or legal process, in the opinion of the Authority's counsel, to make or (ii) to which Lessee has consented in writing. The Authority is responsible for any violations of the terms of this section committed by any of its representatives. It is understood and agreed that money damages may not be a sufficient remedy for any breach of the provisions hereof and that Lessee may be entitled to seek, from any court of competent jurisdiction, specific performance and injunctive or other equitable relief without proof of actual damages or posting of bond as a remedy for any such breach or threatened breach in addition to all other remedies available at law or equity to Lessee.

7.4.3. This Section 7.4 shall not apply to any Information that:

- (a) is already in the possession of the Authority; provided that such information is not known by the Authority to be bound by another confidentiality agreement with or other obligation of secrecy to Lessee or another party;
- (b) becomes generally available to the public other than as a result of a disclosure by the Authority or their Representatives in violation of the terms of this Section 7.4;
- (c) becomes available to the Authority on a non-confidential basis from a source other than Lessee or its advisors; provided that such source is not known by the Authority to be bound by another confidentiality agreement with or other obligation of secrecy to Lessee or another party; or
- (d) is independently developed by the Authority or its Representatives.

ARTICLE 8. REPRESENTATIONS AND WARRANTIES

8.1. Representations and Warranties

- (a) Lessee represents and warrants to the Authority that each representation and warranty set out in Part A of Schedule 1 is true and correct as of the Effective Date.
- (b) The Authority represents and warrants to Lessee that each representation and warranty set out in Part B of Schedule 1 is true and correct as of the Effective Date.

8.2. Mutual Reliance

The Authority and Lessee each acknowledge that the other Party is relying on the representations and warranties made pursuant to Section 8.1 in entering into this Agreement.

8.3. Non-Waiver

No investigations made by or on behalf of any Party at any time will have the effect of waiving, diminishing the scope of or otherwise affecting any representation or warranty made by the other Party in this Agreement or pursuant to this Agreement. No waiver by a Party of any condition, in whole or in part, will operate as a waiver of any other condition.

8.4. Notice of Untrue, Incorrect or Misleading Representations and Warranties

Notwithstanding that the representations and warranties made by the Parties pursuant to Section 8.1 are made only on the Effective Date, each Party will promptly inform the other Party after it becomes aware that any of its representations and warranties either was false, misleading, or inaccurate in any material respect when made or omitted material information when made.

8.5. Survival

The representations and warranties of each Party made pursuant to Section 8.1 will survive and continue in full force and effect for the benefit of the other Party without time limit and subject to applicable Law.

ARTICLE 9. FINANCE OBLIGATIONS

9.1. Lessee's Obligations

9.1.1. Obligations Generally

- (a) Except where the Authority is expressly obligated to make any payment to Lessee under the terms of this Agreement, Lessee will be responsible for obtaining and repaying any financing for the performance of its obligations under this Agreement, without recourse to the Authority and which financing will comply with all requirements of this Agreement.
- (b) Lessee exclusively bears the risk of any changes in the interest rate, credit spreads, payment provisions, collateral requirements, financing charges, breakage charges, or other terms of any of its financing documents.

9.1.2. Lessee's Obligation for Estoppel Certificates

- (a) Lessee will, promptly upon the request of the Authority, execute and deliver to the Authority, or any party specified by the Authority, standard consents, and estoppel certificates with respect to this Agreement which may be qualified to the best of the knowledge and belief of a designated Representative of Lessee.
- (b) Nothing herein will require Lessee to incur any additional obligations or liabilities or to take any action, give any consent or enter into any document inconsistent with the provisions of this Agreement or applicable Law.

9.2. Authority's Obligations

9.2.1. Authority Funding Obligations

- (a) Upon request of Lessee from time to time during the Term, the Authority will seek approval from the appropriate Governmental Authority for the maximum PFCs and AIP Grants (or any other grants, subsidies, fees, taxes, or other funding which may require approval from the FAA or any other Governmental Authority from time to time) for eligible projects pursued by Lessee pursuant to this Agreement.
- (b) Upon approval by the FAA or other Governmental Authority of grants, subsidies or other funding and receipt from the FAA or other Governmental Authority of such grants, subsidies or other funds, the Authority will either:
 - (i) pay such funds to Lessee for its use to pay eligible costs for eligible projects as described in 9.2.1(a) as deemed eligible by the relevant Governmental Authority (to the extent Lessee has incurred or will incur eligible costs directly); or
 - (ii) apply such funds directly to the payment of eligible costs for eligible projects as deemed eligible by the relevant Governmental Authority, in each case, consistent with applicable Law.
- (c) Without limiting the foregoing and subject to Section 9.2.1(d), the Authority will apply all approved PFCs and AIP Grants (or any other grants, subsidies, fees, taxes, or other funding which may require approval from the FAA or any other

Governmental Authority from time to time) to eligible costs incurred by Lessee or the Authority, as applicable, in connection with:

- (i) the Runway Project;
 - (ii) the West Terminal Project;
 - (iii) the New Terminal Project;
 - (iv) any other capital project pursued by Lessee or the Authority pursuant to this Agreement; and
 - (v) any other lawful purpose.
- (d) Notwithstanding anything to the contrary in Section 9.2.1(c), the Authority shall apply all PFC revenues firstly to PFC-funded projects commenced prior to the Effective Date (PFC #7).
- (e) As a result of any PFC amendment, or any notification from the FAA, should any eligible project (submitted and approved after the Effective Date) commence and have PFC funds disbursed, and later be cancelled, indefinitely postponed, or withdrawn by Lessee, Lessee will be responsible for reimbursing the PFC fund from Lessee funds for any previously disbursed PFC funds, or if the project is amended to reduce permissible PFC revenue expenditures, Lessee will refund any payment above the final amended amount to the PFC account.

9.2.2. Authority Cooperation Obligation

Without limiting Lessee's obligations to comply with Article 17, Authority will, to the extent consistent with applicable Law, at the cost and expense of Lessee, use Reasonable Efforts to cooperate with Lessee with respect to documentation reasonably necessary to obtain, maintain and replace financing for the performance of the obligations of Lessee hereunder, including:

- (a) by reviewing, consenting to and executing documents which substantiate the terms of this Agreement (including any consents or agreements necessary to confirm that the debt evidenced by the relevant financing constitutes Lessee Debt) and making information and material available to any of Lessee's lenders or proposed lenders to facilitate financing to the extent permitted by applicable Law and contractual obligations with third parties and to the extent reasonable in the circumstances; provided that nothing herein will obligate the Authority to consent to service of process, to become subject to any legal process in any jurisdiction other than in the State, or to enter into any agreement not governed by the Laws of the State; and
- (b) if requested to do so by Lessee:
 - (i) using Reasonable Efforts to cause the Authority's independent public accountants to consent to the preparation, use and inclusion of certain financial information regarding the Airport Facilities and Assets in connection with Lessee's public or private offering of securities, as the case may be;

- (ii) executing, acknowledging, and delivering to Lessee, or any of the parties specified by Lessee, standard consents, and estoppel certificates with respect to this Agreement which may be qualified, after reasonable diligence, to the best of the knowledge and belief of a designated Representative of the Authority; and
- (iii) using Reasonable Efforts to cooperate in Lessee's efforts to obtain debt financing assistance through the issuance of bonds or from other financing programs which may be available under the circumstances, including entering into such agreements as may be reasonably necessary to permit the application of PFCs to the repayment of such bonds; provided that nothing in this Section 9.2.2(b) shall obligate the Authority:
 - (A) to advocate or recommend the enactment or adoption of any federal or State legislation or regulations;
 - (B) to make or recommend an allocation of any private activity bond authorization under Section 146 of the U.S. Revenue Code or any similar provision, including authorizations related to other forms of private activity bonds or of tax credit bonds;
 - (C) to cooperate with Lessee in connection with obtaining any such debt financing if the Authority or the City (I) has, or reasonably expects to have, a competing application for such financing, (II) is required to commit to the expenditure or allocation of Authority funds (other than PFC funds) in connection with such request or (III) such finance would have a material adverse effect on the credit rating of the Authority; or
 - (D) take any position with respect to Tax treatment of such financing.

provided that, notwithstanding the foregoing:

- (c) other than entering into such agreements as may be reasonably necessary to permit the application of PFCs to the repayment of bonds or other financing programs pursuant to Section 9.2.2(b)(iii), nothing in Section 9.2.2 will require the Authority to (i) incur any additional obligations or liabilities (unless the Authority will have received indemnification, as determined in the Authority's discretion, with respect thereto) or (ii) to take any action, give any consent or enter into any document inconsistent with the provisions of this Agreement; and
- (d) no form of cooperation by the Authority pursuant to Section 9.2.1 will constitute:
 - (i) a guarantee or endorsement of Lessee Debt or any other obligations issued or incurred by any Person in connection with this Agreement; or
 - (ii) a representation, warranty, or other assurance as to the ability of any Person to perform its obligations with respect to Lessee Debt or with respect to any other obligations of such Person in connection with this Agreement.

ARTICLE 10. COMPLIANCE, MITIGATION, AND COMMUNITY BETTERMENTS

10.1. Compliance with Laws

- (a) Lessee must, at all times and at its own cost and expense, observe and comply, in all material respects, and cause the Terminal Facilities Services to observe and comply, in all material respects, with all applicable Laws now existing or later in effect that are applicable to it or such Terminal Facilities Services, including (i) those Laws expressly enumerated in this Article 10, (ii) all applicable federal Laws, (iii) all applicable State and local Laws (except to the extent contrary to or preempted or superseded by federal Laws or the Authority's Grant Assurance obligations) and (iv) those that may in any manner apply with respect to the performance of Lessee's obligations under this Agreement.
- (b) It is expressly acknowledged and agreed that the obligations of Lessee to comply with the provisions of this Article 10 shall be subject to applicable Law, for so long as such Law remains in effect and only to the extent required thereunder as the same may be amended from time to time.

10.2. General Ordinances Related to Noise

Lessee and the Authority will work with all Airport users with respect to the implementation of a program that limits engine run-ups to designated locations and that schedules engine run-ups and use of ground power units and auxiliary power units only between 7:00 a.m. and 10:00 p.m., except as aircraft operational necessities dictate.

10.3. Non-Discrimination

- (a) Lessee shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Lessee shall carry out applicable requirements of 49 CFR part 26 in the award and administration of USDOT-assisted contracts. Failure by Lessee to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Authority deems appropriate, which may include, but is not limited to:
 - (i) Withholding monthly progress payments;
 - (ii) Assessing sanctions;
 - (iii) Liquidated damages; and/or
 - (iv) Disqualifying the contractor from future bidding as non-responsible.
- (b) Lessee will comply with all applicable State and local Laws regarding non-discrimination, including but not limited to Connecticut General Statutes Sections 4-60a and 4a-60a; and Chapter 12 ½ of the General Ordinances.
- (c) Lessee will include a provision in each subcontract entered into with any Subcontractor for such Subcontractor to comply with each of the State and local laws referenced in this Section 10.3. Lessee will include the non-discrimination requirements in Section 10.3(a) and (b) be included in subcontracts of every tier.

10.4. Labor / Wage Related Provisions

Lessee will comply with all applicable Laws governing employee wages and hours, including, but not limited to the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* and the Connecticut Minimum Wage Act, Conn. Gen. Stat. § 31–58, *et seq.*

10.5. ACDBE/DBE/WMBE Related Provisions

10.5.1. Minority-Owned and Women-Owned Business Enterprises.

- (a) Lessee will use good faith efforts during the Term to obtain the participation of M.B.E./W.B.E. in its Terminal Facilities Services.
- (b) In order to demonstrate this good faith efforts commitment, Lessee will, and will cause all Subcontractors to, complete and submit to the Authority (i) a M.B.E./W.B.E. Solicitation and Commitment Statement, which will detail the efforts of Lessee or the Subcontractor, as applicable, to obtain such participation or (ii) a M.B.E./W.B.E. Commitment Waiver Request, which will detail the reasons why no M.B.E./W.B.E. participation could be obtained.
- (c) Within thirty (30) Days after the Authority’s request, Lessee and the Subcontractor, as applicable, will submit a report detailing the actual levels of M.B.E./W.B.E. participation.
- (d) Lessee will comply with Chapter 12 ¼ of the City of New Haven Code of General Ordinances, subordinate to applicable Law.

10.5.2. Airport Concession Disadvantaged Business Enterprise (“ACDBE”) Program.

The Authority receives federal financial assistance from the USDOT and has established an ACDBE program in accordance with regulations of the USDOT, 49 C.F.R. Part 23. As part of the Terminal Facilities Services, Lessee shall prepare and submit reports and updates thereto in accordance with such ACDBE program and those regulations.

10.5.3. Lessee DEI Program.

Subject to the requirements of applicable federal Law and the Authority’s Grant Assurance obligations, Lessee will work with the Authority with respect to the creation and implementation of a robust diversity, equity and inclusion program for the Authority and all entities operating out of the Airport, including but not limited to car rental companies, news, gift, food and beverage concessionaires, airlines, contractors and fixed base tenants.

10.6. FAA Required Provisions

- (a) Lessee will comply with all of the required federal provisions attached to this Agreement as Schedule 5, as such required federal provisions may be changed by the USDOT or the FAA and apply to the Authority or the Airport from time to time.
- (b) Lessee will include a provision in each subcontract entered into with any Subcontractor for such Subcontractor to comply with each of the federal laws and

State laws referenced in this Section 10.6 and will require such provisions to be included in subcontracts of every tier.

10.7. Non-Collusion / No Conflict of Interest

- (a) By signing this Agreement, Lessee duly swears, affirms and warrants that it is the contracting party, and that it has not, nor has any other member, employee, representative, agent or officer of the firm, company, corporation or partnership represented by it, directly or indirectly, to the best of Lessee's knowledge, entered into or offered to enter into any combination, conspiracy, collusion or agreement to receive or pay any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of this Agreement.
- (b) Lessee certifies and warrants to the Authority that neither it nor, any of its agents, Representatives, or employees who will participate in any way in the performance of Lessee's obligations hereunder has or will have any direct conflict of interest with the Authority during the performance of this Agreement.

10.8. Drug-Free Workplace Certification

- (a) Lessee hereby covenants and agrees to comply with all applicable drug-free workplace requirements.
- (b) Lessee will give written notice to the Authority within ten (10) Days after receiving actual notice that an employee of Lessee has been convicted of a criminal drug violation occurring in Lessee's workplace.

10.9. Compliance with Minimum Standards and Rules and Regulations

Lessee shall observe and comply with (and require its Subcontractors and employees to observe and comply with) the Minimum Standards and Rules and Regulations, as they may be promulgated or amended from time to time during the Term; provided, however, that such Minimum Standards and Rules and Regulations (in each case, including any amendments thereto) shall (a) not be inconsistent or interfere with the reasonable exercise by Lessee of any right or privilege granted hereunder or the ordinary operations of the Airport or its business there, nor be inconsistent with the Law, including rules and regulations of any Governmental Authority, (b) not materially increase Lessee's obligations hereunder, and (c) be applied by the Authority in a not unjustly discriminatory manner.

10.10. Mitigation

10.10.1. Traffic

- (a) Lessee will (i) prepare and submit to the City and the Town a traffic calming and wayfinding plan for streets affected by access to the West Terminal Facilities and the New Terminal Facilities and (ii) invest up to one million five hundred thousand dollars (\$1,500,000) (in addition to any federal grant funds) for such actions.
- (b) Lessee will prepare and submit to the Connecticut Department of Transportation Office of State Traffic Administration plans for the New Terminal Facilities as

required by Law and request review by such agency of any required offsite modifications to the State and local roads affected by the construction of the New Terminal Facilities as required by Law.

10.10.2. Environmental Initiatives

(a) Tidal Gates

- (i) During the Term of this Agreement, the Authority will operate and maintain the existing Morris Creek tide gates.
- (ii) If required by Environmental Laws and/or environmental approvals of a Governmental Authority received in connection with the New Terminal Project, Lessee shall upgrade and/or install remote monitors and real-time water level measuring systems, as necessary.
- (iii) If required by Environmental Laws and/or environmental approvals of a Governmental Authority received in connection with the Runway Project, the Authority shall upgrade and/or install remote monitors and real-time water level measuring systems, as necessary.

(b) Wetlands Mitigation

- (i) Lessee will cause all wetland mitigation coastal area management actions undertaken in connection with the New Terminal Project to comply with appropriate State and federal requirements.
- (ii) The Authority will cause all wetland mitigation coastal area management actions undertaken in connection with the Runway Project to comply with appropriate State and federal requirements.
- (iii) Lessee and the Authority, respectively, commit to no less than a 2:1 ratio for wetlands restoration, enhancement and/or creation (or such alternative restoration methodology or formula approved by the appropriate State or federal Governmental Authority).

(c) Stormwater Management

Lessee will work with the appropriate Governmental Authorities on a stormwater management plan for the Terminal Facilities and will ensure that future Airport capital improvement programs include any updated stormwater modeling and management plans.

10.10.3. Noise Mitigation

- (a) Lessee will seek input from affected communities, including the City and the Town, to develop and implement an appropriate noise insulation and mitigation program in connection with the New Terminal Project and the Runway Project. Lessee will work with the Authority to implement any noise mitigation or abatement measures approved by the FAA in its environmental documentation or Part 150 Noise Compatibility Program within five (5) years of such FAA approval and will fund the local share of implementation and make available three million

dollars (\$3,000,000) for such purposes. Lessee will also make available two hundred fifty thousand (\$250,000) for general aviation noise mitigation and abatement measures (even if such measures are not approved for FAA funding but are not explicitly disapproved by the FAA). Lessee will give particular attention to those noise mitigation measures that focus on general aviation noise and areas under the flight path or those that are higher in elevation such as, for example, areas in the vicinity of Raynham Hill Rd.

- (b) In implementing the noise mitigation discussed in this subsection, Lessee will consult with the Authority, affected communities, and the FAA to determine whether additional noise mitigation measures would be effective, lawful and could be implemented by Lessee. By way of example but not limitation, among the measures that Lessee and the Authority will examine for effectiveness and legality are restrictions on hours of operation; hours in which touch-and-go operations would be prohibited, including limitations on weekends and holidays; hours during which the use of GPUs and APUs would be prohibited; hours during which aircraft maintenance run-ups would be prohibited; setting permissible locations for engine run-ups; limitations on use of reverse thrust limitations on jet aircraft; implementation of voluntary restraint from flying program for certain users; seeking additional investments in noise mitigation from sources other than FAA in noise abatement for affected neighborhoods including expanded residential sound insulation; independent review airport flight pattern requirements (including helicopter operations); revisions, if feasible, of flight tracks to further reduce noise impacts below runway approaches and departures.

10.11. Community Betterment

10.11.1. Environmental

- (a) Stewardship Committee
 - (i) The Authority will establish, appoint, and consult with an environmental stewardship committee (the “ESC”) with the following composition: three (3) residents from the Town, three (3) residents from the City.
 - (ii) The ESC’s primary duties will be to explore and promote sustainability efforts at the Airport.
- (b) Passenger Carbon Offset Program

Lessee and the Authority will study and, to the extent feasible, implement a passenger carbon offset program.

10.11.2. Flight School and Fixed Base Operator Coordination

- (a) Lessee will coordinate with:
 - (i) any flight school operating within the Leased Property or the West Terminal Facilities to seek to minimize any adverse impacts of such flight school’s operations on the surrounding neighborhoods; and

- (ii) any fixed based operator operating within the Leased Property or the West Terminal Facilities in connection with its compliance with applicable FAA regulations governing fixed based operations.
- (b) The Authority will coordinate with the appropriate FAA office with oversight and regulatory responsibility for flight schools to request no less than quarterly inspections by such FAA office of the flight school operations to monitor the existing flight school's compliance with applicable regulations governing flying low-lying aircrafts over congested areas. Lessee shall cooperate with the Authority with respect to its obligations under this Section.

10.11.3. New Haven Works

Lessee shall establish a jobs pipeline in coordination with New Haven Works, Inc., a Connecticut corporation.

10.11.4. Sustainable Airport Development Plan

In connection with the New Terminal Project, Lessee will work with the FAA, and will seek FAA grant funding, to develop comprehensive sustainability planning documents as appropriate for the character of the Airport. Lessee will prepare a sustainability master plan in accordance with FAA guidance and will, to the extent practical, seek to adopt planning policies that are in accordance with the principles set forth in Airport Cooperative Research Program Synthesis 10, "Airport Sustainability Practices" (2008) (or similar publications describing industry best practices). Lessee shall cooperate with the Authority with respect to Lessee's obligations under this Section.

10.11.5. General Ordinances

In performing the Runway Work, the Authority shall not seek any amendments to the General Ordinances which impose height limitations that are more stringent than those required by the FAA in order to fully utilize the extended runway or otherwise obtain funding for the Runway Work.

10.11.6. Total Financial Obligation

- (a) Lessee shall make available five million dollars (\$5,000,000) ("**Total Community Investment**") for Lessee's compliance with respect to Sections 10.10.1 and 10.10.3, together with other Airport adjacent community initiatives described in Section 10.11.6(b), to be developed and implemented by Lessee, all in furtherance of the Community Betterment for New Haven and East Haven dated September 23, 2021.
- (b) Lessee will make available (i) one hundred twenty-five thousand dollars (\$125,000) for small projects within New Haven community, determined in its discretion, following consultation with the City and (ii) one hundred twenty-five thousand dollars (\$125,000) for small projects within the East Haven community, determined in its discretion, following consultation with the Town, such amounts in (i) and (ii) shall be included within the Total Community Investment.

10.12. Additional Obligations

- (a) Lessee agrees to operate the Terminal Facilities in accordance with the obligations of the Authority to the federal government under all applicable Laws and regulations and in compliance with all existing Grant Agreements in effect at the time of execution of the Agreement and any future Grant Agreements. In furtherance of this general covenant, but without limiting its general applicability, Lessee specifically agrees to: operate the Terminal Facilities for the use and benefit of the public; to make available all Terminal Facilities and Terminal Facilities Services on fair and reasonable terms and without unjust discrimination; and to provide space at the Terminal Facilities under the particular circumstances then existing at the Airport, to the extent available, in each case as required by and in compliance with applicable Law and regulations and all existing Grant Agreements in effect at the time of execution of the Agreement and any future Grant Agreements.
- (b) It is specifically understood and agreed that nothing contained in the Agreement shall be construed as authorizing the granting of an exclusive right that would be prohibited by 49 U.S.C. § 40103(e) and wherever the word “exclusive” appears in the Agreement and wherever same would be violative of 49 U.S.C. § 40103(e), same shall be deleted. In addition, for the avoidance of doubt, aprons and taxiways at the Airport, including aprons and taxiways that lie within the Leased Property, shall remain available for public use at all times, and shall be built, used, and maintained in a manner that complies with any eligibility requirements for AIP/PFC funding and with the ACM.
- (c) The Airport site is subject to multiple FAA reviews, designed to assess all proposed obstructions, both temporary and permanent, and their impact to navigable airspace. Construction equipment, such as crane booms, or permanent installations of material or equipment at an elevation higher than specified heights or exceeding imaginary surfaces, must be submitted to the FAA, using FAA Form 7460-1 or 7480-1, Notice of Proposed Construction at least forty five (45) days before the start of the proposed construction or alteration, subject to certain exceptions. The Authority reserves the right to preclude Lessee from erecting, or permitting to be erected, any building or alteration in the event that the FAA issues a final Determination of Hazard that the proposed structure would have or has a substantial adverse effect on the safe and efficient use of navigable airspace.
- (d) To the extent that the Law permits only the Authority to act as FAA sponsor in connection with the grant of federal funds for Airport development, Lessee shall participate in any such application for such funds through the Authority to the extent permitted.
- (e) It is understood that the FAA will at all times look to the Authority for affecting such actions as may be required to conform to the Authority’s compliance obligations. The Authority hereby reserves such rights and authority so as to ensure that the Airport will be operated and maintained in accordance with pertinent federal statutes, regulations, and covenants contained in Authority’s

contractual assurances entered into, or hereinafter entered into, in Grant Agreements between Authority and FAA.

- (f) The parties acknowledge that to the extent required by applicable Law, the approval and / or formal release of the FAA will be necessary for any construction on those portions of the Leased Property and/or Airfield Facilities dedicated exclusively for aeronautical purposes.
- (g) In the event of the sublease of any portion of the Leased Property, within the Leased Property designated for aeronautical purposes as set forth in the pertinent Airport Layout Plan, as approved by the FAA, such sublease shall contain a provision stating that all covenants, promises, conditions, and obligations contained in the Agreement or the Grant Assurances pursuant to any grant by the FAA or covenants running with the land and shall bind the sublessee, and its respective heirs, legal representatives, successors, and assigns. In the event of a sublease or assignment of the entire Leased Property, or of the Leased Property dedicated to aeronautical activities, any such sublessee or assignee shall assume all obligations to operate and use the Airport as a public Airport in accordance with all applicable Laws, regulations, and agreements entered into between Authority and the FAA, as described in the Agreement and as amplified by this Agreement. Thus, Authority hereby reserves such rights and authority as to any such sublessee so as to ensure that the Airport will be operated and maintained in accordance with pertinent federal statutes, regulations, and covenants contained in Authority's contractual assurances entered into, or hereinafter entered into, in Grant Agreements between Authority and FAA.
- (h) The parties acknowledge and agree to comply with 49 U.S.C. 40117 § (f), with reference to limitations on contracts, leases, and use agreements in connection with the imposition and use of passenger facility charges.

ARTICLE 11. INDEMNIFICATION

11.1. Authority Indemnity

11.1.1. Indemnity

Subject to Sections 11.3, the Authority will, to the fullest extent permitted by Law, release, protect, defend, indemnify, reimburse and hold harmless Lessee and each of its Representatives (collectively, the “**Lessee Indemnified Parties**” or, as applicable as the context requires, the “**Indemnified Party**”) from and against any and all Claims and/or Losses arising from, or as a consequence of, any Excluded Liability. With respect to its obligations set forth herein in this Section 11.1, the Authority shall be referred to as the “**Indemnifying Party.**”

11.1.2. Relationship to Insurance

For certainty, insurance coverage obtained and maintained, or caused to be obtained and maintained, by the Authority may support but will not limit the Authority’s indemnification and defense obligations under this Agreement.

11.2. Lessee Indemnity

11.2.1. Indemnity

Subject to Section 11.3, Lessee will, to the fullest extent permitted by Law, release, protect, defend, indemnify, reimburse and hold harmless the Authority, the City, and each of their Representatives (collectively, the “**Authority Indemnified Parties**” or, as applicable as the context requires, the “**Indemnified Party**”) from and against any and all Claims and/or Losses arising from, or as a consequence of, Lessee’s performance or non-performance of the Work, including performance or non-performance of any of Lessee’s obligations pursuant to this Agreement or breach by Lessee of this Agreement, including any such Claims and/or Losses that are in respect of:

- (a) death or personal injury;
- (b) any Assumed Liability;
- (c) any Tax or recording charge attributable to any Transfer of Lessee Interest or any part thereof by Lessee;
- (d) the provisions of Section 2.3 or any other provision with respect to Tax treatment, including, with respect to the loss of the Authority’s tax-exempt status or imposition of any Tax on the Authority;
- (e) any failure by Lessee, its Affiliates, or their respective Representatives to comply with, observe or perform any of the covenants, obligations, agreements, terms, or conditions in this Agreement;
- (f) loss of or damage to any Authority Indemnified Party’s property (whether personal or real), equipment or facilities, regardless of whether such property, equipment or facilities are owned, leased, or otherwise held by such Authority Indemnified Party, including loss of use thereof;

- (g) any violation of Law, including any federal or State securities Law, Grant Assurances, or similar, or Environmental Laws, by Lessee; or
- (h) any breach by Lessee of its representations or warranties set forth in Part A of Schedule 1,

and with respect to its obligations set forth herein in this Section 11.2, Lessee shall be referred to as the “**Indemnifying Party**.”

11.2.2. Relationship to Insurance

For certainty, the insurance coverage Lessee is required to or does obtain and maintain, or cause to be obtained and maintained, pursuant to this Agreement may support but will not limit Lessee’s indemnification and defense obligations under this Agreement.

11.3. Exclusions and Limitations

11.3.1. Exclusions from Authority Indemnity

The Authority’s indemnification obligations pursuant to Section 11.1 will not extend to any Loss or Claim of a Lessee Indemnified Party to the extent (and only to the extent) that such Loss or Claim:

- (a) was, with respect to a Loss only, already the subject of an indemnity claim pursuant to Section 11.1 from another Lessee Indemnified Party; or
- (b) was directly caused by:
 - (i) any Force Majeure Event;
 - (ii) any Assumed Liability;
 - (iii) the fault, fraud, willful misconduct, criminal conduct, recklessness, bad faith, or negligence of such Lessee Indemnified Party;
 - (iv) such Lessee Indemnified Party’s violation of any Law, including Environmental Laws; or
 - (v) performance or non-performance by Lessee of any of its material obligations pursuant to this Agreement.

11.3.2. Exclusions from Lessee Indemnity

Lessee’s indemnification obligations pursuant to Section 11.2 will not extend to any Loss or Claim of an Authority Indemnified Party to the extent (and only to the extent) that such Loss or Claim:

- (a) was, with respect to a Loss only, already the subject of an indemnity claim pursuant to Section 11.2 from another Authority Indemnified Party; or
- (b) was directly caused by:
 - (i) a Compensation Event or Delay Event;
 - (ii) any Excluded Liability;

- (iii) the fault, fraud, willful misconduct, criminal conduct, recklessness, bad faith or negligence of such Authority Indemnified Party;
- (iv) such Authority Indemnified Party's violation of any Law, including Environmental Laws; or
- (v) performance or non-performance by the Authority of any of its material obligations pursuant to this Agreement.

11.3.3. Limitation on Certain Lessee Claims

- (a) If Lessee suffers any Loss or Claim for which it seeks indemnification from the Authority pursuant to the Authority's indemnity under Section 11.1, which Loss or Claim is caused (in whole or in part) by (i) a breach by the Manager of its obligations under the Management Contract or (ii) the negligence or willful misconduct of the Manager, the Authority's liability to Lessee for such Loss or Claim pursuant to the Authority's indemnity under Section 11.1 will be limited (in relevant part) to the amount (if any) recovered by the Authority from the Manager for such Loss or Claim, less the Authority's reasonable cost and expense (including reasonable attorneys' and professional fees and expenses) of pursuing such claim against the Manager.

11.4. Notice and Defense of Claims

11.4.1. Notice of Claims and Tender of Defense

If the Authority or Lessee receives notice of a Claim or Loss or otherwise has actual knowledge of a Claim or Loss that it believes is within the scope of Section 11.1 or 11.2, as applicable, Authority or Lessee, as the Indemnified Party, will (a) provide the Indemnifying Party with reasonably prompt notice and details regarding such Claim or Loss and (b) tender to the Indemnifying Party their defense of any such Claim or Loss and use reasonable efforts to cause each other Indemnified Party to tender to the Indemnifying Party such Indemnified Party's defense of any such Claim or Loss.

11.4.2. Tender of Defense

- (a) Subject to Section 11.4.4, if and to the extent defense of any Claim or Loss that is subject to the Authority's indemnity pursuant to Section 11.1 or Lessee's indemnity pursuant to Section 11.2 is tendered to the Indemnifying Party, then within thirty (30) Days after the receipt of such tender, the Indemnifying Party will notify the Indemnified Party whether it has tendered the matter to an insurer (if applicable).
- (b) Subject to Section 11.4.4, if the insurer under any insurance policy accepts any tender of defense with respect to any Claim or Loss that is subject to the Authority's indemnity pursuant to Section 11.1 or Lessee's indemnity pursuant to Section 11.2 or that is otherwise subject to such policy within the applicable time period required by Law:

- (i) the Parties will use Reasonable Efforts to cooperate in the defense proffered by such insurer, including communication and coordination of such insurer's defense strategy; and
 - (ii) for purposes of this Agreement, each applicable Indemnified Party will be deemed to be an insured party pursuant to the relevant insurance policy.
- (c) If any Claim or Loss is not tendered to an insurer, or if an insurer has rejected the tender, and with respect to the defense of any Claim or Loss that is subject to the Authority's indemnity pursuant to Section 11.1 or Lessee's indemnity pursuant to Section 11.2, Lessee or the Authority, as applicable, will promptly notify the Indemnified Party whether it:
- (i) accepts tender of defense and confirms the Claim or Loss is subject to full indemnification pursuant to Section 11.1 or Section 11.2, as applicable, without any reservation of rights to deny or disclaim full indemnification;
 - (ii) accepts tender of defense with a reservation of rights, in whole or in part;
 - (iii) is incapable of accepting such tender of defense due to an Indemnified Party's exercise of rights pursuant to Section 11.4.4, or otherwise has not been tendered defense of any relevant Claim or Loss by any other Indemnified Party pursuant to Section 11.4.1; or
 - (iv) rejects the tender of defense, in which circumstance the Indemnified Party will be entitled to select its own counsel and control the defense of such Claim or Loss, including the right to settle the Claim or Loss without Lessee's or the Authority's consent, as applicable:
 - (A) following consultation by the Authority or Lessee, as applicable, with the Indemnified Party; and
 - (B) without prejudice to such Indemnified Party's right to be indemnified by Lessee or the Authority, as applicable.

11.4.3. Acceptance of Defense

- (a) If Lessee or the Authority, as applicable, accepts tender of defense pursuant to Section 11.4.2(c)(i) or Section 11.4.2(c)(ii), then, subject to Section 11.4.4, Lessee or the Authority, as applicable, will have the right to select legal counsel for the Indemnified Party with the prior written consent of such Indemnified Party; provided that Lessee or the Authority, as applicable, will be responsible for all costs and expenses related to such defense and each such counsel.
- (b) Notwithstanding any Lessee or Authority, as applicable, acceptance of tender of defense pursuant to Section 11.4.2(c)(i) or Section 11.4.2(c)(ii), Lessee and the Authority acknowledge and agree that each Indemnified Party retains all rights with regard to settlement of any Claim or Loss that is subject to Lessee's indemnity pursuant to Section 11.2 and the Authority's indemnity pursuant to Section 11.1, and Lessee or the Authority, as applicable, (or counsel appointed by Lessee (or its insurer) or the Authority) will seek the consent of such Indemnified

Party (such consent not to be unreasonably withheld, conditioned or delayed) of any settlement terms and conditions.

- (c) Neither Lessee nor the Authority will be liable for any settlement by an affected Indemnified Party of a Claim or Loss that is subject to Lessee's indemnity pursuant to Section 11.2 or the Authority's indemnity pursuant to Section 11.1, except:
 - (i) where Lessee (or its insurer) or the Authority, as applicable, has given its prior written consent to such settlement, which consent will not be unreasonably withheld, conditioned or delayed;
 - (ii) with respect to any settlement made pursuant to Section 11.4.2(c)(iv); or
 - (iii) where the settlement is approved by a court of competent jurisdiction, such court approval has become final and binding and such settlement is made without any liability to, and does not require any action on the part of, Lessee or Authority, as applicable.

11.4.4. Assistance for Third Party Claims

- (a) Lessee, the Authority, any other Lessee Indemnified Party and any other Authority Indemnified Party will use all Reasonable Efforts to make available to the Party which is undertaking and controlling the defense of any Third Party Claim (the "**Defending Party**"):
 - (i) those employees whose assistance, testimony and presence is necessary to assist the Defending Party in evaluating and in defending any Third Party Claim; and
 - (ii) all documents, records and other materials in the possession of such Party reasonably required by the Defending Party for its use in defending any Third Party Claim, and will otherwise cooperate with the Defending Party; provided that furnishing these materials is consistent with the Connecticut Freedom of Information Act, to the extent applicable, and any applicable pre-existing non-disclosure agreements or other confidentiality obligations.
- (b) Lessee will be responsible for all reasonable expenses associated with making such documents, records and materials available and for all expenses of any employees made available by the Authority Indemnified Party to Lessee hereunder, which expense will not exceed the actual cost to the Authority Indemnified Party associated with such employees. The Authority will be responsible for all reasonable expenses associated with making such documents, records and materials available and for all expenses of any employees made available by Lessee Indemnified Party to the Authority hereunder, which expense will not exceed the actual cost to Lessee Indemnified Party associated with such employees.

11.5. Survival

This Article 11 will remain in full force and effect in all circumstances and will not be terminated by any breach (fundamental, negligent, or otherwise) by any Party of its representations, warranties or covenants hereunder or by any termination or rescission of this Agreement by any Party.

11.6. Agency for Representatives

Each of the Authority and Lessee agrees that it accepts each indemnity under the terms of this Agreement in favor of any of its Representatives, as applicable, as agent and trustee of such Representative, as applicable, and agrees that each of the Authority and Lessee may enforce any such indemnity in favor of its Representatives, as applicable, on behalf of such Representative.

ARTICLE 12. INSURANCE

12.1. Insurance coverage required

12.1.1. Required Coverage

Lessee shall provide and maintain at Lessee's own expense, or cause to be maintained, during the Term and during any time period following expiration if Lessee is required to return and perform any additional work, the insurance coverages and requirements specified below, insuring the Leased Property, Terminal Facilities and Assets, and all Terminal Facilities Services (the "**Required Coverages**"):

- (a) Workers' Compensation and Employer's Liability. Lessee shall provide or shall cause to be provided Workers' Compensation Insurance, as prescribed by applicable Law, covering all employees who agree to provide a service under this Agreement and Employer's Liability Insurance coverage with limits of not less than \$1,000,000 each accident or illness or disease.
- (b) Commercial General Liability (Primary and Excess). Lessee shall provide or shall cause to be provided commercial general liability insurance or equivalent with limits of not less than \$100,000,000 per occurrence for bodily injury (including death) and property damage liability. Coverage shall include the following: all premises and operations, products liability, host liquor liability, completed operations, explosion, collapse, underground, separation of insureds, defense, independent contractors, war liability, excess auto liability, hanger keepers liability, contingent control tower liability, baggage liability, cargo liability, non-owned aircraft liability, mobile equipment, contractual liability, personal injury and advertising injury with limits of not less than \$100,000,000 per occurrence and aggregate, incidental medical malpractice with limits of not less than \$50,000,000 per occurrence and aggregate and excess employers liability with limits of than \$25,000,000 per occurrence and aggregate. The Authority is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Agreement.
- (c) Automobile Liability (Primary). Lessee shall provide or cause to be provided automobile liability insurance with a combined single limit of not less than \$5,000,000 (air-side) and \$1,000,000 (land-side) per occurrence for bodily injury, death, and property damage for any owned, non-owned or hired autos/motor vehicles arising from the ownership, maintenance or use of such vehicles. The Authority is to be named as an additional insured on a primary, non-contributory basis. Lessee's auto liability policies shall cover "any auto" ("symbol 1"). For Lessee or any Subcontractor that will be involved in any way with the transportation of Hazardous Materials using a covered vehicle(s), pollution liability coverage at least as broad as that provided under the ISO pollution liability-broadened coverage for covered autos endorsement (CA 99 48) shall be provided and the automobile liability insurance policies shall be endorsed to include Motor Carrier Act Endorsement-Hazardous Materials clean up (MCS 90).

- (d) Builder's Risk. When Lessee undertakes any construction, whether on the Leased Property or Authority Property, in transit, or at an off-site location, including improvements and betterments pursuant to this Agreement, Lessee shall provide or cause to be provided, "all risks" builder's risk insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the applicable Airport Facilities and Assets insuring against all risks including the following perils: fire, collapse, lightening, windstorm, tornado, hurricane, flood, hail, explosion, riot, vandalism and malicious mischief, civil commotion, aircraft, vehicle impact, terrorism (both domestic and foreign acts of terrorism), smoke, earthquakes, and such other risk as are usual to a similarly situated project. Sublimits and aggregated sublimits for perils including, floods and earthquakes, are permitted in amounts reasonably acceptable to the Authority. Coverage shall include the following: right to partial occupancy, boiler and machinery, earth movement, flood, water (including overflow), leakage, sewer backup, utility services, demolition/debris removal and increased cost of construction, testing, mechanical-electrical breakdown, resulting damage arising out of faulty or defective workmanship or material, business income (where an exposure exists and where the Authority has an insurable interest in such exposure), transit coverage (including ocean marine coverage unless insured by the supplier or through a separate marine cargo policy) with sublimits to insure the full replacement value of any key equipment item, coverage with sublimits sufficient to insure the full replacement value of any property or equipment stored either on or off the Airport, prevention of access (with a minimum of eight weeks), ingress/egress (with a minimum of eight weeks), valuable papers and other consequential loss, when applicable. Such insurance shall also provide for interim payments in the event of any loss. There shall be no coinsurance penalty provision in any such policy. The Authority is to be named as an additional insured and, subject to the claims of any Secured Party, as a loss payee with respect to the property proceeds.
- (e) Property. Lessee shall obtain or cause to be obtained all risk property insurance at full replacement cost (no margin clause is to be included), covering all loss, damage or destruction to the Terminal Facilities, including improvements and betterments. Occurrence limit of liability endorsement or equivalent, if included on property policy, must be amended to delete any limitation to stated property values. Subject to availability on commercially reasonable terms, coverage may not be limited to the statement of values provided to the insurance company. Coverage shall include the following: (i) such risks as may now or in the future be included under an all risk policy form of real property insurance (subject to standard policy terms, conditions and exclusions) as may now or in the future be prescribed by the State as of the effective date of the policy under which such insurance is provided and (ii) fire, collapse, lightening, windstorm, tornado, hurricane, flood, hail, explosion, riot, vandalism and malicious mischief, civil commotion, aircraft, vehicle impact, terrorism (both domestic and foreign acts of terrorism), smoke, earthquakes, and such other risk as are usual to a similarly situated project. Sublimits and aggregated sublimits for perils including flood and

earthquake are permitted in amounts reasonably acceptable to the Authority. Coverage shall also include business income, which shall be subject to a limit that is separate from and in addition to the limit of full replacement cost for property. Notwithstanding this requirement the Authority may at its discretion during the term of the Agreement allow the use of a blanket per occurrence loss limit for a combined property damage and business interruption loss for certain perils subject to supporting loss analysis reasonably acceptable to the Authority. In addition, Lessee shall, during the Term, procure at its own expense comprehensive fire, theft and property damage all risk insurance for, and keep insured to the extent of the full replacement value thereof (if replaceable; otherwise, the value thereof), all personal property of the Authority in the care, custody and control of Lessee, including materials, fixtures/contents, equipment, tools, supplies and artwork. Lessee shall be responsible for all loss or damage to personal property (including materials, fixtures/contents, equipment, tools, supplies and artwork) of Lessee unless caused by the Authority or its Representatives. Subject to the claims of any Secured Party, the Authority and the Depository are to be named as loss payees. Lessee shall be responsible for any loss or damage to Leased Property and Terminal Facilities and Assets at full replacement cost.

(f) Professional Liability.

- (i) When any architects, LEPs, engineers, project managers, construction managers or other professional consultants perform work in connection with this Agreement, professional liability insurance covering acts, errors or omissions shall be maintained with limits of not less than \$5,000,000; provided, however, that design and construction architects and engineers performing work with respect to any construction project undertaken by Lessee pursuant to this Agreement must maintain limits of not less than the completion cost of the construction project undertaken. Notwithstanding the foregoing, Lessee, in its reasonable discretion, may require lower limits of professional liability insurance from lower-tier Subcontractors (e.g., smaller design firms and DBE design firms). When policies are renewed or replaced, the policy retroactive date shall coincide with, or precede, start of work in connection with this Agreement. A claims-made policy that is not renewed or replaced shall have an extended reporting period of two (2) years.
- (ii) Coverage shall apply specifically to all professional activities (design, engineering, quality management, inspection, surveying, and related professional services in respect of the Work) performed under this Agreement. The policy(ies) shall have a retroactive date consistent with the inception of design and/or project/construction management activities, and no later than the Effective Date. Lessee agrees to maintain this required coverage for a period of no less than five (5) years after Substantial Completion (or equivalent) with respect to the relevant project or to purchase an extended reporting period of no less than five (5) years after Substantial Completion (or equivalent) with respect to the relevant

project. Lessee shall require the design professional Subcontractors to agree to maintain this coverage for a period of no less than five (5) years after Substantial Completion (or equivalent) with respect to the relevant project or to purchase an extended reporting period of no less than five (5) years after Substantial Completion (or equivalent) with respect to the relevant project. If Lessee arranges a project-specific policy to meet this requirement, that policy shall provide for a total period of no less than ten (10) years, including policy period and extended reporting period.

- (g) Pollution Legal Liability. To the extent commercially available and on commercially reasonable terms, pollution legal liability insurance shall be provided or caused to be provided covering third party bodily injury, property damage and other losses caused by pollution occurrences during the Term with limits of not less than \$5,000,000 per occurrence and in the aggregate. Coverage shall include first-party environmental cleanup, remediation, transportation and disposal and on- and off-site third-party claims for cleanup, bodily injury, and property damage. The policy shall be acceptable to the Authority in its reasonable discretion (which acceptance shall not be unreasonably withheld, conditioned or delayed). When policies are renewed or replaced, the policy retroactive date shall, if practicable, coincide with start of the Work in connection with this Agreement. A claims-made policy which is not renewed or replaced shall have an extended reporting period of two (2) years. The Authority is to be named as an additional insured.
- (h) Owners' Contractors Protective Liability Insurance. When Lessee undertakes any construction, whether on the Leased Property or Authority Property, in transit, or at an off-site location, including improvements and betterments pursuant to this Agreement, Lessee shall obtain owners' contractors protective liability insurance or equivalent coverage with a limit of not less than \$2,000,000 per occurrence. Such insurance shall include coverage against any negligent acts or omissions of independent contractors or Subcontractors of Lessee, whether resulting in bodily injury or injury to property of third parties and contractor's pollution legal liability coverage.
- (i) Boiler & Machinery Insurance. Lessee shall maintain comprehensive boiler and machinery coverage or equipment breakdown coverage for completed structures housing pressure vessels, machinery, equipment and electrical systems with a total replacement value of \$25,000 or more. Such insurance shall (i) include a limit at least equal to the total replacement cost of the equipment, plus ten percent (10%); (ii) include business interruption insurance in an amount reasonably acceptable to the Authority; (iii) include the Authority as an insured and (iv) include law and ordinance coverage.
- (j) Fiduciary Liability. Lessee shall maintain fiduciary liability in a limit of not less than \$1,000,000 per occurrence. Any retroactive date on the policy shall be on or before the Effective Date. Policies written on a claims-made basis shall remain in

force for at least three years beyond the date this Agreement terminates, through extended coverage, purchase of a tail or otherwise.

- (k) Aircraft Liability. If and when aircraft are used in the performance of the Work, aircraft liability insurance (including owned and non-owned aircraft) which coverage will be with limits of not less than \$25,000,000 per occurrence and \$25,000,000 in the aggregate. Where the only aircraft used in the performance of the Work are unmanned aerial vehicle(s), at the option of Lessee, such coverage may instead be provided under the commercial general liability insurance policy.
- (l) A cyber policy, which shall include:
 - (i) first party coverage for direct loss and out of pocket expenses incurred by Lessee for business income/extra expense resulting from an interruption or suspension of computer systems due to a network security breach including other system failures; data recovery for costs to restore, recreate, or recollect data and other intangible assets that are corrupted or destroyed; data breach response and crisis management for costs resulting from a network security or privacy breach including forensics, notification, credit monitoring, call center, and public relations; and cyber extortion and ransomware;
 - (ii) third party coverage for defense and liability incurred due to alleged harm caused to others by Lessee and/or Subcontractors including privacy liability; security liability; privacy regulatory defense, awards, penalties and fines; media liability; and technology products and services errors and omissions, if not otherwise provided in the professional liability policy; and
 - (iii) coverage for acts by foreign sponsored governments, organizations and/or entities.

12.2. Additional requirements

12.2.1. Evidence of Coverage

Lessee shall deliver or cause to be delivered to the Tweed-New Haven Airport Authority, 155 Burr St, New Haven, CT 06512, original certificates of insurance or equivalent evidencing the Required Coverages on or before the Effective Date, and shall provide or cause to be provided, renewal certificates of insurance, or such similar evidence, if such coverages have an expiration or renewal date occurring during the Term. The receipt of any certificate does not constitute agreement by the Authority that the insurance requirements in this Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements of this Agreement. The failure of the Authority to obtain certificates or other insurance evidence from Lessee shall not be deemed to be a waiver by the Authority. Lessee shall advise all insurers of provisions of this Agreement regarding insurance. Non-conforming insurance shall not relieve Lessee of the obligation to provide insurance as specified herein. Except as otherwise expressly set forth herein, each Required Coverage may be reviewed by the Authority for compliance with the terms of this Agreement. Each Required Coverage

shall be signed by the insurer responsible for the risks insured against or by the insurer's authorized representative. All Required Coverages shall be placed with insurers reasonably acceptable to the Authority; provided that all such insurers, at a minimum, shall have a rating of A(VII) or better by A.M. Best Company or an equivalent rating by another Rating Agency (unless the Authority consents to waive this requirement).

12.2.2. Notice of Cancellation, Material Change or Violation.

All Required Coverages shall provide for ninety (90) days' (or in the case of cancellation for non-payment of premiums, ten (10) days') prior notice to be given to the Authority by the insurer in the event coverage is substantially changed, canceled or non-renewed. The Authority shall be permitted (but not obligated) to pay any delinquent premiums before the cancellation date specified by the insurer in any notice of cancellation for non-payment of premium in order to maintain such coverage in full force and effect and Lessee shall reimburse the Authority for any delinquent premiums paid by the Authority on demand without any days of grace and without prejudice to any other rights and remedies of the Authority hereunder. Lessee shall not cancel, terminate, materially change to the detriment of the Authority or replace any Required Coverage.

12.2.3. Deductibles.

All Required Coverages may contain deductibles or self-insured retentions not to exceed amounts reasonably acceptable to the Authority. Any and all deductibles or self-insured retentions on Required Coverages shall be borne by Lessee or its Subcontractors.

12.2.4. Inflation Adjustment.

The limits of liability required by this Article 12 shall be Adjusted for Inflation each succeeding fifth anniversary of the Effective Date. After limits of liability have been applied from time to time, Lessee's obligation shall be to take out and maintain, or to cause the obtaining and maintenance of, insurance pursuant to this Article 12 where the limits are as close to and in excess of the indexed values as is reasonably obtainable in the insurance market, provided that such obligation shall only apply to newly placed or renewed insurance policies and not to the insurance policies in effect at such time as the indexation applies.

12.2.5. Waiver of Subrogation by Insurers.

Each of the Required Coverages shall include a waiver by the insurer of its rights of subrogation against the Authority, its employees, elected officials, agents or representatives for policies where waiver of subrogation is allowable.

12.2.6. The Authority's Right to Insure.

If Lessee fails to obtain and maintain or cause to be obtained and maintained the insurance required by this Article 12, the Authority shall have the right (without any obligation to do so), upon two (2) Days' notice to Lessee in a non-emergency situation or forthwith in an emergency situation and without assuming any obligation in connection therewith, to effect such insurance and all costs and expenses of the Authority in connection therewith shall be payable by Lessee to the Authority on demand without any days of grace and without prejudice to any other rights and remedies of the Authority

hereunder. Such insurance taken out by the Authority shall not relieve Lessee of its obligations to insure hereunder and the Authority shall not be liable for any loss or damage suffered by Lessee in connection therewith.

12.2.7. No Limitation as to Lessee Liabilities.

Lessee expressly understands and agrees that any coverages and limits furnished by Lessee shall in no way limit Lessee's liabilities and responsibilities specified within this Agreement or by applicable Law.

12.2.8. No Contribution by the Authority.

Lessee expressly understands and agrees that any insurance or self-insurance programs maintained by the Authority shall not contribute with insurance provided by Lessee under this Agreement.

12.2.9. Insurance Not Limited by Indemnification.

The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of Law.

12.2.10. Insurance Requirements of Subcontractors.

Lessee shall require in each contract with any Subcontractor (where such Subcontractor is not covered by the Required Coverages) that such Subcontractor obtain coverages reasonably comparable to the Required Coverages that are reasonably appropriate in their limits and other terms and conditions to the nature of the contract with the Subcontractor. Such coverages shall insure the interests of the Authority, its employees, elected officials, agents and representatives, Lessee and any other Subcontractors in respect of the applicable work being performed and shall be subject to the same (or comparable) coverage and administrative requirements as are imposed on Lessee pursuant to this Agreement. When requested to do so by the Authority, Lessee shall provide or cause to be provided to the Authority certificates of insurance with respect to such insurance coverages or such other evidence of insurance, reasonably acceptable in form and content to the Authority. The provisions of this paragraph shall not apply to any airline that is a party to a Use Agreement with Lessee, the obligations of which to obtain and maintain insurance shall be governed solely by the Use Agreement, or such subsequent amendment, modification or replacement thereof.

12.2.11. Joint Venture and Limited Liability Company Policies.

If Lessee or any Subcontractor required to obtain an insurance policy hereunder is a joint venture or limited liability company, all insurance policies required to be obtained by Lessee or such Subcontractor shall specifically name the joint venture or limited liability company as a named insured.

12.2.12. Other Insurance Obtained by Lessee.

If Lessee or Subcontractors desire coverages in addition to the Required Coverages, Lessee and each Subcontractor shall be responsible for the acquisition and cost of such additional coverages.

12.2.13. Cooperation.

The Authority and Lessee shall do all acts, matters and things as may be reasonably necessary or required to expedite the adjustment of any loss or damage covered by insurance hereunder so as to expedite the release and dedication of proceeds of such insurance in the manner and for the purposes herein contemplated.

12.2.14. Authority's Right to Modify.

The Authority shall have the right to modify, delete, alter or change insurance coverage requirements set forth in this Article 12 to reflect known material changes in insurance coverages for Comparable Airport Facilities or known material changes in insurance exposures associated with the Leased Property and/or Terminal Facilities and Lessee shall promptly comply therewith and shall not have any obligation to procure or maintain at its cost any additional insurance unless an independent insurance consultant shall have delivered to Lessee its opinion to the effect that the additional coverages are required pursuant to the above-stated criteria and such additional coverages are commercially available at reasonable rates. Any change required to be made under this Section 12.2.14 to an existing policy must take effect during the next policy renewal so long as the change is determined at least forty-five (45) Days prior to the policy's expiration date. Any change required to be made under this Section 12.2.14 that creates an entirely new requirement must ultimately be in place no later than sixty (60) Days after the change was determined. Notwithstanding anything to the contrary herein, if any insurance (including the limits or deductibles thereof) required to be maintained under this Agreement shall not be available at commercially reasonable rates, Lessee shall have the right to request that the Authority consent to waive such requirement, which consent shall not be unreasonably withheld, conditioned or delayed. Any such waiver shall be effective only so long as such insurance shall not be available at commercially reasonable rates; provided that during the period of such waiver, Lessee maintains the maximum amount of such insurance otherwise available at commercially reasonable rates.

12.3. Damage and Destruction

12.3.1. Obligations of Lessee.

If all or any part of the Terminal Facilities shall be destroyed or damaged during the Term in whole or in part by fire or other casualty of any kind or nature (including any casualty for which insurance was not obtained or obtainable), ordinary or extraordinary, foreseen or unforeseen, Lessee shall: (i) give the Authority notice thereof promptly after Lessee receives actual notice of such casualty; (ii) at its sole cost and expense, whether or not insurance proceeds, if any, shall be equal to the estimated cost of repairs, alterations, restorations, replacement and rebuilding (the "**Casualty Cost**"), proceed diligently to Restore the same; and (iii) deposit all insurance proceeds received by Lessee in connection with any Restoration with a Depository; provided, however, that if at any time the Casualty Cost exceeds the net insurance proceeds actually deposited with the Depository, then Lessee shall also deposit with the Depository such cash as is sufficient to cover the difference between the Casualty Cost and the net insurance proceeds (such net insurance proceeds and such additional cash, together with any interest earned

thereon, the “**Restoration Funds**”); provided further that the procedures of this clause (iii) of this Section 12.3.1 shall only apply to casualty events in which the cost of Restoration exceeds one million dollars (\$1,000,000), as Adjusted for Inflation.

12.3.2. Rights of Authority.

If (i) Lessee shall fail or neglect to commence the diligent Restoration of the Terminal Facilities or the portion thereof so damaged or destroyed, (ii) having so commenced such Restoration, Lessee shall fail to diligently complete the same in accordance with the terms of this Agreement or (iii) prior to the completion of any such Restoration by Lessee, this Agreement shall expire or be terminated in accordance with the terms of this Agreement, the Authority may, but shall not be required to, complete such Restoration at Lessee’s expense and shall be entitled to be paid out of the Restoration Funds for the relevant Restoration costs incurred by the Authority. In any case where this Agreement shall expire or be terminated prior to the completion of the Restoration, Lessee shall (A) account to the Authority for all amounts spent in connection with any Restoration, (B) immediately pay over or cause the Depository to pay over to the Authority the remainder, if any, of the Restoration Funds received by Lessee prior to such termination or cancellation and (C) pay over or cause the Depository to pay over to the Authority, within thirty (30) Days after receipt thereof, any Restoration Funds received by Lessee or the Depository subsequent to such termination or cancellation. Lessee’s obligations under this Section 12.3.2 shall survive the expiration or termination of this Agreement. To the extent the Authority is a loss payee with respect to any such insurance proceeds or otherwise receives insurance proceeds with respect to the destroyed or damaged portions of the Airport Facilities, the Authority shall deposit (or cause to be deposited) all such insurance proceeds with the Depository for application pursuant to this Agreement.

12.3.3. Payment of Restoration Funds to Lessee.

- (a) The Authority shall promptly cause the Depository to reimburse Lessee for reasonable and documented third-party costs and expenses incurred by Lessee to effect the Restoration work to the extent that: (A) funds are available in the Restoration Fund; and (B) such funds were paid into such account in connection with the event (or series of related events) to which such costs and expenses relate.
- (b) Following completion of any Restoration work in respect of which Restoration Funds are held by the Depository as Restoration Funds, the Authority shall promptly cause the Depository to return any amounts remaining in such Restoration Funds to Lessee.
- (c) If the End Date occurs prior to the completion of any Restoration work, the Authority shall be entitled to any amounts then standing to the credit of the Restoration Fund, subject to Lessee’s continuing right to:
 - (i) reimbursement pursuant to Section 12.3.3(a) after the End Date occurs for such Restoration work performed prior to the End Date; and
 - (ii) except in the case of a termination for Lessee Default, receive any amounts due under Section 12.3.3(b) but not returned prior to the End

Date (without double-counting with respect to the calculation of any termination amount due Lessee pursuant to Section 14.3.3).

- (d) Payment and Performance Bonds. If Lessee obtains payment or performance bonds related to a Restoration (which Lessee may or may not obtain in its discretion), Lessee shall name the Authority and Lessee and the Secured Party, as their interests may appear, as additional obligees, and shall deliver copies of any such bonds to the Authority promptly upon obtaining them.
- (e) Benefit of Authority. The requirements of this Article 12 are for the benefit only of the Authority, and no Subcontractor or other Person shall have or acquire any claim against the Authority as a result of any failure of the Authority actually to undertake or complete any Restoration as provided in this Article 12 or to obtain the evidence, certifications and other documentation provided for herein.
- (f) Investment of Restoration Funds. Restoration Funds deposited with a Depository shall be invested and reinvested in Eligible Investments at the direction of Lessee, and all interest earned on such investments shall be added to the Restoration Funds.
- (g) Rights of Secured Party. The provisions of this Section 12.3 are subject to the rights of any Secured Party under the documents relating to any Lessee Debt. The Authority acknowledges and agrees that any Restoration Funds shall be subject to the lien or liens of any Mortgage and the provisions thereof. Notwithstanding anything to the contrary in this Article 12, in the event that any Restoration is not feasible (in accordance with the terms of any Mortgage or other indebtedness of Lessee), then such insurance proceeds should be applied to prepayment of such indebtedness or otherwise in accordance with such terms.

ARTICLE 13. SUPERVENING EVENTS

13.1. Claims Process

13.1.1. Notice of Supervening Events

Lessee will use Reasonable Efforts to promptly, and in any event within fifteen (15) Days of becoming aware of a relevant event, provide notice to the Authority upon becoming aware of any Supervening Event which it believes has occurred.

13.1.2. Notice of Claims

- (a) As a condition to Lessee being entitled to any relief or compensation pursuant to Sections 13.3 or 13.5, within one hundred eighty (180) Days with respect to Adverse Actions, ninety (90) Days with respect to all other Compensation Events, and thirty (30) Days with respect to Delay Events, in each case following the date on which Lessee first became aware of the Supervening Event, Lessee must submit a notice to the Authority with respect to such event (a “**Supervening Event Claim**”), which notice must include:
- (i) a statement of which Supervening Event the claim is based upon;
 - (ii) details of the circumstances from which the claimed delay or Loss arises including a statement of the efforts made by Lessee to mitigate any increased cost or decrease in Lessee Revenues;
 - (iii) the details of the effect of the occurrence on Lessee;
 - (iv) an estimate of (A) the delay in the performance of obligations under this Agreement and (B) with respect to any Compensation Event, the Loss suffered by Lessee, attributable to such event and information in support thereof, including in the case of a Force Majeure Compensation Event, the current status of any claim or application made or about to be made under Available Insurance, in any condemnation proceeding or other proceeds, including, any state or federal grants, subsidies, forgivable loans, or similar cash benefits for which Lessee qualifies as a result of the Force Majeure Event;
 - (v) details of the material adverse effect of the said occurrence on the fair market value of Lessee Interest, if applicable; and
 - (vi) a statement as to the rights to relief or compensation claimed under this Agreement, including any necessary supporting calculations of amounts claimed.
- (b) After Lessee submits any Supervening Event Claim, Lessee will, with respect to any Supervening Event that has occurred:
- (i) promptly notify the Authority if at any time it becomes aware of any further material information relating to the Supervening Event, to the extent that such information is new or renders information previously submitted materially inaccurate or misleading or changes the nature of an

event claimed (including from a Delay Event to a Compensation Event, or vice versa), including information regarding the availability of any insurance proceeds, grants, subsidies, forgivable loans, or similar cash in connection with the relevant event;

- (ii) promptly, and in any event within thirty (30) Days following the Authority's written request, provide such further supporting particulars as the Authority may reasonably request and consider necessary; and
- (iii) promptly, and in any event within thirty (30) Days following the date on which it first becomes aware that a Supervening Event has ceased, notify the Authority of the same.

13.1.3. Failure to Timely Submit a Supervening Event Claim

If Lessee fails to timely submit a Supervening Event Claim pursuant to Section 13.1.2 or to timely submit any response to a Authority request for supporting information pursuant to Section 13.1.2(b), and, for certainty, Lessee was aware of the relevant Supervening Event, then such failure will be deemed to mean that Lessee:

- (a) is withdrawing the relevant Supervening Event Claim (to the extent previously notified or submitted); and
- (b) is waiving its right to otherwise submit a Supervening Event Claim with respect to the relevant Supervening Event.

13.1.4. Obligation to Mitigate and Continue Performance

Upon the occurrence of an event that is (or may be) a Supervening Event, Lessee will:

- (a) take all steps reasonably necessary to eliminate or mitigate the effects of such Supervening Event, including all steps that would generally be taken in accordance with the Baseline Standard of Practice; and
- (b) except as expressly provided in this Agreement, continue to perform its obligations under this Agreement notwithstanding the Supervening Event to the extent that it is reasonably able to do so and, to the extent such performance has been affected by the Supervening Event, to resume performance of the affected performance as soon as practicable after the cessation or mitigation of the Supervening Event.

13.2. Conditions to Supervening Event Relief

No compensation or relief will be granted pursuant to Sections 13.3 or 13.5 as a result of any Supervening Event unless:

- (a) a Supervening Event has occurred; and
- (b) Lessee has submitted a Supervening Event Claim with respect to such event pursuant to Section 13.1.2.

13.3. Lessee's Rights with respect to Supervening Events

Subject to Lessee's compliance with its obligations pursuant to this Article 13 and resolution of any Supervening Event Claim pursuant to Section 13.4:

- (a) in the case of any Supervening Event, such event will excuse Lessee from whatever performance pursuant to this Agreement is prevented by the relevant Supervening Event to the extent, and only to the extent, that Lessee's inability to perform such obligations is due directly to, and limited to the duration of the direct effects of, such Supervening Event; provided that:
 - (i) notwithstanding the occurrence of a Supervening Event, Lessee will continue its performance under this Agreement in accordance with Section 13.1.4(b); and
 - (ii) nothing herein will permit or excuse noncompliance with a Change in Law; and
- (b) in the case of a Compensation Event (including an Adverse Action or Force Majeure Compensation Event), in addition to any relief provided to Lessee pursuant to Section 13.3(a), the Authority will compensate Lessee for such Compensation Event by paying Lessee Compensation to Lessee; provided that at either Party's request, the Parties shall consult with each other in good faith and use all Reasonable Efforts to agree on appropriate adjustments to the terms (including extending the Term) of this Agreement in a manner sufficient to restore Lessee to the same after-Tax economic position Lessee would have enjoyed if the applicable Compensation Event had not occurred (after taking into account any compensation otherwise paid) in lieu of part or all of Lessee Compensation otherwise payable to Lessee.

13.4. Settlement of Supervening Event Claims

- (a) If the Authority disputes or otherwise does not (or has not yet) approved or agreed to the occurrence of a Supervening Event or the compensation or relief claimed pursuant to Section 13.3, the Authority will give notice of the same to Lessee within thirty (30) Days following the date of receipt of the Supervening Event Claim (or, if later, of receipt of any supporting particulars requested pursuant to Section 13.1.2(b)(ii)) stating in reasonable detail the grounds for such dispute, disapproval, or lack of approval or agreement.
- (b) The Parties will negotiate in good faith to agree the resolution of any Supervening Event Claim. Upon final agreement between the Parties, such agreement not to be unreasonably withheld, conditioned or delayed, as to any relief or compensation to which Lessee is then entitled under Section 13.3 in respect of any Supervening Event, the Parties will execute a written memorandum (or, with respect to any Supervening Event that was continuing when a prior such memorandum was executed, a written addendum to such prior memorandum) setting out the details of such agreement.

- (c) If the Parties do not reach final agreement as contemplated above and any dispute in relation to the relevant matters is resolved pursuant to the Dispute Resolution Procedure, to the extent that the Dispute Resolution Procedure does not result in a written record of such resolution equivalent to such a memorandum, the Parties will execute such a memorandum to document such a resolution.

13.5. Payment of Lessee Compensation

13.5.1. General Payment Terms

- (a) Following final agreement or resolution of a Supervening Event Claim for which Lessee Compensation is due and payable, the Authority will pay Lessee Compensation to Lessee within ten (10) Business Days of Lessee's written demand for such payment.
- (b) With respect to Force Majeure Compensation Events, Lessee shall not be entitled to any compensation for any period prior to the one hundred twenty-first (121st) or the one hundred eighty-first (181st) Day as set forth in limbs (a) and (b) of the definition of "Force Majeure Compensation Event."
- (c) Notwithstanding the foregoing, Lessee may not make a Claim for or receive Lessee Compensation unless the amount of Lessee Compensation with respect to the relevant Supervening Event exceeds ten thousand dollars (\$10,000); provided that if the amount of Lessee Compensation with respect to a Supervening Event is equal to or less than ten thousand dollars (\$10,000) and such Supervening Event occurs more than once in a given twelve (12) month period such that the aggregate amount of Lessee Compensation with respect to the relevant Supervening Events exceeds ten thousand dollars (\$10,000), the foregoing limitation shall not apply; provided further that such limitations shall not apply to Adverse Actions and any Compensation Event as defined in clause (f) of the definition thereof.
- (d) Notwithstanding the foregoing, the Authority's obligation to pay Lessee Compensation to Lessee pursuant to this Article 13 for a Compensation Event which is directly caused (in whole or in part) by (i) a breach by the Manager of its obligations under the Management Contract or (ii) the negligence or willful misconduct of the Manager, will be limited (in relevant part) to the amount (if any) recovered by the Authority from the Manager for such Lessee Compensation, less the Authority's reasonable cost and expense (including reasonable attorneys' and professional fees and expenses) of pursuing such claim against the Manager.

13.5.2. Future Events

- (a) Any Lessee Compensation payable pursuant to this Agreement with respect to Losses or lost revenues that will not occur until the future will be due solely when such amounts would otherwise become due or are actually incurred or suffered or promptly thereafter.
- (b) If the Authority elects, notwithstanding the foregoing, to pay Lessee Compensation with respect to Losses or lost revenues that will occur in the future

as a lump sum payment in advance, the amount of such lump sum payment will be based on a determination of the net present value of the impact of such Compensation Event over the remainder of the Term utilizing a discount factor that is reasonably determined by Lessee (subject to the confirmation as to its reasonableness by the Authority).

13.5.3. Deferral of Compensation

- (a) Subject to the right of Lessee to receive interest at the rate set forth in Section 19.14 on the Lessee Compensation owed by the Authority from the date payment is otherwise due pursuant to Section 13.5.1(a),
 - (i) the Authority may defer the provision of any such Lessee Compensation for an additional one hundred twenty (120) Days if the Authority reasonably determines that such additional period is necessary to obtain financing or required approvals to provide such Lessee Compensation to Lessee; provided that, if the Authority has deferred the provision of Lessee Compensation pursuant to the foregoing and has not paid such Lessee Compensation on or prior to the date that is ten (10) Days from the date payment is otherwise due or the Authority has otherwise failed to pay Lessee Compensation to Lessee when due pursuant to this Agreement, without limiting Lessee's rights with respect to the occurrence of an Authority Default as a result of such failure to pay such Lessee Compensation,
 - (A) Lessee may elect to offset the Authority Revenue Rent due to the Authority pursuant to Section 2.4.3 in an amount equal to such Lessee Compensation for so long as and until such Lessee Compensation has been offset in full to Lessee. Once such Lessee Compensation has been so offset, the occurrence of any related Authority Default shall be deemed to have been cured; and
 - (B) except in the case of Lessee Compensation owed by the Authority for a Hazardous Materials Compensation Event or a Force Majeure Compensation Event which is addressed in clause (C) below, if Lessee has offset the Authority Revenue Rent due to the Authority pursuant to the foregoing clause (A) for a period of one (1) Calendar Year or more, Lessee may, in addition to its offset right set forth in the foregoing clause (A), elect to offset the Base Rent due to the Authority pursuant Section 2.4.2 in an amount equal to such Lessee Compensation for so long as and until such Lessee Compensation has been offset in full to Lessee;
 - (C) in the case of Lessee Compensation owed by the Authority for a Hazardous Materials Compensation Event or a Force Majeure Compensation Event, if Lessee has offset the Authority Revenue Rent due to the Authority pursuant to the foregoing clause (A) for a period of one (1) Calendar Year or more, Lessee may, in addition

to its offset right set forth in the foregoing clause (A), elect to offset up to fifty percent (50%) of the Base Rent due to the Authority pursuant Section 2.4.2 for so long as and until such Lessee Compensation has been offset in full to Lessee; provided that if such Lessee Compensation has not been paid in full to the Lessee after a period of two (2) Calendar Years or more, Lessee may, in addition to its offset right set forth in the foregoing clause (A), elect to offset up to one hundred percent (100%) of the Base Rent due to the Authority pursuant to Section 2.4.2 for so long as and until such Lessee Compensation has been offset in full to the Lessee; and

- (ii) in the case of Lessee Compensation owed by the Authority for a Hazardous Materials Compensation Event, during the one hundred twenty (120) Day period referred to in Section 13.5.3(a)(i) above, at either Party's request, the Parties shall consult with each other in good faith and use all Reasonable Efforts to agree on commercially reasonable terms upon which Lessee may advance to the Authority the necessary funds in respect of any Lessee Compensation owed to Lessee in connection with such Hazardous Materials Compensation Event.

ARTICLE 14. DEFAULTS, TERMINATION AND REVERSION

14.1. Lessee Default

14.1.1. Events of Default

The occurrence of any one or more of the following events during the Term will constitute a “**Lessee Default**” under this Agreement unless otherwise expressly excused pursuant to this Agreement and except to the extent such event arises as a direct result of the occurrence of a Supervening Event:

- (a) Lessee fails to make any payment to the Authority under this Agreement when due (unless such payment is the subject of a good faith dispute), and such failure continues unremedied for a period of ten (10) Business Days following the date on which Lessee receives written notice (giving particulars of the failure in reasonable detail) from the Authority to Lessee;
- (b) Lessee has placed the Authority in violation of its obligations under its Airport Operating Certificate, Airport Security Program, Airport Certification Manual, or Grant Assurances, as determined by the FAA or TSA, as applicable, and the FAA or TSA has not accepted a corrective action plan within a reasonable time, as determined by the FAA or TSA, as applicable;
- (c) Lessee fails to commence the New Terminal Work within one hundred eighty (180) days following the New Terminal Financial Close Date;
- (d) Lessee fails to achieve Substantial Completion of the New Terminal Work on or before the Substantial Completion Deadline;
- (e) Lessee voluntarily (i) abandons, deserts, or vacates the Leased Property or (ii) discontinues its performance of the Work for a period of thirty (30) or more consecutive Days;
- (f) Lessee fails to comply with the provisions of Article 12 and such failure continues without cure for a period of thirty (30) Days after the earlier of (i) the date on which Lessee receives written notice of such failure from the Authority and (ii) Lessee’s actual knowledge thereof;
- (g) an Insolvency Event arises with respect to Lessee;
- (h) after exhaustion of all rights of appeal, Lessee is suspended or debarred from bidding, proposing, or contracting with any State or federal Governmental Authority;
- (i) except with respect to a breach of a material obligation which is subject to 14.1.1(k)(ii), and without otherwise limiting the Authority’s remedies in connection with a breach of this Agreement that independently results in a Lessee Default, Lessee fails to comply with any obligation, covenant, agreement, term or condition in the Terminal Facilities Operating Standards (except as otherwise expressly set forth in the Terminal Facilities Operating Standards), three or more times within any calendar month, and any three (3) such failures continue unremedied for a period of twenty (20) Days following notice thereof (giving

particulars of the failure in reasonable detail) from the Authority to Lessee (each calendar month during which such three (3) failures shall have continued unremedied or unaddressed by a remediation plan, as aforesaid, a “**Persistent Breach Month**”), and twelve (12) Persistent Breach Months shall have occurred during any period of twenty-four (24) calendar months; provided that, for the avoidance of doubt, any cure of any Lessee Default under this Section 14.1.1(i) shall require the cure of each failure that has occurred during any Persistent Breach Month;

- (j) a levy under execution or attachment has been made against all or a material part of the Airport Facilities and Assets or any interest therein as a result of any Encumbrance (other than a Permitted Lessee Encumbrance) created, incurred, assumed or suffered to exist by Lessee or any Person claiming through it, and such execution or attachment has not been vacated, removed or stayed by court order, bonding or otherwise within a period of sixty (60) Days after Lessee becomes aware of such levy or attachment, unless such levy resulted from the Acts or Faults of the Authority or its Representatives; or
- (k) without limitation to Sections 14.1.1(a) through (j) (inclusive),
 - (i) any representation or warranty made by Lessee in this Agreement or any certificate, schedule, report, instrument, or other document delivered to the Authority pursuant to this Agreement is false in any material respect or materially misleading or inaccurate in any material respect when made or omits material information when made; or
 - (ii) any breach by Lessee of any other material obligation under this Agreement (including the Terminal Facilities Operating Standards except as otherwise set forth in the Terminal Facilities Operating Standards),

and in either case (i) or (ii), such failure continues unremedied (in the case of (i) where remedy will be complete when all necessary disclosures have been made and all adverse effects (if any) caused by the default have been cured) for a period of:

- (iii) ten (10) Business Days following notice thereof (giving particulars of the failure in reasonable detail) from the Authority to Lessee with respect to any such failure that directly results in a material, imminent and ongoing (I) danger to the safety of Airport operations or (II) impairment to the Airport Facilities or continuing use of the Airport Facilities for Airport Purposes; and
- (iv) in all other cases, ninety (90) Days following notice thereof (giving particulars of the failure in reasonable detail) from the Authority to Lessee.

14.1.2. Remedies of the Authority Upon Lessee Default

Upon the occurrence, and during the continuance, of a Lessee Default under Section 14.1.1, the Authority may, by notice to Lessee and any Secured Party, declare Lessee to

be in default and may, subject to the provisions of Articles 16 and 17, do any or all of the following as the Authority, in its discretion, will determine:

- (a) the Authority may terminate this Agreement (without the need for any other action on behalf of the Authority) by giving:
 - (i) upon the occurrence and continuation of a Lessee Default under Sections 14.1.1(b), 14.1.1(f), 14.1.1(g) and 14.1.1(h) by giving notice to Lessee with immediate effect;
 - (ii) upon the occurrence and continuation of a Lessee Default under Sections 14.1.1(c), 14.1.1(d), and 14.1.1(e) by giving thirty (30) Days' prior notice to Lessee; provided that Lessee will be entitled to cure such Lessee Default during such period;
 - (iii) upon the occurrence and continuation of a Lessee Default under Section 14.1.1(a) by giving sixty (60) Days' prior notice to Lessee; provided that Lessee will be entitled to cure such Lessee Default during such period by making the relevant payment and paying any Losses sustained as a result of such Lessee Default;
 - (iv) upon the occurrence and continuation of any other Lessee Default under Sections 14.1.1(i), 14.1.1(j) and 14.1.1(k), sixty (60) Days' prior notice to Lessee; provided that Lessee will be entitled to cure such Lessee Default during such period, or such longer period following such notice as may be reasonably necessary to cure such failure if (with respect to such longer period) Lessee has provided the Authority with a written work plan within the initial notice period outlining the actions by which Lessee will cure such default, which work plan is approved by the Authority in its discretion and subsequently demonstrated to the reasonable satisfaction of the Authority, that:
 - (A) it is proceeding, and will proceed, with all due diligence to cure or cause to be cured such failure in accordance with such work plan;
 - (B) its actions can be reasonably expected to cure or cause to be cured such failure within a reasonable period of time acceptable to the Authority; and
 - (C) such failure is in fact cured within such period of time,where any unexcused failure of Lessee to comply in any material respect with such approved work plan following ten (10) Days' notice of such failure from the Authority to Lessee will be deemed to be a Lessee Default without any further entitlement to cure.
- (b) if Lessee Default is by reason of the failure to pay any monies to another Person, the Authority may (without obligation to do so) make payment on behalf of Lessee of such monies unless such nonpayment is due to a bona fide dispute, and any amount so paid by the Authority will be payable by Lessee to the Authority within ten (10) Business Days after demand therefor;

- (c) subject to the cure rights of the Secured Party set forth in Section 17.3, the Authority may cure Lessee Default (but this will not obligate the Authority to cure or attempt to cure a Lessee Default or, after having commenced to cure or attempted to cure a Lessee Default, to continue to do so), and all costs and expenses reasonably incurred by the Authority in curing or attempting to cure Lessee Default, together with an administrative fee equal to fifteen percent (15%) of such costs and expenses, will be payable by Lessee to the Authority within ten (10) Business Days after written demand therefor; provided that:
 - (i) the Authority will not incur any liability to Lessee for any act or omission of the Authority or any other Person in the course of remedying or attempting to remedy any Lessee Default unless resulting from the Authority's recklessness, willful misconduct, or gross negligence; and
 - (ii) the Authority's cure of any Lessee Default will not affect the Authority's rights against Lessee by reason of Lessee Default;
- (d) the Authority may seek to recover its Losses arising from such Lessee Default and any amounts due and payable under this Agreement and, in connection therewith, exercise any recourse available to any Person who is owed damages or a debt under applicable Law; and
- (e) the Authority may exercise any of its other rights and remedies provided for hereunder or at law or equity (including specific performance, injunction, or other equitable remedies).

14.2. Authority Default

14.2.1. Events of Default

The occurrence of any one or more of the following events during the Term will constitute an “**Authority Default**” under this Agreement unless otherwise expressly excused pursuant to this Agreement and except to the extent such event arises as a direct result of the occurrence of a Force Majeure Event or the Acts and Faults of Lessee:

- (a) the Authority fails to make any payment to Lessee under this Agreement when due (unless such payment is the subject of a good faith dispute), such failure continues undisputed for at least thirty (30) days, Lessee notified the Authority of such failure, and such failure continued without dispute for a further thirty (30) days;
- (b) the Authority shall take any action or fail to take any action which results in (i) the loss of the Airport Operating Certificate, and the Authority has failed to remedy within thirty (30) Days after the date of receipt of notice of such loss by the FAA or (ii) a breach by the Authority of its obligations under Section 3.4.1(a)(ii) of this Agreement;
- (c) the Authority fails to achieve Substantial Completion of the Runway Project on or before the Runway Project Outside Date, subject to Section 3.4.1(a)(ii);

- (d) any Governmental Authority (i) repeals or materially limits the Authority's statutory power and authority over the Airport Facilities and Assets or (ii) confiscates, sequesters, condemns or appropriates all or a material part of the Airport Facilities and Assets or the Authority's or City's interests therein or the Leased Property or the Lessee Interest, and such condition continues unremedied for a period of sixty (60) Days following notice thereof from Lessee to the Authority;
- (e) without limiting Lessee's remedies in connection with a breach of this Agreement that independently results in an Authority Default, the Authority fails to comply with its obligations under Sections 3.9.1 and 3.9.2 three (3) or more times within any calendar month, and any three (3) such failures continue unremedied for a period of twenty (20) Days following notice thereof (giving particulars of the failure in reasonable detail) from Lessee to the Authority, and twelve (12) Persistent Breach Months shall have occurred during any period of twenty-four (24) calendar months; provided that, for the avoidance of doubt, any cure of any Authority Default under this Section 14.2.1(d) shall require the cure of each failure that has occurred during any Persistent Breach Month;
- (f) a levy under execution or attachment has been made against all or any material part of Lessee Interest as a result of any Encumbrance (other than a Permitted Authority Encumbrance) created, incurred, assumed or suffered to exist by the Authority or any Person claiming through it, and such execution or attachment has not been vacated, removed or stayed by court order, bonding or otherwise within a period of sixty (60) Days after the Authority becomes aware of such levy or attachment, unless such levy resulted from the Acts or Faults of Lessee or its Representatives; or
- (g) without limitation to Sections 14.2.1(a) through (f) (inclusive),
 - (i) any representation or warranty made by the Authority in this Agreement or any certificate, schedule, report, instrument, or other document delivered to the Authority pursuant to this Agreement is false in any material respect or materially misleading or inaccurate in any material respect when made or omits material information when made; or
 - (ii) any breach by the Authority of any other material obligation under this Agreement (including the Airfield Facilities Operating Standards except as otherwise set forth in the Airfield Facilities Operating Standards and subject to Sections 3.9.1 and 3.9.2),
 and in the case of this Section 14.2.1(g), such occurrence substantially frustrates or renders it impossible for Lessee to perform all or a substantial part of its obligations or to exercise all or a substantial part of its rights under this Agreement, and such condition continues unremedied for a period of and such failure continues unremedied for a period of sixty (60) Days following notice thereof from Lessee to the Authority.

14.2.2. Remedies of Lessee Upon Authority Default

Upon the occurrence, and during the continuance, of an Authority Default, Lessee may, by notice to Lessee, declare the Authority to be in default and may, subject to the provisions of Article 16 and Article 17, do any or all of the following as Lessee, in its discretion, will determine:

- (a) Lessee may terminate this Agreement (without the need for any other action on behalf of Lessee) by giving:
 - (i) upon the occurrence and continuation of an Authority Default under Sections 14.2.1(a) or 14.2.1(b) by giving notice to the Authority with immediate effect; provided that, with respect to any such Authority Default that results from a failure to pay Lessee Compensation in connection with a Compensation Event, if either Party requests consultation under Section 13.3(b) the Authority will be entitled to cure such Authority Default during the period of such required consultation (not to exceed thirty (30) days) or during such longer period as may be reasonably necessary to cure such failure in compliance with any agreement on appropriate adjustments to the terms (including extending the Term) which results from the Parties' Reasonable Efforts under Section 13.3(b);
 - (ii) upon the occurrence and continuation of an Authority Default under Sections 14.2.1(c) or 14.2.1(d) by giving thirty (30) Days' prior notice to the Authority; provided that the Authority will be entitled to cure such Authority Default during such period;
 - (iii) upon the occurrence and continuation of an Authority Default under Sections 14.2.1(e), 14.2.1(f) or 14.2.1(g), by giving ninety (90) Days' prior notice to the Authority; provided that the Authority will be entitled to cure such Authority Default during such period, or such longer period following such notice as may be reasonably necessary to cure such failure if (with respect to such longer period) the Authority has provided Lessee with a written work plan within the initial notice period outlining the actions by which the Authority will cure such default, which work plan is approved by Lessee in its discretion and subsequently demonstrated to the reasonable satisfaction of Lessee, that:
 - (A) it is proceeding, and will proceed, with all due diligence to cure or cause to be cured such failure in accordance with such work plan;
 - (B) its actions can be reasonably expected to cure or cause to be cured such failure within a reasonable period of time acceptable to Lessee; and
 - (C) such failure is in fact cured within such period of time

where any unexcused failure of the Authority to comply in any material respect with such approved work plan following ten (10) Days' notice of such failure from Lessee to the Authority will be deemed to be an Authority Default without any further entitlement to cure;

- (b) if the Authority Default is by reason of the failure to pay any monies to another Person, Lessee may (without obligation to do so) make payment on behalf of the Authority of such monies unless such non-payment is due to a bona fide dispute, and any amount so paid by Lessee will be payable by the Authority to Lessee within thirty (30) Business Days after demand therefor;
- (c) Lessee may seek Lessee Compensation with respect to such Authority Default to the extent it is otherwise entitled to do so under the terms of this Agreement;
- (d) Lessee may seek to recover its Losses and any amounts due and payable under this Agreement and, in connection therewith, exercise any recourse available to any Person who is owed damages or a debt; and
- (e) Lessee may exercise any of its rights or remedies at law or in equity (including specific performance, injunction or other equitable remedies).

14.3. Termination

14.3.1. Exclusive Termination Provisions

Section 4.4(e), Section 14.1.2(a), Section 14.2.2(a) and Section 14.3.2 contain the entire and exclusive provisions and rights of the Authority and Lessee regarding termination of this Agreement, and any and all other rights to terminate at Law or in equity are hereby waived to the maximum extent permitted by Law.

14.3.2. Additional Termination Rights

If the NEPA Approval Documents and the DEEP Approval Documents are not issued by the FAA and DEEP, as applicable, on or before December 31, 2022, Lessee will have the right to terminate this Agreement by giving twenty (20) Days' prior notice to the Authority.

14.3.3. Termination Compensation

- (a) *Termination by Lessee pursuant to Section 4.4(e) or Section 14.3.2.*
 - (i) In the event of a termination pursuant to Section 4.4(e) or Section 14.3.2, the Authority will pay to Lessee the sum of the following (without duplication and, for certainty, excluding any costs and expenses incurred in connection with the preparation, negotiation and execution of this Agreement), calculated at the Early Termination Date (the “**No Build Termination Sum**”):
 - (A) the actual Losses assumed or incurred by Lessee in connection with the West Terminal Work and the Environmental Assessment (including, for the avoidance of doubt, all debts, liabilities and obligations previously assumed by Lessee relating to the Fifth Project Loan as of the Effective Date as an Assumed Liability), up to eleven million dollars (\$11,000,000); *plus*
 - (B) the actual Losses incurred by Lessee in connection with its operation of the West Terminal Facilities (including, for the

avoidance of doubt, operating Losses, but excluding anticipated but unrealized profit and further excluding any transaction expenses incurred in connection with the negotiation of this Agreement) through the date of such termination; *plus*

- (C) Subcontract Breakage Costs to the extent such relate to the performance of the West Terminal Work and the operation of the West Terminal Facilities through the date of such termination, *plus*
 - (D) any amounts of compensation then otherwise owing from the Authority to Lessee pursuant to this Agreement, *less*
 - (E) any Account Balances; *less*
 - (F) Available Insurance; *less*
 - (G) any amounts then otherwise owing from Lessee to the Authority pursuant to this Agreement.
- (ii) The Authority will pay the No Build Termination Sum to Lessee in either (or a combination of):
- (A) a lump sum payment; or
 - (B) if the Manager is an affiliate of Lessee, by entering into an amendment to the Management Contract with the Manager on substantially similar terms as the Management Contract (a “**Replacement Management Contract**”), which Replacement Management Contract will compensate the Manager for the remaining outstanding balance of the No Build Termination Sum (including interest thereon) through regular payments to the Manager that will represent on a net present value basis, determined at the time and considering a discount rate of no less than fifteen percent (15%), an amount equal to the remaining outstanding balance of the No Build Termination Sum (including interest thereon).
- (iii) In the event of a termination of this Agreement pursuant to Section 4.4(e) or Section 14.3.2, if the Authority elects to pay the No Build Termination Sum (in whole or in part) by entering into a Replacement Management Contract pursuant to Section 14.3.3(a)(ii)(B), the Parties will in good faith negotiate and seek to enter into such Replacement Management Contract during the one hundred eighty (180) Day period referred to above (or such longer period as the Parties may mutually agree). If the Parties do not thereafter enter into such Replacement Management Contract during such period, the Authority shall promptly pay the No Build Termination Sum in full to Lessee.
- (b) *Termination by the Authority due to Lessee Default.* In the event of termination pursuant to Section 14.1.2(a) as a result of Lessee Default, no amount will be due and owing from the Authority to Lessee as a result of such termination.

- (c) *Termination by Lessee due to Authority Default.* In the event of termination pursuant to Section 14.2.2(a) as a result of an Authority Default, the Authority will promptly pay to Lessee the Authority Termination Sum.
- (i) The “**Authority Termination Sum**” shall equal the sum of the following (without duplication), calculated at the Early Termination Date:
- (A) as applicable, after taking into account any Account Balances (to the extent such Account Balances are available to Lessee or the Secured Party for payment of any amounts specified in in this Clause (A)):
- (I) prior to the second anniversary of the date of beneficial occupancy of the New Terminal Project, an amount equal to the greater of:
1. Lessee Interest Value, determined in accordance with the appraisal procedures set forth in Section 14.3.3(c)(ii); and
 2. the sum of the following:
 - (i) one hundred percent (100%) of Lessee Debt then outstanding (including accrued but unpaid interest on Lessee Debt to the payment date of such Authority Termination Sum); *plus*
 - (ii) after taking into account any prior distributions or payments directly or indirectly made by Lessee to Equity Participants, all amounts paid or disbursed to Lessee prior to the Early Termination Date by Equity Participants in the form of Equity Investments;
- (II) from and after the second anniversary of the date of beneficial occupancy of the New Terminal Project an amount equal to the greater of:
1. Lessee Interest Value, determined in accordance with the appraisal procedures set forth in Section 14.3.3(c)(ii); and
 2. one hundred percent (100%) of Lessee Debt then outstanding (including accrued but unpaid interest on Lessee Debt to the payment date of such Authority Termination Sum); *plus*
- (B) Subcontract Breakage Costs, after taking into account any Account Balances (to the extent such Account Balances are available to Lessee or the Secured Party for payment of any amounts specified in in this Clause (B)); *plus*

- (C) any amounts of compensation then otherwise owing from the Authority to Lessee pursuant to this Agreement, *less*
 - (D) Account Balances (to the extent such Account Balances are available to Lessee or the Secured Party for payment of any amounts specified in clause (A) and (B) above); *less*
 - (E) Available Insurance; *less*
 - (F) any amounts then otherwise owing from Lessee to the Authority pursuant to this Agreement.
- (ii) Lessee Interest Value will be determined according to the following procedures:
- (A) Within thirty (30) Days after a termination notice is received by the Authority, which notice results in a claim to payment of the Authority Termination Sum, the Authority and Lessee will confer in good faith to mutually appoint an independent third-party appraiser to determine Lessee Interest Value by written appraisal. The appraiser must be an independent, third-party appraiser that is nationally recognized and experienced in appraising similar assets and that is reasonably acceptable to the Authority and Lessee.
 - (B) If the Authority and Lessee are unable to agree upon an appraiser within such thirty (30) Day period, then within ten (10) Days thereafter, the Authority and Lessee will each appoint an independent third-party appraiser and both such appraisers will be instructed jointly to select, within fifteen (15) Days after they are appointed, a third independent third-party appraiser who is nationally recognized and experienced in appraising similar assets to make the appraisal referred to above.
 - (C) If either Party fails to appoint such independent third-party appraiser or if the appraisers appointed by the Parties are unable to appoint an independent third-party appraiser under Section 14.3.3(c)(ii)(B) within sixty (60) Days after a termination notice is received by the Authority, then either Party may petition a court of competent jurisdiction located in New Haven County in the State of Connecticut to appoint an independent third-party appraiser having the requisite reputation and experience.
 - (D) Each Party will pay the costs of its own appraiser for purposes of selecting the independent third-party appraiser. The Authority will pay the reasonable costs and expenses of the independent third-party appraiser for the performance of the appraisal work to be carried out pursuant to Section 14.3.3(c)(ii)(F).
 - (E) Each Party will diligently cooperate with the appraiser, including promptly providing the appraiser with data and information

regarding the Terminal Facilities Services, the Work and the Leased Property, the condition of the Airport Facilities and Assets, historical cost and revenue data, and other information the appraiser may request that is in the possession of or reasonably available to such Party. Each Party will provide the appraiser with access to such Party's books and records regarding the Leased Property and the Airport Facilities and Assets.

- (F) Once appointed, the independent third-party appraiser will conduct an appraisal of Lessee Interest Value and deliver to both Parties a draft appraisal report and draft valuation. The appraisal will determine Lessee Interest Value as of the Early Termination Date, based on the then-current condition of the Leased Property and the Airport Facilities and Assets (but without regard to any damage or loss resulting from the grounds for termination that resulted in the termination or to the loss of revenues resulting from the early termination of any subleases or other contracts caused by the early termination of this Agreement). The appraiser will appraise Lessee Interest Value by taking into account the terms and conditions of this Agreement, projected cash flows and projected costs of the Leased Property and the West Terminal Project, the New Terminal Project and other capital projects, as applicable, for the remainder of the projected Term had this Agreement not been terminated, as determined by the appraiser. In conducting the appraisal, and before issuing a draft appraisal report, the independent third-party appraiser will afford reasonable and comparable opportunity to each Party to provide the appraiser with information, data, analysis and reasons supporting such Party's view on Lessee Interest Value assessment.
- (G) The Parties will have fifteen (15) Days after receipt of the draft appraisal report to comment thereon. The appraiser will consider and evaluate all comments, prepare a final appraisal report stating Lessee Interest Value, and deliver the final appraisal report to both Parties.
- (H) If either Party disagrees with Lessee Interest Value, such Party may invoke the Dispute Resolution Procedures set forth in Article 16 by delivery of notice to the other Party within sixty (60) Days following receipt of the appraiser's report.
- (I) Lessee Interest Value shall be reviewed and determined *de novo* if any dispute as to Lessee Interest Value shall be referred to the Dispute Resolution Procedures.
- (J) Failure to invoke the Dispute Resolution Procedures within such time period will conclusively constitute acceptance of Lessee Interest Value in the final appraisal report.

14.4. Handback and Consequences of Termination or Reversion

14.4.1. Handback Standards

Lessee will operate and maintain all Terminal Facilities and Assets such that, as of the end of the Term, each such Terminal Facility and Asset will be in such condition and meeting the requirements set forth in section 3 of the Terminal Facilities Operating Standards and all other applicable provisions of this Agreement.

14.4.2. Assignment and Transfers During Handback

- (a) Without limiting its other obligations under this Agreement, on the End Date, Lessee will, unless the Authority elects in writing to the contrary, assign and transfer to the Authority, and/or any Person designated by the Authority, and Authority will assume or causes such designated Person to assume, for no additional payment:
- (i) any and all subcontracts and/or other direct contractual arrangements (as may be reasonably required by the Authority) that Lessee may have with any third parties exclusively in relation to the Work;
 - (ii) to the extent not effected pursuant to any assignment and transfer made pursuant to Section 14.4.2(a)(i), all Authorizations; and
 - (iii) to the extent not effected pursuant to any assignment and transfer made pursuant to Section 14.4.2(a)(i), its rights, title and interest in and to:
 - (A) the Terminal Facilities and Assets;
 - (B) any other physical asset used from time to time by Lessee or a Subcontractor to perform its obligations under this Agreement or any subcontract:
 - (I) including any portion of the Work (whether or not part of or on the Terminal Facilities and Assets), plant or machinery, equipment, spare parts, and tools, and including in each case all transferrable warranties with respect to the same; but
 - (II) excluding those which are not fixtures, are not owned by Lessee, and were not purchased by a Lessee Affiliate primarily or exclusively with Lessee Revenue;
 - (C) warranties associated with the foregoing transferred assets;
 - (D) all Project Intellectual Property; provided, however, that where the End Date arises from early termination of this Agreement due to an Authority Default, no such assignment or transfer shall occur; provided that the Parties may in such context negotiate and execute a separate IP assignment and transfer agreement with respect to Project Intellectual Property setting forth the applicable terms and

conditions, including any payment terms for such assignment and transfer.

- (b) Lessee will promptly after, and in any event no later than twenty (20) Days after the End Date hand over to the Authority all records and other work product owned by the Authority or related to the Terminal Facilities (excluding Lessee's Intellectual Property) pursuant to this Agreement (or complete and accurate copies to the extent originals are not required by the Authority) by whatever means the Authority reasonably requires that are in the possession, custody or power of Lessee or its Affiliates.

14.4.3. Hiring of Employees

- (a) Upon the Authority's written request:
 - (A) with respect to the scheduled end of the Term, made no later than ten (10) Days and no earlier than one hundred twenty (120) Days prior to the End Date;
 - (B) if a Lessee Default occurs and it has not been cured within any relevant cure period, made at any time prior to sixty (60) Days following any associated termination notice; and
 - (C) if not previously requested in connection with a Lessee Default, in the event that this Agreement is terminated for any reason, within sixty (60) Days following any associated termination notice or, as applicable, the occurrence of termination without such notice,

Lessee will use Reasonable Efforts to:

- (D) subject to any limitations on disclosure under Law, deliver to the Authority such employment records, terms, and conditions, and other relevant information for purposes of review by the Authority and/or its designee and/or any replacement or succeeding contractor;
- (E) facilitate such interviews of individual employees for post-expiry or termination positions with the Authority and/or its designee and/or any replacement or succeeding contractor,

as the Authority may request, subject to the express written consent of the individual affected employees, with respect to information only to the extent such information identifies individual Persons.

- (b) The Authority is entitled itself or through a designee or replacement or succeeding contractor to subsequently and independently hire any, all, or no such employees in its and their discretion. For certainty, under no circumstances will any such new employer be liable for Claim or Loss of any kind or character whatsoever, in Law or in equity, with respect to such employee's prior employment (including with respect to any pension, benefit, or wages accrued or owed) or which the employee has or may have for any period prior to and including the date of the termination of their prior employment or at any time thereafter that they may have against

Lessee or any other Lessee related party including, claims for breach of contract, wrongful dismissal, unpaid wages, unfair dismissal, redundancy payment, any and all forms of employment discrimination in violation of any Law, any and all suits in tort, equal pay or any other Claims or rights of action whatsoever or howsoever arising in connection with their employment with Lessee or another Lessee related party or their termination.

14.4.4. Ongoing Support Services

- (a) Commencing on End Date and ending on the earlier of (i) one hundred eighty (180) days thereafter and (ii) thirty (30) Days following a written notice of early termination of such one hundred eighty (180) Day period from the Authority to Lessee, Lessee will provide certain Ongoing Support Services to the Authority.
- (b) Such Ongoing Support Services will include all reasonably necessary services to support continued Terminal Facilities Services (collectively, the “**Ongoing Support Services**”), as required for the continued operation and maintenance of the Leased Property and Terminal Facilities in accordance with standards equivalent to those that apply under this Agreement and applicable Law.
- (c) Absent or pending execution of a separate definitive agreement between the Authority and Lessee with respect to the Ongoing Support Services, the Parties agree that:
 - (i) Lessee will perform the following Ongoing Support Services during the period provided for in Section 14.4.4(a) in accordance with this Article 14 and such other provisions of this Agreement which by their inherent character should survive expiration or early termination of, or completion of the Work, under this Agreement;
 - (ii) in consideration of Lessee’s performance of the Ongoing Support Services, the Authority will pay Lessee for the Ongoing Support Services at actual cost, plus a customary markup, not to exceed (in aggregate) fifteen percent (15%); and
 - (iii) Lessee’s failure to comply with the terms of this Article 14 will be considered a breach of this Agreement.
- (d) Lessee will perform and be paid for the Ongoing Support Services in accordance with:
 - (i) terms equivalent to those which apply to the equivalent Work under this Agreement;
 - (ii) Law;
 - (iii) all Authorizations with respect thereto in effect from time to time; and
 - (iv) the Baseline Standard of Practice.

- (e) The Parties agree that Lessee will provide a detailed monthly invoice to the Authority for its Ongoing Support Services, and the Authority will promptly pay such amounts due for such Ongoing Support Services.

14.4.5. Handback Security

- (a) No later than sixty (60) days prior to the date that is three (3) years prior to the projected End Date, the Authority may, in its discretion, engage an independent, nationally-recognized consultant reasonably acceptable to Lessee to provide an estimate of amounts such consultant reasonably believes will be sufficient to cover all costs reasonably necessary to cause the Terminal Facilities and Assets to meet the handback standards in Section 14.4.1 as of the End Date. The amount determined in accordance with the preceding sentence is the “**Handback Amount.**” The cost and expense of any such consultant shall be paid by the Authority.
- (b) Lessee shall prepare a budget of work required to satisfy its obligations under Section 14.4.1, subject to verification by the consultant for conformance with the consultant’s recommendations with respect to the Handback Amount. Such budget shall provide for at least twenty-five percent (25%) of the Handback Amount in each of the first and second annual periods and the remaining unfunded Handback Amount in the final annual period. In no case shall Lessee be required to budget for more than the Handback Amount.
- (c) Three (3) years prior to the End Date, Lessee will establish and fund a separate account (the “**Handback Reserve Fund**”) for use as follows:
 - (i) Lessee shall not be permitted to grant any liens to any Person other than the Authority in relation to the Handback Reserve Fund or any amounts in it.
 - (ii) Lessee shall pre-fund the Handback Reserve Fund on an annual basis in an amount equal to the applicable budgeted amount for such year minus amounts that are to be funded or reimbursed by PFCs, AIP Grants or any other grants, subsidies, fees, taxes or other funding which is available for work performed to satisfy its obligations under Section 14.4.1 (“**Annual Handback Reserve Amount**”) and shall only be permitted to draw from such Handback Reserve Fund to pay for such work. In lieu of funding the Handback Reserve Fund in accordance with the foregoing in cash, Lessee shall be permitted to deliver a Letter of Credit in the Annual Handback Reserve Amount.
 - (iii) If this Agreement is terminated by the Authority prior to the End Date as a result of a Lessee Default, the Authority will have the right (subject to the rights of the Secured Parties pursuant to Article 17) and in addition to all other rights and remedies provided in this Agreement and without the Authority's exercise of such right being deemed a waiver or a cure of Lessee’s failure to perform, with three (3) Business Days’ notice to Lessee, to access the Handback Reserve Fund in accordance with its terms or draw

on the Letter of Credit (as applicable) to satisfy any amount due to the Authority pursuant to the terms of this Agreement.

- (iv) Upon the expiration of this Agreement at the End Date and in the event of any termination prior to the End Date other than as a result of a Lessee Default, the Handback Reserve Fund will be released and credited to Lessee or the Letter of Credit will be returned to Lessee (as applicable), provided that the Authority may set off such released funds against its payment obligations to Lessee in an amount equal to the value of any work which Lessee was required to perform to satisfy its obligations under Section 14.4.1 and Terminal Facilities Operating Standards but failed to do so.
- (v) All rights and obligations of the Parties necessary to implement the foregoing shall survive the termination of this Agreement.

ARTICLE 15. RESTRICTIONS ON ASSIGNMENTS AND TRANSFERS

15.1. Assignment

15.1.1. Assignment

- (a) Except as permitted pursuant to this Agreement, neither Party shall assign, sell, convey, transfer, pledge, mortgage or otherwise encumber any of its rights or obligations under this Agreement without the prior written consent of the other Party.
- (b) Any sale, assignment, conveyance, transfer, pledge, mortgage, encumbrance or grant of rights in violation of this provision shall be null and void *ab initio*.

15.1.2. Security

The provisions of Section 15.1.1 do not apply to the grant of any Mortgage or other security for any financing extended to a Party (directly or indirectly) under any financing documents or to the enforcement of the same.

15.2. Transfers

15.2.1. Restricted Transfers

- (a) Notwithstanding any other provision of this Agreement, Restricted Transfers are not permitted under this Agreement and any Restricted Transfer will constitute a breach of a material obligation of Lessee under this Agreement for the purposes of determining a Lessee Default.
- (b) A “**Restricted Transfer**” shall arise if:
 - (i) at any time during the Term, any Transfer or Transfers:
 - (A) does or would involve the transfer of any shares or membership interests to a Prohibited Person; or
 - (B) is or would be in violation or causes a violation of applicable Law or any Authorization;
 - (ii) until the earlier of (A) the third anniversary of the Effective Date and (B) the later of the date of Substantial Completion of the New Terminal Project and the Runway Project (the “**Initial Restricted Transfer Period**”), absent the Authority’s consent (which shall not be unreasonably withheld, conditioned or delayed and which consent shall be based on a determination pursuant to Section 15.2.1(c)), any Transfer by Avports of its direct or indirect interests in Lessee which results in a Change of Control with respect to Lessee and/or of any or all of Lessee Interest; and
 - (iii) following (A) the Initial Restricted Transfer Period or (B) if earlier, the date of the first Transfer which is subject to Section 15.2.1(b)(ii), absent the Authority’s consent (which shall not be unreasonably withheld, conditioned or delayed and which consent shall be based on a determination pursuant to Section 15.2.1(c)), either (I) any Transfer by Avports, or (II) any Transfer by any Equity Participant holding a direct or

indirect interest in Lessee as a result of a prior Transfer by Avports, in either case (I) or (II), of its direct or indirect interests in Lessee which results in a Change of Control with respect to Lessee and/or of any or all of Lessee Interest.

- (c) The Authority's consent pursuant to Sections 15.2.1(b)(ii) and 15.2.1(b)(iii) may be withheld only if the Authority reasonably determines that the proposed transferee (or, if applicable, the managers or operating partners to be engaged by the proposed transferee to perform all or substantially all of the Terminal Facilities Services pursuant to this Agreement) is not capable of performing the obligations and covenants of Lessee under this Agreement, which determination shall be based upon and take into account the experience of the proposed transferee (or any proposed managers or operating partners to be engaged by the proposed Transferee) in operating airports and performing other relevant projects.

15.2.2. Other Transfers

Transfers (other than Restricted Transfers) shall be permitted without the Authority's consent.

15.2.3. Notification of Transfers

- (a) Lessee shall use its best efforts to provide the Authority with at least fifteen (15) Business Days' prior written notice of any Transfer.
- (b) For the purposes of this Section 15.2.3, any change in legal or beneficial ownership of any shares that are listed on a recognized investment exchange shall be disregarded.

15.3. Fee Upon Transfer

- (a) Upon the first Transfer resulting in a Change of Control of Lessee (including as a result of a series of transactions), Lessee shall pay, or cause the transferor of the ownership interest in Lessee to pay, to the Authority an amount equal to the greater of (i) seven hundred fifty thousand dollars (\$750,000) (Adjusted for Inflation) and (ii) five percent (5%) of any Excess Equity Gain resulting from such Transfer ("**Initial Excess Equity Gain Amount**"), which shall be due and payable no later than ten (10) Days after such Transfer.
- (b) Upon any Transfer resulting in a Change of Control of Lessee (including as a result of a series of transactions) following the first Transfer to result in a Change of Control of Lessee and for which payment has been made pursuant to Section 15.3(a), Lessee shall pay, or cause the transferor of the ownership interest in Lessee to pay, to the Authority an amount equal to one percent (1%) of the Allocable Fair Market Value from such Transfer ("**Subsequent Excess Equity Gain Amount**"), which shall be due and payable no later than ten (10) Days after such Transfer.
- (c) In addition to the notice provided pursuant to Section 15.2.3, Lessee shall provide notice (a "**Transfer Notice**") to the Authority of any Transfer resulting in a

Change of Control of Lessee within five (5) Business Days after such Transfer, and such Transfer Notice shall include a statement identifying:

- (i) the transferor(s) and transferee(s) of the transferred interests;
 - (ii) the Allocable Fair Market Value, if any; and
 - (iii) the amount, if any, determined by Lessee to be the applicable Excess Equity Gain Amount.
- (d) Lessee shall provide promptly and in good faith all information and calculations requested by the Authority or otherwise necessary to determine the applicable Excess Equity Gain Amount in accordance with the formulation provided in Section 15.3(e) below.
- (e) For purposes of this Section 15.3, the following capitalized terms shall have the meanings set forth below:
- (i) “**Allocable Capital Interest**” means, with respect to a Transfer, an interest represented by the direct or indirect percentage of aggregate Equity Investments and Equity Participant Debt transferred as a result of such Transfer.
 - (ii) “**Excess Equity Gain**” means an amount equal to the greater of (i) zero (0) and (ii) an amount equal to:
 - (A) the amount paid in consideration of a Transfer of equity interests in Lessee (or, if the Transfer results from a transaction involving a Transfer of equity interests in Lessee as well as a direct or indirect Transfer of additional assets or equity interests, the percentage of such amount attributable to the amount paid in consideration of a Transfer of such interest in Lessee, determined by reference to the fair market value of such interest in Lessee and the fair market value of such other assets or equity interests) (the “**Allocable Fair Market Value**”); *less*
 - (B) the reasonable, documented and proper external professional costs incurred by the transferor in connection with the Transfer (or, if only a percentage of the amount paid in consideration of the Transfer is included in accordance with the foregoing clause (a), the same percentage of such costs); *less*
 - (C) the Threshold Transfer Amount in relation to such Transfer,

where, for purposes of clause (A) of the definition of “Excess Equity Gain”, the fair market value of the interest in Lessee being transferred shall be based on the value of Lessee’s interests in, and rights and obligations under, this Agreement, taking into account the then-current condition of the applicable Airport Facilities and the applicable projected cash flows and projected costs of Lessee for the remainder of the applicable agreement term.

- (iii) **“Threshold Transfer Amount”** means a theoretical amount paid in consideration of a Transfer of equity interests in Lessee and including any actual amounts due and payable after the closing date of the Transfer as if received in full on such Day (or, if only a percentage of the amount paid in consideration of the Transfer is included in accordance with clause (A) of the definition of “Excess Equity Gain,” the same percentage of such amount), taken together with the timing and amount equal to the original direct or indirect Equity Investment in Lessee (whether by a capital contribution, intercompany loan or otherwise, including any committed capital that is secured by a letter of credit that has been cash collateralized on a restricted basis) made by or on behalf of the holder of the equity interest being transferred, and all Distributions paid by Lessee in respect of the Allocable Capital Interest up to such closing date, and taking into account the actual timing of payment of such amount, with all timing components of cash inflows and outflows evaluated in increments, that would result in a post-tax (on the part of Lessee but pre-tax on the part of any Equity Participant) levered internal rate of return to the transferor or its affiliates of fifteen percent (15%).
- (f) Except where (i) the transaction documents effectuating the applicable Transfer specify the Allocable Fair Market Value or (ii) the Transfer Notice includes an assessment of the Allocable Fair Market Value by an Independent Expert, Lessee shall provide promptly and in good faith all information and calculations used by Lessee or otherwise reasonably requested by the Authority in connection with Lessee’s determination of the Allocable Fair Market Value in accordance with the formulation described above.
- (g) If the Authority, in good faith, disagrees with Lessee’s determination of the Allocable Fair Market Value, the Authority shall promptly notify Lessee in writing of the details of the disagreement, together with reasonable supporting detail and explanation, including, if applicable, the Authority’s assessment of the fair market value of the transferred ownership interests in Lessee; provided that the Authority shall not be permitted to disagree with such determination if (i) the transaction documents effectuating the applicable transfer specify the Allocable Fair Market Value or (ii) the Transfer Notice includes an assessment of the Allocable Fair Market Value by an appropriately qualified independent third party valuation expert (the **“Independent Expert”**).

15.3.2. Appointment of an Independent Expert

- (a) If Lessee and the Authority fail to reach amicable resolution to any such disagreement or dispute within ten (10) Business Days of delivery of such notice, then either Party shall be entitled to refer such matter to an Independent Expert. If the matter is referred to an Independent Expert, Lessee and the Authority shall be entitled to select and appoint the appropriate body, institution or organization to act as the Independent Expert; provided that it is independent from the Parties involved.

- (b) The Independent Expert shall develop its assessment as follows:
 - (i) the matter or matters in dispute shall be notified to the Independent Expert in writing by the Parties within ten (10) Business Days of the Independent Expert's appointment;
 - (ii) the Parties shall each provide the Independent Expert prompt access to all premises, information, assistance and books and records of account, documents, files, working papers and information stored electronically which they reasonably require, and the Independent Expert shall be entitled to base its determination on such information and on the accounting and other records provided by Lessee; and
 - (iii) with respect to any disagreement as to Allocable Fair Market Value, the Independent Expert shall first determine whether Lessee's assessment was reasonable, applying a consistent methodology and
 - (A) if the Independent Expert determines, acting as an expert and not an arbitrator, that Lessee's assessment was not reasonable, the Independent Expert shall determine the Allocable Fair Market Value, and such determination shall (in the absence of manifest error) become final and binding on the parties immediately upon the Independent Expert notifying the parties of such determination;
 - (B) if the Independent Expert determines, acting as an expert and not an arbitrator, that Lessee's assessment was reasonable, Lessee's assessment of the Allocable Fair Market Value shall become final and binding on the parties immediately upon the Independent Expert notifying the parties of such determination.
- (c) The costs of the Independent Expert shall be borne by (i) Lessee, if the Independent Expert's assessment of the Allocable Fair Market Value exceeds Lessee's assessment by at least ten percent (10%) and (ii) the Authority, if the Independent Expert's subsequent assessment of the Allocable Fair Market Value is either less than Lessee's assessment or exceeds Lessee's assessment, but by less than ten percent (10%).

ARTICLE 16. DISPUTE RESOLUTION

16.1. Scope

- (a) Any dispute, disagreement or controversy between the Authority and Lessee arising out of, relating to, or in connection with this Agreement (a “**Dispute**”) will be resolved as set forth in this Article 16.
- (b) This provision is material inducement for the Parties entering into the transactions contemplated hereby.

16.2. Prompt and Parallel Dispute Resolution

The Parties agree that, except as set forth in Section 16.7 below, all Disputes shall be resolved by a court of competent jurisdiction (“**Litigation**”) as set forth in Section 16.6. A Party seeking resolution of a Dispute through Litigation must comply with the Amicable Settlement procedures in Section 16.3 before Litigation may begin. For the avoidance of doubt, a Dispute qualifying for the expedited dispute resolution procedures in Section 16.7 (“**Expedited DRP**”) may, but need not, proceed through the Amicable Settlement and/or Mediation procedures set forth in Sections 16.3 and 16.4 before Expedited DRP may begin.

16.3. Amicable Settlements

- (a) The Parties must attempt to reach an amicable settlement of any Dispute as set forth in this Section 16.3 prior to referring such Dispute to Litigation.
- (b) After a Dispute arises, each Party commits to resolving such Dispute in an amicable, professional, and expeditious manner so as to avoid unnecessary losses, delays, and disruptions to the Work.
- (c) The Parties will first attempt to resolve any Disputes through discussions between representatives of each Party (the “**Authority Dispute Representative**” and “**Lessee Dispute Representative**”, respectively), each with the necessary authority within their own organizations to fully resolve the Dispute on behalf of their respective organizations, which discussions shall conclude within five (5) days of the initiating Party’s written request to meet unless the Parties mutually agree otherwise.
- (d) If a Dispute cannot be resolved through discussions between the Authority Dispute Representative and Lessee Dispute Representative, then, upon the request of either Party, senior representatives from each Party (the “**Senior Representatives**”, and together with the Authority Dispute Representative and Lessee Dispute Representative, the “**Dispute Representatives**”), each with the necessary authority within their own organizations to fully resolve the Dispute on behalf of their respective organizations, shall meet as soon as possible, but in no case later than seven (7) days after such a request is made, to attempt to resolve such Dispute.
- (e) The Parties will memorialize any resulting settlement of the Dispute pursuant to Section 16.5.

16.4. Mediation

If a Dispute cannot be resolved through the Amicable Settlement procedures set forth in Section 16.3, either Party may initiate mediation proceedings. Such proceedings shall occur pursuant to, and be governed by, the American Arbitration Association's Construction Industry Mediation Procedures (*i.e.* Rules M-1 through M-17 of the American Arbitration Association's Construction Industry Arbitration Rules and Mediation Procedures).

16.5. Documentation of Dispute Resolution

Subject to Section 16.7, upon the Parties' agreement on any settlement or resolution of a Dispute reached pursuant to Sections 16.3 or 16.4, the Parties will execute a written memorandum or similar document, in a form to be prepared by the Authority (unless the Authority otherwise delegates such preparation to Lessee, in which case Lessee will prepare such memorandum or document), setting out the details of such settlement or resolution. Such document will be considered a binding settlement agreement upon execution by the duly authorized Dispute Representatives of each Party. The Parties' resolution of a Dispute pursuant to Sections 16.3 or 16.4 will be considered binding only upon both Parties' execution of a written memorandum or similar document.

16.6. Litigation

- (a) Subject to Section 16.7, after having attempted to resolve their Dispute in compliance with the Amicable Settlement procedures in Section 16.3, either Party may at any time avail itself of any remedy under Law, including commencing court proceedings with respect to any Dispute.
- (b) Lessee will at all times maintain a registered agent for service of process in the State, the identity of which it will notify to the Authority. Service of process on Lessee may be made either by registered or certified mail or recognized national courier service at the address specified for notices or by delivery to Lessee's registered agent for service of process in the State.
- (c) Each Party will bear its own litigation costs and expenses, including attorneys' fees, in any Dispute arising out of this Agreement, except as otherwise pursuant to a court decision.

16.7. Expedited Dispute Resolution

- (a) The Expedited DRP discussed in this Section 16.7 shall apply in the event that a Dispute qualifies as an Expedited Dispute based on the criteria discussed in Section 16.7(b) below. The Expedited DRP may also apply to any Dispute where the Parties, after having complied with the Amicable Settlement and Mediation procedures set forth in Sections 16.3 and 16.4 above, mutually agree to invoke the Expedited DRP in lieu of their right to resolve the Dispute through Litigation.
- (b) In the event a Dispute arises with respect to:
 - (i) the occurrence of a Compensation Event or calculation of Lessee Compensation following a Compensation Event; and

- (ii) the disputed amount of Lessee Compensation reasonably claimed by Lessee is greater than ten thousand dollars (\$10,000), or
- (iii) the calculation of Authority Airport Revenue in an Annual Authority Airport Revenue Statement,

then the dispute shall be deemed an Expedited Dispute (“**Expedited Dispute**”) and either Party’s sole recourse shall be to have it resolved according to the Expedited DRP.

- (c) Expedited DRP shall occur pursuant to the American Arbitration Association’s Construction Industry Arbitration Rules and Mediation Procedures, as amended, except to the extent modified in this Agreement.

16.7.2. Dispute Resolution Panel

- (a) General Rules

- (i) All Expedited DRP shall be overseen by a dispute resolution panel (the “**Panel**”).
- (ii) Either Party may refer an Expedited Dispute, or other Dispute as permitted in Section 16.7(a), to the Panel for resolution under the Expedited DRP.

- (b) Panel Composition

- (i) The Panel will consist of three (3) persons who must be and remain independent of the Parties, impartial and without any conflict of interest or any appearance of a conflict of interest.
- (ii) No later than fifteen (15) Days after the Effective Date, each Party will appoint one (1) person as a member of the Panel with relevant experience in the industry of airport financing and operations for at least ten (10) years, or similar commercial matters relevant to this Agreement.
- (iii) Immediately after the Parties’ appointments for the Panel are final, the Parties will provide to such first two (2) members of the Panel a list of five (5) proposed members acceptable to both Parties to serve as the third member of the Panel (the “**Chairperson**”). Immediately upon delivery of such list, the first two (2) members of the Panel will begin the process of selecting the Chairperson from such list. In the event of a failure by the Parties to agree on a list of Chairperson candidates to provide the Panel; a failure by the first two (2) members of the Panel to agree on the Chairperson; or if for some other reason the Chairperson’s appointment cannot proceed, upon the request of either Party the Chairperson shall be selected pursuant to the procedures in Rule R-14 of the American Arbitration Association’s Construction Industry Arbitration Rules and Mediation Procedures.
- (iv) In the event of death, resignation, or inability or refusal to act by one of the members of the Panel, a new member will be appointed by the

Person(s) who appointed the original member within ten (10) Days of the occurrence of such event.

16.7.3. Notice of Dispute and Response Letter

- (a) If a Party elects to pursue resolution of a Dispute pursuant to the Expedited DRP, such Party will begin the Expedited DRP by sending the other Party a “**Notice of Dispute**” containing a description of the following:
 - (i) the Dispute in sufficient detail to inform the other Party of the relevant issues and of the referring Party’s position with respect to each;
 - (ii) the relief sought by the referring Party together with the factual and contractual basis for the relief sought;
 - (iii) copies of correspondence, reports and such other documents to which the referring Party relies upon or wishes to reference; and
 - (iv) whether (and why) the Dispute qualifies for Expedited DRP.
- (b) Within fifteen (15) Days of receipt of a Notice of Dispute, the recipient Party will provide the referring Party with a “**Response Letter**” containing a description of the following:
 - (i) its position with respect to the issues identified in the Notice of Dispute;
 - (ii) a description of any additional issues it sees as relevant to the Dispute and its position with respect to such issues in sufficient detail to inform the other Party;
 - (iii) copies of correspondence, reports and such other documents to which the recipient Party wishes to refer or upon which it relies;
 - (iv) any relief sought by the recipient Party; and
 - (v) whether (and, if so, why) it contests the referring Party’s assertion that the Dispute qualifies for Expedited DRP.

16.7.4. Negotiation Period

- (a) Promptly following the time provided above for delivery of a Response Letter, the Dispute Representatives should confer and otherwise use reasonable efforts to resolve the Dispute for a period not to exceed ten (10) Days (“**Negotiation Period**”).
- (b) The Parties will memorialize any resulting settlement of the Dispute pursuant to Section 16.5.
- (c) If the Dispute Representatives are unable to resolve the Dispute within the Negotiation Period, either Party may formally refer the Dispute to the Panel for Expedited DRP (a “**Referral**”) pursuant to Section 16.7.5 below.

16.7.5. Referral to the Panel for Expedited DRP

Beginning after the conclusion of the Negotiation Period, either Party may issue a Referral to the Panel, copying the other Party. That Referral must include:

- (a) a concise summary of the nature and background of the Dispute, of the facts relevant to the Dispute and of the issues to be decided;
- (b) a request for the Panel to consider, or not consider, such Dispute together with any other previously or simultaneously submitted Dispute; and
- (c) copies of the Notice of Dispute and Response Letter(s) sent pursuant to Section 16.4.

16.7.6. Panel Powers and Rules

- (a) When overseeing Expedited DRP, the Panel's powers and rules of procedure shall be the same as those provided in the American Arbitration Association's Construction Industry Arbitration Rules and Mediation Procedures, as amended, except to the extent expressly modified in this Agreement.
- (b) In determining any Dispute referred to it, the Panel will act fairly and impartially as between the Parties, giving each Party a reasonable opportunity to present and respond to the statements of the other Party.
- (c) The Panel will be empowered to grant provisional remedies and equitable relief to the Parties as necessary and appropriate in the circumstances, provided that to the extent such remedies or relief are necessary against third persons not party to the arbitration, the Parties may apply to a court of competent jurisdiction for the same.
- (d) The Chairperson of the Panel will decide whether to convene a hearing, or whether the Panel will determine the Dispute on a documents-only basis.
- (e) The Chairperson will fix the date, time and place of any hearing, provided that any hearing will be in the City.

16.7.7. Costs and Expenses of Panel Members

- (a) The costs and expenses payable to the members of the Panel will be agreed upon by the Parties, but absent agreement, each Party will pay the costs and expenses payable to its appointed member of the Panel and the costs and expenses of the Chairperson will be shared equally between the Parties.
- (b) The Chairperson's compensation will be subject to the Parties' mutual agreement, provided that neither Party may withhold its agreement to total compensation of the Chairperson that is less than or equal to the compensation paid to its own appointed member.
- (c) Once appointed, absent the Parties' mutual agreement otherwise, Panel members shall retain their positions until the end of the Agreement. In order to mitigate the costs and expenses of appointing and maintaining the Panel:
 - (i) a Party will only be required to pay a retainer to its own appointed member during periods in which the Panel is inactive; and

- (ii) absent an ongoing Dispute, an existing Panel may be dissolved by mutual agreement between the Parties.

16.7.8. Panel Decisions

- (a) All final decisions of the Panel (each a “**Decision**”) will be provided (with reasons for the decision) to the Parties as soon as possible, but, in any event, no later than forty-five (45) Days (or such other period of time as the Parties may agree in writing) following the Referral to the Panel.
- (b) Each Decision of the Panel:
 - (i) will be in accordance with the laws in force in the State of Connecticut (excluding any conflict of laws rule or principle which might refer such interpretation to the Laws of another jurisdiction);
 - (ii) will be in writing;
 - (iii) will be supported by substantial evidence;
 - (iv) will identify the specific issues to which it relates and the bases for such decision;
 - (v) will state whether it is a unanimous decision of the Panel (in the event of lack of unanimity, reasons for any dissenting opinion will be given); and
 - (vi) shall consider and provide for the costs of the Parties.
- (c) Any Decision shall be binding and final on both Parties, until and unless it is corrected or vacated in accordance with Law with respect to arbitral awards.
- (d) Each Party will bear its own arbitration costs and expenses, including attorneys’ fees, in any Dispute arising out of this Agreement, except as otherwise pursuant to an arbitral decision.
- (e) Any settlement of the Dispute, whether agreed before or after issuance of the Panel’s Decision, will be memorialized pursuant to Section 16.5.

16.8. Treatment of Settlement Negotiations and Mediation

Subject to Section 16.7, statements made by the Parties, including by their Dispute Representatives, during any meetings, hearings, proceedings, or in any communications related to efforts to resolve a Dispute pursuant to Sections 16.3 and 16.4, and documents containing statements or opinions specifically prepared in connection with the same will be considered part of settlement negotiations and will not be admissible as evidence in any litigation proceeding between the Parties without the mutual written consent of the Parties, provided that any Party:

- (a) that prepares demonstrative exhibits or summary exhibits of evidence; or
- (b) that retains experts or other Persons employed in a professional capacity to provide expert opinions and/or reports, which opinions and/or reports are prepared for presentation in connection with efforts to resolve a Dispute pursuant to Sections 16.3 and 16.4,

will be entitled to submit or otherwise use its own work product in any subsequent proceeding.

16.9. Continued Performance & Other Matters

While resolving any Dispute pursuant to this Agreement, the Parties will continue to perform in accordance with and to the extent required by this Agreement.

16.10. Joinder

Proceedings to resolve any Dispute arising out of or relating to this Agreement and the Management Contract shall be subject to consolidation or joinder without any further required consent by the Parties. All other disputes arising out of or relating to this Agreement shall not be subject to consolidation or joinder with any additional Person except with the written consent of each Party and any other Person sought to be so joined.

ARTICLE 17. LENDERS AND FINANCING

17.1. Mortgages

Lessee will have the right at its sole cost and expense to grant one or more Mortgages if, at the time any such Mortgage is executed and delivered to the Secured Party, no Lessee Default exists, unless any such Lessee Default will be cured pursuant to Section 17.3 in connection with entering into such Mortgage, and the following terms and conditions are satisfied:

- (a) Lessee shall have provided the form of Mortgage to the Authority and the Authority shall have confirmed that such Mortgage complies with this Article 17 (such confirmation not to be unreasonably withheld, conditioned or delayed);
- (b) the Mortgage does not cover any property of, or secure any debt issued or guaranteed by, any Person other than Lessee; provided that it may cover shares or equity interests in the capital of Lessee and any cash reserves or deposits held in the name of Lessee;
- (c) the Mortgage shall not extend past the originally scheduled expiry of the Term;
- (d) no Person other than an Institutional Lender will be entitled to the benefits and protections accorded to a Secured Party in this Agreement; provided, however, that lessors and lenders to Lessee, including any financial insurers, may be Persons other than Institutional Lenders so long as any Mortgage securing the loans made by such Persons is held by an Institutional Lender acting as collateral agent or trustee;
- (e) no Mortgage or other instrument purporting to mortgage, pledge, encumber, or create a lien, charge or security interest on or against any or all of Lessee Interest will extend to or affect any possessory, leasehold, or fee simple interest in the Authority Property or the Authority's retained and reversionary interest hereunder in and to the Airport Facilities and Assets or any part thereof;
- (f) the Authority will have no liability whatsoever for payment of the principal sum secured by any Mortgage, or any interest accrued thereon or any other sum secured thereby or accruing thereunder, and, except for violation by the Authority of express obligations set forth herein or in any other agreement with the Secured Party, the Secured Party will not be entitled to seek any damages or other amounts against the Authority for any or all of the same;
- (g) the Authority will have no obligation to any Secured Party in the enforcement of the rights and remedies of the Authority under this Agreement or by Law, except as expressly set forth in this Agreement or in any agreement with the Secured Party and unless such Secured Party has provided the Authority with notice of its Mortgage in accordance with the Secured Party Notice Requirements;
- (h) each Mortgage will provide that if Lessee is in default under the Mortgage and the default is continuing and the Secured Party gives notice of such default to Lessee, then the Secured Party will give notice of such default to the Authority;

- (i) subject to the terms of this Agreement, all rights acquired by a Secured Party under any Mortgage will be subject and subordinate to all of the provisions of this Agreement and to all of the rights of the Authority hereunder.
- (j) notwithstanding any enforcement of the security of any Mortgage, Lessee will remain liable to the Authority for the payment of all sums owing to the Authority under this Agreement and the performance and observance of all of Lessee's covenants and obligations under this Agreement, unless otherwise satisfied;
- (k) a Secured Party will not, by virtue of its Mortgage, acquire any greater rights or interest in the Airport Facilities and Assets than Lessee has at any applicable time under this Agreement, other than such rights or interest as may be granted or acquired in accordance with this Article 17;
- (l) at Lessee's request, the Parties shall use good faith efforts to negotiate and enter into with the Secured Parties, or the Collateral Agent acting on their behalf, a customary direct or consent agreement with respect to the Mortgage conforming to the applicable terms set out in this Article 17 in form and substance reasonably acceptable to the Parties (and upon such direct or consent agreement's execution, this Article 17 shall be made subject to its terms); and
- (m) while any Mortgage is outstanding, the Authority will not agree to any amendment or modification of this Agreement that could reasonably be expected to have a material adverse effect on the rights or interests of the Secured Party or agree to a voluntary surrender or termination of this Agreement by Lessee without the consent of the Secured Party, which consent shall not be unreasonably withheld, delayed or conditioned.

17.2. Notices and Payments to Lenders

- (a) Whenever a Mortgage exists as to which the Authority has been provided notice by the holder thereof in accordance with the Secured Party Notice Requirements, the Authority will, simultaneously with providing Lessee any required notice under this Agreement, provide a copy of such notice to such Secured Party, and no such notice to Lessee shall be effective against the Secured Party until a copy thereof is duly provided to such Secured Party at its address specified in its notice given to the Authority in accordance with the Secured Party Notice Requirements (or any subsequent change of address notice given to the Authority pursuant to the requirements of Section 19.1).
- (b) With respect to a Mortgage regarding which the Authority has been provided notice in accordance with the Secured Party Notice Requirements, unless the Secured Party has otherwise advised the Authority in writing, and solely to the extent so required pursuant to the terms of the financing secured by such Mortgage, all payments to Lessee to be made by the Authority under this Agreement will be made to the Secured Party or the institution acting as the collateral agent or depository under the financing secured by such Mortgage.

17.3. Lenders' Right to Cure

- (a) The Secured Party will have a period of one hundred eighty (180) Days with respect to any Lessee Default beyond any cure period expressly provided to Lessee herein, in which to cure or cause to be cured any Lessee Default, provided that:
 - (i) such one hundred eighty (180) Day period will be extended if Lessee Default may be cured but cannot reasonably be cured within such period, and the Secured Party begins to cure such default within such period (or if possession is necessary in order to effect such cure, the Secured Party files the appropriate legal action to commence foreclosure on the liens of the Mortgage (or takes other appropriate action to effect a transfer of title to the property subject to such liens) and take possession of the Airport Facilities and Assets within such period) and thereafter proceeds with all due diligence to cure such Lessee Default (including by proceeding with all due diligence to effect such foreclosure and during such foreclosure action (to the extent practicable) and thereafter to effect such a cure) within a reasonable period of time acceptable to the Authority, acting reasonably, provided, further, that if any Secured Party is prohibited from curing any Lessee Default by any stay or injunction issued by any Governmental Authority Lessee, then the time periods specified in this Section 17.3(a) for curing such Lessee Default shall be extended for the period of such prohibition; and
 - (ii) if a Secured Party's right to cure a Lessee Default has not expired, and the Secured Party is acting to cure such Lessee Default in accordance with this Section 17.3(a), then the Authority will not exercise its right to terminate this Agreement by reason of such Lessee Default.
- (b) In furtherance of the foregoing:
 - (i) the Authority will permit the Secured Party and its Representatives the same access to the Airport Facilities and Assets as is permitted to Lessee hereunder and permit the Secured Party or its Representatives to take all actions and exercise all rights of Lessee under this Agreement; provided that any actions taken by a Secured Party or its Representatives pursuant to this Section 17.3 shall be undertaken in accordance with the provisions of this Agreement that would be applicable to Lessee were it taking such actions;
 - (ii) the Authority will accept any such performance under Section 17.4 by a Secured Party as though the same had been done or performed by Lessee;
 - (iii) any payment to be made or action to be taken by a Secured Party hereunder as a prerequisite to keeping this Agreement in effect will be deemed properly to have been made or taken by the Secured Party if such payment is made or action is taken by a nominee, agent or assignee of the rights of such Secured Party; and

- (iv) any exercise of the Secured Party's rights to cure hereunder will not result in the assumption by such Secured Party of Lessee's obligations hereunder.

17.4. Other Lender Rights

17.4.1. Secured Parties' Enforcement Rights

- (a) Subject to the provisions of this Agreement, a Secured Party may:
 - (i) enforce its Mortgage in any lawful way;
 - (ii) acquire Lessee Interest in any lawful way; or
 - (iii) take possession of in any lawful way and manage the Airport Facilities and Assets subject to the terms of this Agreement, provided that such rights of possession shall not exceed those previously granted to Lessee pursuant to this Agreement.
- (b) Upon foreclosure of (or without foreclosure upon exercise of any contractual or applicable statutory power of sale under such Mortgage or a deed in lieu) and subject to the provisions of Article 15 (applied to the Secured Party as if it were Lessee), a Secured Party may Transfer Lessee Interest; provided that no Transfer by a Secured Party will be effective unless the Transfer is made in accordance with Article 15. Any Person to whom the Secured Party Transfers Lessee Interest (including such Secured Party) will take Lessee Interest subject to any of Lessee's obligations under this Agreement.
- (c) Except as provided in Section 17.4, unless and until a Secured Party (a) forecloses or has otherwise taken ownership of Lessee Interest or (b) has taken possession or control of Lessee Interest, whether directly or by an agent as a mortgagee in possession or a receiver or receiver and manager has taken possession or control of Lessee Interest by reference to the Mortgage, the Secured Party will not be liable for any of Lessee's obligations under this Agreement or be entitled to any of Lessee's rights and benefits contained in this Agreement, except by way of security.
- (d) If the Secured Party itself or by an agent or a receiver or a receiver and manager is the owner, or is in control or possession of, Lessee Interest, it will be bound by all liabilities and obligations of Lessee under this Agreement.
- (e) Once the Secured Party goes out of possession or control of Lessee Interest or Transfers Lessee Interest to another Person in accordance with the provisions of this Agreement, the Secured Party will cease to be liable for any of Lessee's obligations under this Agreement accruing thereafter and will cease to be entitled to any of Lessee's rights and benefits contained in this Agreement, except, if the Mortgage remains outstanding, by way of security.

17.4.2. Termination and New Agreement

- (a) If this Agreement is terminated prior to the expiration of the Term due to a Lessee Default (in which case the Authority will notify the Secured Party of such

termination) or if this Agreement is rejected or disaffirmed pursuant to any bankruptcy Law or proceeding or other similar Law or proceedings affecting creditors' rights generally with respect to a bankruptcy proceeding relating to Lessee or otherwise, the Authority agrees to enter into a new agreement with the Secured Party (or its designee or nominee, provided that such designee or nominee either is controlled by the Secured Party (or by the holders of Lessee Debt)) for the remainder of the original stated Term upon all of the covenants, agreements, terms, provisions and limitations of this Agreement (the "**New Agreement**"), effective as of the date of such termination, but only on and subject to the satisfaction of all of the following requirements and conditions:

- (i) such Secured Party commits in writing to the Authority, in a notice delivered to the Authority, within sixty (60) Days after the Authority delivers the termination notice to Secured Party (or, if later, upon the termination of any cure period granted to the Secured Party pursuant to Section 17.3) or within fourteen (14) Days after the effective date of such rejection or disaffirmance, as the case may be, that the Secured Party (or its designee or nominee) will enter into the New Agreement, which notice is accompanied by a copy of such New Agreement, duly executed and acknowledged by the Secured Party (or its designee or nominee);
- (ii) the Secured Party (or its designee or nominee) pays or causes to be paid to the Authority, at the time of the execution and delivery of the New Agreement, all amounts (including interest thereon) which, at the time of the execution and delivery thereof, would have been past-due or due and payable in accordance with the provisions of this Agreement but for such termination;
- (iii) provided the Authority furnishes a statement or invoice for such costs the Secured Party pays or causes to be paid to the Authority all reasonable costs and expenses (including legal fees), Taxes, fees, charges and disbursements paid or incurred by the Authority in connection with such defaults and termination, the recovery of possession from Lessee, and in connection with the preparation, execution and delivery of the New Agreement and related agreements and documents specified in such statement or invoice; and
- (iv) such Secured Party (or its designee or nominee), at the time of such written request, cures all defaults under this Agreement (curable by the payment of money) of which the Secured Party has been notified by the Authority in writing that are existing immediately prior to the termination of this Agreement, or, if such defaults cannot be cured by the payment of money, such Secured Party (or its designee or nominee) commits to the Authority in the New Agreement to proceed both promptly and diligently, upon the execution of the New Agreement, to cure all such other defaults to the extent such defaults are capable of cure by a Person other than the original Lessee and, if possession is necessary in order to cure such other

Lessee Defaults, to proceed both promptly and diligently to obtain the possession required to cure any such other defaults to the extent curable (and such cure will be a covenant in the New Agreement).

- (b) Nothing contained in this Section 17.4.2 will be deemed to limit or affect the Authority's interests in and to such Airport Facilities and Assets upon the expiration of the Term of the New Agreement.
- (c) The provisions of this Section 17.4.2 will survive the End Date and will continue in full force and effect thereafter to the same extent as if this Section 17.4.2 were a separate and independent contract made by the Authority, Lessee and the Secured Party and, if the Secured Party satisfies the conditions to a New Agreement from the effective date of such termination of this Agreement to the date of execution and delivery of the New Agreement, the Secured Party may use and enjoy the leasehold, license and rights created by this Agreement without hindrance by the Authority, but only on and subject to the terms and provisions of this Agreement.
- (d) If the circumstances described in Section 17.4.2(a) occur, and the Authority determines, based on the written legal advice of counsel, that termination of this Agreement and the entry into a New Agreement by and among the Authority and the Secured Party could violate applicable provisions of the Laws of the State governing procurement by the Authority then, in lieu of entering in a New Agreement and in satisfaction of its obligations under this Section 17.4.2, the Authority agrees to enter into an Assignment and Assumption Agreement pursuant to Section 17.7.

17.5. Recognition of Lenders

- (a) If there is more than one Secured Party, only that Secured Party, to the exclusion of all other Secured Party's, whose notice was earliest received by the Authority pursuant to the Secured Party Notice Requirements, will have the rights as a Secured Party under this Article 17, or otherwise under this Agreement, unless such Secured Party has designated in writing another Secured Party to exercise such rights, provided, however, that such notice may name more than one Secured Party and the rights referred to in this Section 17.5 may extend to all Secured Party's named therein if such notice is submitted by a representative of all such Secured Party's (which representative may itself be a Secured Party).
- (b) Such Secured Party may act as agent for a group or syndicate of one or more Institutional Lenders and such Secured Party and Institutional Lenders may freely assign or sell interests and/or participations in the loans to any other Institutional Lender.

17.6. Right of Authority to Purchase Secured Interest

- (a) Without limiting the Authority's rights and remedies under this Agreement with respect to a Lessee Default, if any default by Lessee has occurred under indebtedness secured by a Mortgage and has not been cured within applicable cure periods, or any act, condition or event has occurred which would permit a

Secured Party to declare all or part of the indebtedness secured by a Mortgage to be immediately due and payable, then the Authority will have thirty (30) Days after the date on which such Secured Party serves notice upon the Authority in writing (“**Secured Party’s Notice**”) that such Secured Party intends to commence proceedings to foreclose the Mortgage (stating the calculation of the purchase price pursuant to Section 17.6(e)), during which thirty (30) Day period the Authority will have the right and option (the “**Authority Option**”) to purchase from all Secured Party’s their Mortgages, upon the terms and subject to the conditions contained in this Section 17.6.

- (b) The Authority Option will be exercised by written notice served upon Lessee and all Secured Party’s within such thirty (30) Day period.
- (c) Time will be of the essence as to the exercise of the Authority Option.
- (d) If the Authority Option is duly and timely exercised, the Authority will purchase and all Secured Party’s will assign their Mortgages to the Authority (or its designee) on the date which is sixty (60) Days after the date on which a Secured Party’s Notice is served upon the Authority. The closing will take place at a mutually convenient time and place.
- (e) The purchase price payable by the Authority will be equal to the aggregate amounts secured by such Mortgages (including principal, interest, fees, premiums, Breakage Costs, and other costs, expenses (including attorneys’ fees) and any other amounts secured thereby) as of the effective date of the purchase.
- (f) The purchase price will be paid in full in cash at closing by wire transfer or other immediately available funds.
- (g) The purchase price will be paid by the Authority to each respective Secured Party, to be applied by the Secured Party to the amounts secured by the Mortgage owed to such Secured Party, subject to the priorities of lien of such Mortgages.
- (h) At the closing and upon payment in full of the purchase price each Secured Party will assign its Mortgage to the Authority, together with any security interest held by it in Lessee Interest, without recourse, representations, covenants or warranties of any kind; provided that such Mortgages and security interests will be deemed modified to secure the amount of the aggregate purchase price paid by the Authority to all Secured Party’s (rather than the indebtedness theretofore secured thereby) payable on demand, with interest and upon the other items referred to in this Section 17.6(h). Each such assignment will be in form for recordation or filing, as the case may be. The Authority will be responsible for paying any Taxes payable to any Governmental Authority upon such assignment. Such assignment will be made subject to such state of title of the Airport Facilities and Assets as will exist at the date of exercise of the Authority Option.
- (i) Any Mortgage will contain an agreement of the Secured Party to be bound by the provisions of this Section 17.6, and the Authority will have the right to receive all notices of default under any Mortgage.

17.7. Assignment and Assumption Agreement

- (a) The provisions of this Section 17.7 will be in effect whenever either:
 - (i) the Authority has made the determination contemplated by Section 17.4.2(d); or
 - (ii) the Authority, with the written consent of the Secured Party, has determined to proceed under this Section 17.7 in lieu of under Section 17.4.2.
- (b) If either:
 - (i) the Authority has given a notice of termination of this Agreement due to Lessee Default pursuant to Section 14.1.2(a); or
 - (ii) this Agreement is rejected or disaffirmed pursuant to any bankruptcy Law or proceeding or other similar Law or proceedings affecting creditors' right generally with respect to a bankruptcy proceeding relating to Lessee or otherwise,

the Authority agrees to cooperate with a Secured Party in order to effectuate such Secured Party's rights under the Mortgage to step-in, assume or assign this Agreement, in accordance with the procedures, terms and conditions of this Section 17.7.

- (c) Upon notification and satisfaction of all of the conditions and requirements in Section 17.7(d), the Authority agrees that this Agreement will not be deemed terminated, but may be assumed by a Secured Party or by a designee or nominee of such Secured Party who is either controlled by the Secured Party (or by the holders of Lessee Debt), for the remainder of the original stated Term of this Agreement, and as evidence of such assignment and assumption the Authority agrees to execute an amended and restated agreement for the Airport Facilities and Assets upon all of the covenants, agreements, terms, provisions and limitations of this Agreement (the "**Assignment and Assumption Agreement**").
- (d) This Agreement may be so assigned and assumed pursuant to an Assignment and Assumption Agreement upon and subject to satisfaction of all of the following requirements and conditions:
 - (i) Such Secured Party must commit in writing to the Authority, in a notice delivered to the Authority within the later of sixty (60) Days after the Authority delivers the termination notice to Secured Party or upon the termination of any cure period granted to such Secured Party pursuant to Section 17.3, or within fourteen (14) Days after the effective date of any rejection or disaffirmance of this Agreement in a bankruptcy proceeding, as the case may be, that such Secured Party (or its designee or nominee) will assume this Agreement and enter into the Assignment and Assumption Agreement, which notice is accompanied by a copy of such Assignment and Assumption Agreement duly executed and acknowledged by such Secured Party (or its designee or nominee).

- (ii) Such Secured Party (or its designee or nominee) will pay or cause to be paid to the Authority, at the time that the Assignment and Assumption Agreement is fully executed, all amounts which, at the time of the execution and delivery thereof, would have been past-due or due and payable in accordance with the provisions of this Agreement.
- (iii) Such Secured Party (or its designee or nominate) will pay or cause to be paid to the Authority all reasonable costs and expenses (including legal fees), Taxes, fees, charges and disbursements paid or incurred by the Authority in connection with such defaults and notice of termination, the recovery of possession from Lessee, and in connection with the preparation, execution and delivery of the Assignment and Assumption Agreement and related agreements and documents. The Authority will provide an invoice to such Secured Party of such costs, and the Secured Party or its designee or nominee will pay such invoiced costs within five (5) Days of the receipt of such invoice.
- (iv) Such Secured Party (or its designee or nominee), at the time of the notice provided under Section 17.7(d)(i), will cure all defaults under this Agreement (including all such defaults curable by the payment of money) existing immediately prior to the notice of termination issued pursuant to Section 14.1.2, or, if such defaults cannot be cured by the payment of money, such Secured Party (or its designee or nominee) will commit to the Authority in the Assignment and Assumption Agreement to proceed both promptly and diligently, upon the execution of the Assignment and Assumption Agreement, to cure all such other defaults to the extent such defaults are capable of cure by a Person other than the original Lessee and, if possession is necessary in order to cure such other Lessee Defaults, to proceed both promptly and diligently to obtain the possession required to cure any such other defaults (and such obligation to cure will be a covenant in the Assignment and Assumption Agreement).
- (e) If a Secured Party gives the Authority a notice as provided in Section 17.7(d)(i), the Authority and Secured Party agree to cooperate with respect to taking any appropriate actions required to regain and transfer possession of the Terminal Facilities and Assets and the Assigned Assets, including:
 - (i) seeking surrender of possession in any bankruptcy proceedings;
 - (ii) seeking relief from any automatic stay in bankruptcy provisions and pursuit of state law remedies to obtain possession and to foreclose on the Mortgage interest and assume Lessee's position as provided in Section 17.4 of this Agreement;

provided that any costs incurred by the Authority under this provision will be reimbursed by the Secured Party (or its designee or nominee) as provided in Section 17.7(d)(iii).

17.8. Right to Dispute Resolution

In each case specified in this Agreement in which resort to dispute resolution is authorized, a Secured Party will have the right and privilege if an event of default under the Mortgage then exists and notice has been given to the Authority as contemplated by Section 17.1(h), in Lessee's name, place and stead, to obtain and participate in such dispute resolution upon notice to the Authority in accordance with the Dispute Resolution Procedures; provided that the Secured Party agrees to be bound by the outcome of the dispute resolution process.

17.9. Application of PFCs to Lessee Debt

In the event this Agreement is terminated prior to the expiration of the Term due to a Lessee Default, the Authority agrees that in the event PFCs were being collected prior to such termination that were authorized by the FAA to be used for the payment of any Lessee Debt outstanding at the time of such termination, the Authority will, subject to the receipt of all necessary authorizations from the FAA and so long as the PFC expenditure remains eligible, and only up to the amounts approved by the FAA, or any lower amount through a planned amendment, use its Reasonable Efforts to continue to collect such PFCs and apply them to the payment of such Lessee Debt to the same extent, and for a duration not to exceed the duration that they would have been applied by Lessee in the absence of such termination.

ARTICLE 18. DAMAGES AND LIABILITY

18.1. Remedies

18.1.1. Cumulative Remedies

The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

18.1.2. No Double Recovery

Notwithstanding any other provision of this Agreement, no Party will be entitled to recover compensation pursuant to this Agreement or any other agreement in relation to this Agreement in respect of any Loss that it has incurred to the extent that it has already been compensated in respect of that Loss pursuant to this Agreement or otherwise.

18.1.3. Non-financial Remedies

Without prejudice to the other rights and remedies pursuant to the express terms of this Agreement, nothing in Section 18.1.2. will prevent or restrict the right of the Authority or Lessee to seek any non-financial remedies from the court pursuant to the Dispute Resolution Procedure.

18.1.4. Available Insurance

Lessee will not be entitled to any payment or credit (or any portion of either thereof) which would have been due, or from which it would have otherwise received a benefit, pursuant to this Agreement to the extent that it is (or, but for any breach by it of this Agreement, would be) able to recover the amount or receive the benefit of such payment or credit (or such portion) pursuant to, without duplication:

- (a) any insurance policy;
- (b) any other policy of insurance that Lessee has taken out and maintains (excluding, for certainty, any credit enhancement policy related to the Lessee Debt); or
- (c) any other policy of insurance that Lessee is entitled to claim under as an additional insured,

paragraphs 18.1.4(a), 18.1.4(b), and 18.1.4(c) together, the “**Available Insurance**”.

18.2. Damages and Liability

18.2.1. Waiver of Consequential Damages

- (a) Subject to Section 18.2.1(b), neither Party will be liable to the other for any punitive, indirect, incidental or consequential damages of any nature (including, for certainty, lost revenue), whether arising out of a breach of this Agreement, tort (including negligence) or other legal theory of liability (except for Claims and/or Losses by either Party against the other Party for fraud or for intentional misrepresentation or intentional breach).
- (b) The limitation set out in Section 18.2.1(a) will not apply to:

- (i) any amounts expressly payable pursuant to this Agreement, or any amounts entitled to be offset pursuant to Section 19.15;
- (ii) either Party's liability for:
 - (A) Claims and/or Losses (including defense costs) to the extent that they are covered by the proceeds of, in case of Lessee, Available Insurance, and in case of the Authority, such insurance the Authority is required to carry pursuant to Article 12;
 - (B) fines and/or penalties issued by a Governmental Authority arising out of or relating to any Release of Hazardous Materials by Lessee at, on, under, or from the Leased Property and/or the Airfield Facilities;
 - (C) any type of damage arising out of fraud, willful misconduct, criminal conduct, recklessness, bad faith, or gross negligence on the part of the relevant Party (including, with respect to Lessee, that of any Affiliate); and
 - (D) interest, late charges, fees, transaction fees and charges, penalties and similar charges that the Agreement expressly states are due from the relevant Party.

18.2.2. Joint and Several Liability

In the event that Lessee, or its successors or assigns, if any, is at any time comprised of more than one individual or other legal entity (or a combination thereof) and is not itself a legal entity, then and in that event, each and every obligation or undertaking herein stated to be fulfilled or performed by Lessee will be the joint and several obligation or undertaking of each such individual or other legal entity.

18.2.3. No Personal Liability

Each of the members, owners, directors, officers, employees, managers, agents, consultants and advisors of the Authority and Lessee and each of the Authority's authorized representatives and Lessee's authorized representatives are acting solely as agents and representatives of the Authority or Lessee when carrying out the provisions of or exercising the power or authority granted to them under this Agreement, and, as such, none of them will be liable either personally or as employees of the Authority or Lessee for actions in their ordinary course of employment.

ARTICLE 19. MISCELLANEOUS

19.1. Notice

All notices, other communications and approvals required or permitted by this Agreement will be in writing, will state specifically that they are being given pursuant to this Agreement and will be delivered, sent by e-mail, recognized overnight courier, certified or registered mail (return receipt requested and postage prepaid), addressed as follows:

(a) in the case of the Authority:

Tweed-New Haven Airport Authority
155 Burr St,
New Haven, CT 06512
Attn: Executive Director
Email: sscanlon@flytweed.com

And, with regard to notices concerning defaults and disputes hereunder, a copy to:

Updike, Kelly & Spellacy, P.C.
265 Church St #1001,
New Haven, CT 06510
Attn: Hugh Manke
Email: hmanke@uks.com

Kaplan Kirsch & Rockwell LLP
1625 Broadway
Suite 2300
Denver, CO 80202
Attn: Peter Kirsch
Email: pkirsch@kaplankirsch.com

(b) in the case of Lessee:

If by USPS:
The New HVN LLC
P.O. Box 16860
Washington, DC 20041-6860

If by courier:
The New HVN LLC
45025 Aviation Drive, Suite 100
Dulles, VA 20166-7524

And, with regard to notices concerning defaults and disputes hereunder, a copy to:

The Foont Law Firm, LLC
11727 Gainsborough Road

Potomac, MD 20854-3247
Attn: Brian Foont
Email: Foont@FoontLaw.com

or such other persons or addresses as either Party may from time to time designate by notice to the other. A notice, other communication or approval will be deemed to have been sent and received (i) on the Day it is delivered, or if such Day is not a Business Day or if the notice is received after ordinary office hours (time of place of receipt), the notice, other communication or approval will be deemed to have been sent and received on the next Business Day, or (ii) on the fourth (4th) Business Day after mailing if sent by U.S. registered or certified mail.

19.2. Use of Representatives

19.2.1. Appointment of Representatives

- (a) Pursuant to this Section 19.2, the Authority and Lessee will each identify and maintain a person as its and their official representative (respectively, the “**Authority Representative**” and the “**Lessee Representative**” and, together, the “**Party Representatives**” and each a “**Party Representative**”) with the functions and powers as set out in Section 19.2.2 and 19.2.3.
- (b) From time to time:
 - (i) the Authority and Lessee may replace their respective Party Representative; and
 - (ii) the Authority and Lessee may each delegate all or part of its or their respective Party Representative’s responsibilities under this Agreement, in either case by notice to the other Party containing:
 - (iii) the name, title, mailing address, principal phone numbers, and email address (or digital equivalent) of the replacement Party Representative or delegatee;
 - (iv) in the case of partial delegations of authority, a schedule setting out the extent to which authority for managing any aspect of this Agreement has been delegated and to whom; and
 - (v) in the case of time-limited replacements or delegations, the start and end date for such time-limited replacement or delegation.

19.2.2. Power and Authority of Lessee Representative

Except as previously notified by Lessee to the Authority before any relevant act or instruction occurs or is given:

- (a) the Authority will be entitled to assume that Lessee Representative has, and Lessee will (subject to reasonable exceptions and limitations to be notified to the Authority) ensure that Lessee Representative will have, full authority to act on behalf of Lessee for all purposes of this Agreement; and

- (b) subject to any exceptions or limitations previously notified to them, the Authority and the Authority Representative will be entitled to treat any act of Lessee Representative in connection with this Agreement as being expressly authorized by Lessee and the Authority and the Authority Representative will not be required to determine whether any express authority has in fact been given.

19.2.3. Power and Authority of the Authority Representative

Except as previously notified by the Authority to Lessee before any relevant act or instruction occurs or is given:

- (a) Lessee will be entitled to assume that the Authority Representative has, and Authority will (subject to reasonable exceptions and limitations to be notified to Lessee) ensure that the Authority Representative will have, full authority to act on behalf of Authority for all purposes of this Agreement; and
- (b) subject to any exceptions or limitations previously notified to them, Lessee and Lessee Representative will be entitled to treat any act of the Authority Representative in connection with this Agreement as being expressly authorized by Authority and Lessee and Lessee Representative will not be required to determine whether any express authority has in fact been given.

19.3. Intellectual Property and Work Product

Lessee retains ownership of all Lessee Background Intellectual Property and Project Intellectual Property, including any tangible embodiments thereof, such as data, sketches, charts, calculations, plans, specifications, electronic files, correspondence, reports, analyses, studies and other documents and materials created or collected under the terms of this Agreement. No license or other right is granted by Lessee to Authority with respect to the Lessee Background Intellectual Property or Project Intellectual Property except as expressly set forth in Section 14.4.2 of this Agreement.

19.4. Entire Agreement

- (a) This Agreement, including all Schedules, Exhibits and other documents executed herewith, constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the Parties, including the Letter of Intent.
- (b) Notwithstanding the foregoing, the Parties agree that this Agreement shall have no effect on, and shall not supersede or modify, the Management Contract.
- (c) There are no representations, warranties, conditions or other agreements, whether direct or collateral, or express or implied, that form part of or affect this Agreement, or that induced any Party to enter into this Agreement or on which reliance is placed by any Party, except as specifically set forth in this Agreement. The Parties acknowledge and agree that:
 - (i) each has substantial business experience and is fully acquainted with the provisions of this Agreement;

- (ii) the provisions and language of this Agreement have been fully negotiated; and
- (iii) no provision of this Agreement will be construed in favor of any Party or against any Party by reason of such provision of this Agreement having been drafted on behalf of one Party rather than the other.

19.5. Required Modifications

In the event that the FAA requires amendments, modifications, revisions, supplements, or deletions of any of the terms of this Agreement as a condition precedent to the granting of funds for the improvement of the Airport, or otherwise, the Parties will make or agree to such amendments, modifications, revisions, supplements or deletions as may be reasonably required.

19.6. Amendment

This Agreement may be amended, changed, or supplemented only by a written agreement signed by each of the Parties.

19.7. Waiver of Rights

Except to the extent otherwise expressly provided in this Agreement:

- (a) any waiver of, or consent to depart from, the requirements of any provision of this Agreement will be approved in the discretion of the Party giving it and will be effective only if it is in writing by such Party, and only in the specific instance, for the specific time, subject to the specific conditions and for the specific purpose for which it has been given;
- (b) no failure on the part of any Party to exercise, and no delay in exercising, any right or power under this Agreement will operate as a waiver of such right or power; and
- (c) no single or partial exercise of any right or power under this Agreement, including any right to give or withhold any consent, approval, or acceptance, nor any abandonment or discontinuance of steps to enforce such a right or power, will preclude or render unnecessary any other or further exercise of such right or the exercise of any other right.

19.8. Severability

- (a) Notwithstanding Section 1.3.1, if any provision of this Agreement or the application thereof to any Person or circumstance is held or deemed to be or determined to be invalid, inoperative, or unenforceable in any particular case in any particular jurisdiction or jurisdictions because it conflicts with any other provision or provisions hereof or of any applicable Law, or public policy, or for any other reason, then:
 - (i) the Parties will promptly meet and negotiate a substitute for such provision or part thereof which will, to the greatest extent legally

permissible, effect the original intent of the Parties and amend this Agreement to implement the provisions set forth herein, and

- (ii) if the Parties cannot agree on an appropriate amendment, either Party may refer the matter for determination pursuant to the Dispute Resolution Procedures. If, by means of the Dispute Resolution Procedures, the Parties are unable, as a result of applicable Law, to resolve the matter in a manner that effectively entitles the Authority to have the same rights after the aforesaid determination of invalidity or unenforceability as before, the Authority will have the right to enact, and cause to come into force, any Law to provide for the same or substantially the same rights as were determined to be invalid or unenforceable; provided that the rights of Lessee or any Secured Party shall in no event be diminished by any such Law.
- (b) If any provision (or part of any provision) of this Agreement will, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such provision (or part thereof) will not affect the validity, legality and enforceability of any other provision of (or the other part of such provision) or any other documents referred to in this Agreement, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision (or part thereof) had never been contained herein.

19.9. Survival

The following provisions of this Agreement shall survive the End Date:

- (a) any provision which obligates Lessee or the Authority to reimburse the other Party for any cost and expense incurred by them prior to the termination of the Agreement, unless already settled as part of the applicable termination payment or otherwise;
- (b) any other provisions which, either expressly or by their context, are intended to operate after termination or expiration of this Agreement; and
- (c) any other provisions if and to the extent necessary for the interpretation or application of the foregoing.

19.10. Governing Law; Waiver of Jury Trial

- (a) This Agreement will be governed by, and interpreted and enforced in accordance with, the Laws in force in the State of Connecticut (excluding any conflict of laws rule or principle which might refer such interpretation to the Laws of another jurisdiction).
- (b) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

19.11. Submission to Jurisdiction

Subject to the Dispute Resolution Procedures, any action or proceeding against any Party relating in any way to this Agreement may be brought and enforced in the federal or state courts in the State of Connecticut in New Haven County, and each of Lessee and the Authority hereby irrevocably submits to the jurisdiction of such courts with regard to any such action or proceeding, and irrevocably waives, to the fullest extent permitted by applicable Law, any objection it may have now or hereafter have to the laying of venue of any such action or proceeding in such courts and any claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum. Service of process on the Authority may be made, either by registered or certified mail addressed as provided for in Section 19.1. Service of process on Lessee may be made either by registered or certified mail addressed as provided for in Section 19.1 or by delivery to Lessee's registered agent for service of process in the State. If Lessee is presented with a request for information or documents by any administrative agency or with a subpoena duces tecum regarding any information or documents which may be in its possession by reason of this Agreement, Lessee will give prompt notice to the Authority. The Authority may contest such process by any means available to it before such information or documents are submitted to a court or other third party; provided, however, that Lessee will not be obligated to withhold such delivery beyond that time as may be ordered by the court or administrative agency or required by Law, unless the subpoena or request is quashed or the time to produce is otherwise extended.

19.12. Further Acts

The Parties will do or cause to be done all such further acts and things as may be reasonably necessary or desirable to give full effect to this Agreement. Without limiting the foregoing, each Party will, at any time and from time to time, execute and deliver or cause to be executed and delivered such further instruments and assurances and take such further actions as may be reasonably requested by the other Party in order to cure any defect in the execution and/or delivery of this Agreement.

19.13. Costs

Except as otherwise expressly provided in this Agreement, each Party will be responsible for its own costs and expenses incurred in connection with preparation, negotiation, and execution, and with performing and observing its obligations and covenants under, this Agreement, including all costs and expenses (including third-party costs and expenses) incurred in connection with the review, analysis and / or consideration of any notice, request for consent or approval or other document delivered by one Party to the other Party pursuant to this Agreement.

19.14. Interest

Any amount payable under this Agreement and not paid when due will bear interest at the prime rate as posted in the Wall Street Journal on the first Business Day of the preceding month plus the lesser of (i) two percent (2%) and (ii) the greatest amount permitted by applicable Law, from the date such payment is due until payment and both before and after judgment.

19.15. Set-Off

Notwithstanding any other provision of this Agreement (except Section 13.5.3(a)(i)(B)), each Party may set-off against any amount owing to the other Party pursuant to this Agreement which amount is due from the other Party pursuant to this Agreement.

19.16. Inurement and Binding Effect

This Agreement will inure to the benefit of the Parties and their respective permitted successors and assigns and is binding upon the Parties and their respective successors and assigns.

19.17. No Partnership or Third Party Beneficiaries

Except as expressly provided herein to the contrary, nothing contained in this Agreement will constitute or be deemed to create a partnership, joint venture or principal and agent relationship between the Authority and Lessee. The Parties agree that the arrangement described in this Agreement is not intended to be treated and shall not be treated as a partnership for income tax purposes, Lessee will not be treated as a partner in any partnership with respect to this Agreement for such purposes and the Parties will not take a position inconsistent therewith in any filings or reports. Except as expressly provided herein to the contrary (including with respect to such rights as are expressly granted to each Secured Party or any Indemnified Party pursuant to this Agreement) no term or provision hereof be construed in any way to grant, convey, or create any rights or interests to any Person not a party to this Agreement.

19.18. Counterparts

This Agreement (and any amendment or waiver in respect to this Agreement) may be executed in any number of counterparts which, taken together, will constitute one and the same agreement. This Agreement will be effective when it has been executed by each Party and delivered to both Parties. To evidence the fact that it has executed this Agreement, a Party may send a copy of its executed counterpart to the other Party by facsimile transmission. Such Party will be deemed to have executed and delivered this Agreement on the date it sent such facsimile transmission. In such event, such Party will forthwith deliver to the other Party an original counterpart of this Agreement executed by such Party.

19.19. Waiver of Sovereign Immunity

The Authority is a political subdivision of the State of Connecticut and is not a department, agency, officer, agent or institution thereof, and shall not assert that (a) Sections 15-120g to 15-120o, inclusive, or Section 52-557n of the Connecticut General Statutes, (b) any statute now in effect or hereafter enacted, or (c) any common-law rule with respect to political subdivisions of the State of Connecticut, avails the Authority of any immunity to which a department, agency, officer, agent or institution of the State of Connecticut is entitled, confers immunity from suit upon the Authority or any of its properties, or is in derogation of the powers of the Authority to sue and be sued, with respect to the Authority's obligations and liabilities under this Agreement.

19.20. Non-Impairment by State

The parties acknowledge Section 15-120n of the Connecticut General Statutes:

“The state of Connecticut does hereby pledge to and agree with the holders of any bonds or notes issued under sections 15-120g to 15-120o , inclusive, or with those parties who may enter into contracts with the authority, pursuant to said sections, that the state shall not limit or alter the rights hereby vested in the authority until such obligations, together with the interest thereon, are fully met and discharged, and such contracts are fully performed on the part of the authority, provided nothing contained herein shall preclude such limitation or alteration if and when adequate provision shall be made by law for the protection of the holders of such bonds, notes and other obligations of the authority or those entering into contracts with the authority. The authority is authorized to include this pledge and undertaking for the state in such bonds, notes and other obligations or contracts.”

[remainder of page left intentionally blank; signature page follows]

EXECUTED on behalf of the Authority and on behalf of Lessee, as shown below.

TWEED-NEW HAVEN AIRPORT AUTHORITY

By:  _____

Name: John Picard

Title: Chairman

THE NEW HVN LLC

By: _____

Name: Jorge Roberts

Title: Chief Executive Officer

EXECUTED on behalf of the Authority and on behalf of Lessee, as shown below.

TWEED-NEW HAVEN AIRPORT AUTHORITY

By: _____

Name: John Picard

Title: Chairman

THE NEW HVN LLC

By:  _____

Name: Jorge Roberts

Title: Chief Executive Officer

ANNEX A: DEFINITIONS

“**Account Balances**” means all amounts in any bank account held by or on behalf of Lessee, or the value of any letter of credit issued in substitution for any such amount in a bank account previously held by Lessee at the Early Termination Date, but excluding the Restoration Funds.

“**ACDBE**” has the meaning given to it in Section 10.5.2.

“**ACIP**” means the Airport Capital Improvement Plan pursuant to FAA Order 5090.5 (as such may be revised or replaced from time to time).

“**ACIP Submittal**” has the meaning given to it in Section 4.1.2(b).

“**Acts and Faults**” means a Person’s performance, act, omission, negligence, misconduct, fraud, willful misconduct, criminal conduct, recklessness, bad faith, or breach of Law, Authorization, or agreement (including, as applicable, the Agreement).

“**Adjacent Property**” means any public or private property, including any existing and future buildings, structures or facilities, including any pedestrian or transportation buildings, structure or facility of any mode, in each case including both directly related component utilities, stations, facilities, fixtures, equipment, and systems, that is located above, intersects with, crosses over or under or is adjacent to the Airport Facilities or any part thereof, including all Authority Property, but which is not (at the relevant time) part of the Leased Property.

“**Adjusted for Inflation**” means adjusted by the percentage increase, if any, or decrease, if any, in the Index during the applicable adjustment period.

“**Adverse Action**” means any action or actions taken by the Authority, the City, or any other Governmental Authority during the Term (including through a Change in Law) and the effect of such action or actions, individually or in the aggregate, is reasonably expected to:

- (a) (A) principally apply to Lessee (or Lessee and private developers or operators of Comparable Airport Facilities (for which purposes, Comparable Airport Facilities will be determined by comparison to the Terminal Facilities)) and (B) have a material adverse effect on the fair market value of Lessee Interest; or
- (b) to discriminate against the Airport, the Airport Facilities and Assets, the West Terminal Project, New Terminal Project, the Runway Project or the Terminal Facilities Services, relative to other projects, facilities or operations at Comparable Airport Facilities;

excluding:

- (c) the exercise of law enforcement, subpoena or investigatory powers as permitted under this Agreement or applicable Law; or
- (d) the imposition of a Tax or an increase in Taxes in either case of general application;

provided that such event or the cause thereof is not otherwise specifically dealt with in this Agreement and excluding any event to the extent such arises as a result of any Acts and Faults of or by Lessee.

“**Affiliate**” when used to indicate a relationship with a specified Person, means a Person that, directly or indirectly, through one or more intermediaries has a ten percent (10%) or more voting or economic interest in such specified Person or Controls, is controlled by or is under common Control with such specified Person, where for purposes of this definition a managed fund or trust will be deemed to be an Affiliate of the Person managing, supervising, sponsoring or advising such fund or trust and a limited partner in a managed fund or trust will be deemed to be an Affiliate of such fund or trust and of the Person managing, supervising, sponsoring or advising such fund or trust.

“**Agreement**” has the meaning given to it in the preamble hereto.

“**AIP**” means the Airport Improvement Program of the FAA.

“**AIP Grants**” means grants and any funding under the Airport Improvement Program of the FAA, which program is authorized by 49 U.S.C. ch. 471.

“**Airfield Facilities**” means that Airport property and those Airport facilities, located outside the Leased Property and the Terminal Facilities, consisting primarily of safety zones, runways, taxiways, taxi lanes, navigational aids, lighting, and all ancillary facilities needed for the operation of the airfield in compliance with the requirements of the FAA, in each case to the extent included within the Authority Property.

“**Airfield Facilities Operating Standards**” means the standards, specifications, policies, procedures and processes that apply to the operation and maintenance of the Airfield Facilities set forth in Schedule 2B, as such may be modified from time to time pursuant to Section 3.9.3 or 3.9.4.

“**Airfield Fees**” means landing fees and fuel flowage fees from both commercial and general aviation operations at the Airport.

“**Airfield Operating Expenses**” means, for any applicable month, the costs and expenses to be incurred by the Authority pursuant to the Approved Airfield Operating Budget.

“**Airfield Operating Account**” has the meaning given to it in Section 2.5.1(a).

“**Airfield Operating Deficit Amount**” has the meaning given to it in Section 2.4.4(a).

“**Airfield Project**” has the meaning given to it in Section 4.5(a).

“**Airport**” has the meaning given to it in the recitals to this Agreement.

“**Airport Assets**” means the personal property/tangible assets of the Authority and its Subcontractors used in connection with operation, maintenance and management of the Airport.

“**Airport Certification Manual**” or “**ACM**” means an airport certification manual authorized and approved by the FAA pursuant to 14 C.F.R. Part 139 with respect to the Airport Operating Certificate.

“**Airport Development Plan**” has the meaning given to it in Section 4.1.2(b).

“**Airport Emergency Plan**” means an airport emergency plan authorized and approved by the FAA pursuant to 14 C.F.R Part 139 with respect to the Airport Operating Certificate.

“**Airport Employee**” means those Persons directly employed (whether as a W2 employee or a 1099 contractor) by the Authority immediately prior to the Effective Date (if any) whose duties directly relate to the operation or maintenance of the Airport Facilities and/or delivery of airport services, but excluding, for certainty, any employees or contractors of Lessee, the Manager, or any of their Affiliates.

“**Airport Facilities**” means the Airport and all easements, licenses, privileges, rights and appurtenances related thereto, including all terminals, hangars, runways, buildings, structures (above grade and below grade), roadways and all fixtures, and related facilities, now or hereafter situated on the Leased Property and the Authority Property.

“**Airport Facilities and Assets**” means, from time to time, the Airport Facilities, the Airport Assets, and all improvements made by Lessee of any and every kind whatsoever forming a part of the Airport Facilities and used in connection with the delivery of the Terminal Facilities Services.

“**Airport Layout Plan**” means a drawing depicting the existing and future Airport facilities as required for the Authority to receive federal assistance under the 49 USC 47107.

“**Airport Operating Certificate**” means the airport operating certificate issued by the FAA pursuant to 14 C.F.R. Part 139 authorizing the Authority to operate the Airport Facilities.

“**Airport Purposes**” means the use of the Leased Property and the Terminal Facilities to provide general airport services to members of the general public, any services ancillary or complementary thereto, and for other purposes consistent with the purposes of services provided at Comparable Airport Facilities.

“**Airport Reserve Fund**” has the meaning given to it in Section 2.5.2(a).

“**Airport Reserve Fund Surplus**” has the meaning given to it in Section 2.5.2(e)(iv).

“**Airport Security Program**” means the airport security program approved by TSA under 49 C.F.R. Part 1542 with respect to the Airport Facilities.

“**Allocable Capital Interest**” has the meaning given to it in Section 15.3(e)(i).

“**Allocable Fair Market Value**” has the meaning given to it in Section 15.3(e)(ii)(A).

“**Amicable Settlement**” means the settlement procedures set forth in Article 16.

“**Annual Authority Airport Revenue Statement**” has the meaning given to it in Section 2.4.4(b).

“**Annual Handback Reserve Amount**” has the meaning given to it in Section 14.4.5(c)(ii).

“**Applicable Issuer**” means the issuer of an issue of Tax-Exempt Bonds.

“**Approved Airfield Operating Budget**” has the meaning given to it in Section 3.9.5(b).

“**Assigned Assets**” means (i) each of the tangible assets described on Schedule 4, and (ii) each other tangible and intangible asset (including Intellectual Property) of or relating solely to the Terminal Facilities owned by the Authority.

“**Assigned Contracts**” means the agreements that are set forth on Schedule 3, Part B.

“**Assignment and Assumption Agreement**” has the meaning given to it in Section 17.7(c).

“**Assumed Liabilities**” has the meaning given to it in Section 2.2.7(a).

“**Audit and Review**” means, with respect to any matter or thing relating to the Terminal Facilities and Assets, the Terminal Facilities Services, the Terminal Facilities Fees, the Lessee Revenues (other than Airfield Fees) or this Agreement, the performance by or on behalf of the Authority of such reviews, investigations, inspections and audits relating to such matter or thing as the Authority may reasonably determine to be necessary in the circumstances, conducted in each case in accordance with applicable United States audit practices customarily accepted in the airport industry, if any, and the terms of this Agreement, or as required by Law.

“**Authority**” has the meaning given to it in the preamble to this Agreement.

“**Authority Airfield Project**” has the meaning given to it in Section 4.5(a).

“**Authority Airport Revenue**” means, for any period, all revenue (without duplication) received by or on behalf of the Authority during such period from:

(a) Airfield Fees;

(b) Airfield Operating Deficit Amounts; and

(c) grants, subsidies, or other funding from any Governmental Authority that are permitted to be applied to Airfield Operating Expenses (for certainty, excluding PFCs or AIP Grants),

but excluding (i) any Authority Lease Revenue and (ii) grants, subsidies, or other funding from any Governmental Authority (including PFCs or AIP Grants) that are not permitted to be applied to Airfield Operating Expenses.

“**Authority Board**” means the governing board of the Airport established pursuant to Section 15-120i of the General Statutes of Connecticut.

“**Authority Contracts**” means (i) the agreements that are set forth on Schedule 3, Part A and (ii) all other agreements, contracts, leases, promissory notes, evidences of indebtedness, purchase

orders, letters of credit, licenses or undertakings of any nature (whether written or oral and whether express or implied) to which the Authority is a party or by which its assets are bound, excluding, for the avoidance of doubt, the Assigned Contracts.

“**Authority Default**” has the meaning given to it in Section 14.2.1.

“**Authority Development Area**” means the area marked as “Authority Development Area” on Exhibit D.

“**Authority Dispute Representative**” has the meaning given to it in Section 16.3(c).

“**Authority Indemnified Parties**” has the meaning given to it in Section 11.2.1.

“**Authority Lease Revenue**” means, for any period:

- (a) the gross Base Rent;
- (b) Authority Revenue Rent actually collected by (or on behalf of) the Authority; and
- (c) all revenue (without duplication) actually collected by or on behalf of the Authority from (A) non-aeronautical activities outside the Leased Property and the Authority Property, (B) derived from an Authority development undertaken pursuant to and in accordance with Section 4.7(b), and (C) any other source or category of business activity which is not Lessee Revenue,

in each case excluding grants, subsidies, or other funding from any Governmental Authority (including PFCs or AIP Grants).

“**Authority Option**” has the meaning given to it in Section 17.6(a).

“**Authority Property**” means all Master Lease Premises that is not the Leased Property.

“**Authority Representative**” has the meaning given to it in Section 19.2.1(a).

“**Authority Revenue Rent**” has the meaning given to it in Section 2.4.3(a).

“**Authority Termination Sum**” has the meaning given to it in Section 14.3.3(c)(i).

“**Authorization**” means any approval, certificate of approval, authorization, consent, waiver, variance, exemption, declaratory order, exception, license, filing, registration, permit, notarization, or other requirement of any Person that applies to the Airport Facilities and Assets or the Work or is reasonably required from time to time for the Work.

“**Available Airfield Operating Funds**” means, for any applicable month, the sum of (i) gross Authority Airport Revenue actually collected by (or on behalf of) the Authority during such month and (ii) any funds remaining on deposit in the Airfield Operating Account from prior periods.

“**Available Insurance**” has the meaning given to it in Section 18.1.4.

“**Avports**” means Avports LLC, a Delaware limited liability company.

“**Base Rent**” has the meaning given to it in Section 2.4.2(a).

“**Baseline Standard of Practice**” means the degree of skill, care, prudence, foresight, and practice that would reasonably and ordinarily be expected from time to time of a skilled and experienced professional terminal designer, engineer, constructor, maintainer or Terminal Facilities Services provider, engaged in the same (or if none, a reasonably equivalent) type of activity or activities in North America as that of Lessee, or any other Person to which such term relates, never being less than the standard applied by Lessee or such Person, or any of its or their Affiliates, under the same or similar circumstances.

“**Bond-Financed Assets**” means those assets (or portions thereof) to which proceeds of the Tax-Exempt Bonds are allocated in accordance with the books and records of the Applicable Issuer (with the consent of the Authority if the Applicable Issuer is not the Authority, which consent shall not be unreasonably withheld).

“**Breakage Costs**” means any breakage costs, make-whole premium payments, termination payments or other prepayment amounts (including debt premiums and interest rate hedge termination costs) that are required to be paid by Lessee with respect to Lessee Debt as a result of the early repayment of such Lessee Debt prior to its scheduled maturity date, excluding, however, any such amounts included in the principal amount of any refinancing.

“**Business Day**” means any day that is not a Saturday, a Sunday, or a day observed as a holiday by either the City, the State or the United States government.

“**Casualty Cost**” has the meaning given to it in Section 12.3.1.

“**CERCLA**” means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq.

“**Chairperson**” has the meaning given to it in Section 16.7.2(b)(iii).

“**Change in Law**” means the enactment of a new Law or the repeal (in whole or in part), modification, amendment or change of a Law or in the enforcement or interpretation of a Law (including a change in the application or interpretation thereof) in each case, by a Governmental Authority, after the Effective Date that:

- (a) is materially different from or inconsistent with Law as in effect prior to the coming into effect of the relevant change as referenced above; and
- (b) was not (in the same or substantially similar form and substance to that which later comes into effect) pending, passed or adopted, including in the form of a bill or draft, as of the Effective Date;

provided that Change in Law excludes any such enactment, promulgation, adoption, change or modification of any (x) labor Law of general applicability or (y) tax Law of general applicability, and with respect to Environmental Laws and in the context of an LEP

Cost Estimate, Change in Law only encompasses new or revised Environmental Laws that are effective after the date of the applicable LEP Cost Estimate.

“**Change of Control**” means, with respect to any Person, any single transaction or a series of related or unrelated transactions, which directly or indirectly results in or could (upon the occurrence of any condition or exercise of any right or option) result in:

- (a) any change in the Person or group of Persons acting in concert that has Control of such Person, for which purposes of this definition “**Control**” of a Person by another Person or group of Persons acting in concert means that other Person or group of Persons (whether directly or indirectly):
 - (i) holds either (i) more than fifty percent (50%) of the direct or indirect voting or economic interests in such Person or (ii) a percentage of the direct or indirect voting or economic interests in such Person that is either equal to or greater than the percentage held by any other Person or group of Persons acting in concert;
 - (ii) holds the power to appoint, approve or remove either (i) more than fifty percent (50%) of the board of directors (or equivalent) of such Person or (ii) a percentage of the board of directors (or equivalent) of such Person either equal to or greater than the percentage appointed, approved or removed by any other Person or group of Persons acting in concert; or
 - (iii) holds the power directly or indirectly to direct or cause the direction of management and policy of such Person, whether through ownership of voting securities, by contract, management agreement, or common directors, officers or trustees or otherwise, including with respect to an investment fund the power to direct, recommend or propose all or substantially all of the investments of such investment fund (with respect to each of the foregoing, notwithstanding the fact that an independent board or trustee makes final investment decisions with respect thereto); or
- (b) the merger, consolidation, amalgamation, business combination or sale of substantially all of the assets of such Person;

provided, however, that notwithstanding anything to the contrary set forth in this definition, none of the following shall constitute a “**Change of Control**” for the purposes of this Agreement (including, for the avoidance of doubt, Section 15.2 or 15.3):

- (i) Transfers of securities evidencing ownership or any other ownership interests pursuant to bona fide open market transaction on a recognized stock exchange (including initial public offerings or “follow on” public offerings or a special purpose acquisition company transaction); provided, that no Person or group of Persons acting in concert (that is not Lessee, an Equity Participant or its direct or indirect beneficial owner(s) prior to such Transfer) acquires securities through an initial public offering, a “follow on” public offering or a special purpose acquisition company transaction such that such Persons or group of Persons

beneficially owns sufficient publicly traded securities so as to directly or indirectly exercise Control of Lessee;

(ii) a Transfer between or among Persons that are under common Control;

(iii) a Transfer resulting from a change in investors in an investment fund, including an infrastructure fund, which fund holds a direct or indirect equity interest in Lessee, provided that such direct or indirect equity interest, following consummation of such Transfer, remain under common Control;

(iv) a Transfer between or among investment funds, including infrastructure funds and investors therein; provided that following such Transfer such direct or indirect equity interests remain under common Control

(v) a Transfer from investment funds, including infrastructure funds, or investors therein, to any Person; provided that such direct or indirect equity interests, following consummation of such Transfer, remain under common Control;

(vi) a Transfer including in connection with any upstream reorganization made within a group of Persons under common Control of direct or indirect ownership interests in any Person, or of any intermediate entity in the chain of ownership of such Person, provided that there occurs no change in the entity or entities with ultimate power to direct or Control or cause the direction or Control of the management of such Person or of Lessee; and

(vii) a Transfer in connection with the exercise by the Collateral Agent of its rights under any pledge of equity interests in Lessee to the Collateral Agent to secure Lessee Debt.

“**City**” has the meaning given to it in the recitals to this Agreement.

“**Claim**” means any demand, action, cause of action, suit, proceeding, arbitration, claim, judgment or settlement or compromise relating thereto.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Collateral Agent**” means the financial institution listed or otherwise designated to act as trustee or agent on behalf of or at the direction of the lenders under any financing documents with respect to Lessee Debt.

“**Comparable Airport Facilities**” means aeronautical facilities at airports in the United States of America (whether privately or publicly owned) open to the general public that are reasonably comparable to the Airport Facilities with respect to the matter to be determined.

“**Compensation Event**” means:

- (a) any Adverse Action;
- (b) Lessee’s compliance with or the implementation of any Directive Letter pursuant to Section 5.4;
- (c) any Force Majeure Compensation Event;
- (d) any Differing Site Condition relating to Hazardous Materials;
- (e) any material breach of this Agreement, including any representation or warranty set out in Part A of Schedule 1, or material violation of applicable Law by the Authority which is not otherwise a specified Compensation Event; and
- (f) any Lessee liability or Losses incurred with respect to the Excluded Liabilities,

provided that such event or the cause thereof is not otherwise specifically dealt with in this Agreement and excluding any event to the extent such arises as a result of any Acts and Faults of or by Lessee.

“**Control**” has the meaning given to it in the definition of Change of Control.

“**Day**” means a calendar day, beginning at 12:01 a.m. in the eastern time zone of the United States of America coinciding with the calendar day.

“**Debarment Regulations**” means (a) Federal Executive Order no. 12549 (Feb. 18, 1986), (b) Federal Executive Order no. 12689 (Aug. 16, 1989), (c) 31 U.S.C. § 6101 note (Section 2455, Pub. L. 103-355, 108 Stat. 3327) and (d) 2 CFR Part 180 “Government wide Debarment and Suspension (Nonprocurement)”.

“**Decision**” has the meaning given to it in Section 16.7.8(a).

“**DEEP**” means the Connecticut Department of Energy and Environmental Protection.

“**DEEP Approval Documents**” means any and all environmental permits, registrations, licenses and other approvals required by DEEP with respect to the New Terminal Project and the Runway Project.

“**Defending Party**” has the meaning given to it in Section 11.4.4(a).

“**Delay Event**” means any of the following events that results in or would result in a delay or interruption in the performance by a Party of any obligation under this Agreement:

- (a) a Force Majeure Event;
- (b) a failure to obtain, or delay in obtaining, any Authorization from a Governmental Authority (provided that such failure or delay could not have been reasonably prevented by technical and scheduling measures of Lessee in the ordinary course);
- (c) any Change in Law which is not an Adverse Action;

- (d) a delay caused by the performance of works carried out by a Governmental Authority or any energy, water and waste, or telecommunications utility or a delay caused by the performance of works by any other Person not acting under the authority or direction of, or pursuant to a contract or any other agreement or arrangement with Lessee;
- (e) a failure by the Authority to perform or observe any of its covenants or obligations under this Agreement;
- (d) any Differing Site Condition to the extent such is not otherwise a Compensation Event;
- (e) the occurrence of any casualty loss, destruction or damage of the Terminal Facilities and Assets, or the performance or delay in performance of a Restoration of any such casualty loss, destruction or damage; and
- (f) an Emergency,

provided that such delay or the cause thereof is not otherwise specifically dealt with in this Agreement and excluding any event to the extent such arises as a result of any Acts and Faults of or by Lessee or, solely with respect to the Authority's obligations under Section 4.1.1(b), the Authority, as applicable.

“Depository” means a savings bank, a savings and loan association or a commercial bank or trust company which would qualify as an Institutional Lender, designated by Lessee to serve as Depository pursuant to this Agreement; provided that such Depository shall have an office, branch, agency or representative located in the City of New Haven; provided, however, that so long as a Mortgage is in effect, the Depository contemplated under Article 12 shall be the institution acting as the collateral agent or Depository under the financing secured by such Mortgage.

“Differing Site Condition” means the encountering or discovery on or under any part of (i) the Authority Property or (ii) Leased Property of any:

- (a) antiquities (including structures), fossils, articles of value, cultural artifacts, human burial sites and remains, and other similar remains;
- (b) any animal or plant species listed as threatened or endangered under and subject to an applicable threatened or endangered species Law or other legal restrictions;
- (c) utility condition;
- (d) buried obstruction of man-made origin (other than a utility of any kind) that requires specialized or large-scale excavation equipment or blasting for removal or which otherwise obstructs the Work;
- (e) latent naturally occurring geological conditions (excluding groundwater); or

- (f) any Hazardous Material in building materials, soil, surface water, or groundwater to the extent at concentration levels above relevant RSR criteria and/or other applicable criteria, requiring the performance of Hazardous Materials investigation, management or remediation activities pursuant to Environmental Laws,

in each case only to the extent:

- (g) Lessee obtained an LEP Cost Estimate for the applicable Project or Lessee Airfield Project pursuant to Section 2.2.8(c)(i);
- (h) such conditions were not disclosed to or known by Lessee, the Manager, or either of their Affiliates prior to the Effective Date or not identified in the relevant LEP Cost Estimate (if any);
- (i) with respect to subsurface conditions unrelated to Hazardous Materials, are of an unusual nature that are materially different from those ordinarily encountered and generally recognized as inherent in the Work provided for in the Agreement; and
- (j) did not first arise after the Effective Date.

“**Directive Letter**” has the meaning given to it in Section 5.4(a).

“**Dispute**” has the meaning given to it in Section 16.1(a).

“**Dispute Representative**” has the meaning given to it in Section 16.3(d).

“**Dispute Resolution Procedure**” means the dispute resolution procedures set forth in Article 16.

“**Distributions**” means, whether in cash or in kind, any: (a) dividend or other distribution or other payment on account of an equity investment in respect of membership interests or partnership interests, or other share capital, including from the proceeds of any refinancing; (b) reduction of capital, redemption or purchase of equity interests or shares or any other reorganization or variation to equity investment or other share capital; (c) payments under any loan agreement, credit agreement or similar agreement evidencing Equity Participant Debt (whether of principal, interest, breakage costs or otherwise), including from the proceeds of any refinancing; (d) payment, loan, contractual arrangement or transfer of assets or rights directly to the extent (in each case) it was put in place after the Effective Date and was neither in the ordinary course of business nor on reasonable commercial terms; or (e) the receipt of any other benefit which is not received in the ordinary course of business and not on reasonable commercial terms.

“**Early Termination Date**” means effective date of the termination of this Agreement for any reason prior to the last Day of the scheduled Term.

“**Effective Date**” has the meaning given to it in the preamble to this Agreement.

“**Eligible Investments**” means any one or more of the following obligations or securities:

- (a) direct obligations of, and obligations fully guaranteed by, the United States of America or any agency or instrumentality of the United States of America, the obligations of which are backed by the full faith and credit of the United States of America;
- (b) demand or time deposits, federal funds or bankers' acceptances issued by any Institutional Lender (provided that the commercial paper or the short-term deposit rating or the long-term unsecured debt obligations or deposits of such Institutional Lender at the time of such investment or contractual commitment providing for such investment have been rated "A" (or the equivalent) or higher by a Rating Agency or any other demand or time deposit or certificate of deposit fully insured by the Federal Deposit Insurance Corporation);
- (c) commercial paper (including both non-interest-bearing discount obligations and interest-bearing obligations payable on demand or on a specified date not more than One (1) Year after the date of issuance thereof) which has been rated "A" (or the equivalent) or higher by a Rating Agency at the time of such investment;
- (d) any money market funds, the investments of which consist of cash and obligations fully guaranteed by the United States of America or any agency or instrumentality of the United States of America, the obligations of which are backed by the full faith and credit of the United States of America and which have been rated "A" (or the equivalent) or higher by a Rating Agency; and
- (e) other investments then customarily accepted by the Authority in similar circumstances; provided, however, that no instrument or security will be an Eligible Investment if such instrument or security evidences a right to receive only interest payments with respect to the obligations underlying such instrument or if such instrument or security provides for payment of both principal and interest with a yield to maturity in excess of one hundred and twenty percent (120%) of the yield to maturity at par.

"Emergency" means a non-ordinary course situation that is urgent and calls for immediate action, which, if such action is not taken, is reasonably likely to result in:

- (a) a material danger to the safety or security of the Terminal Facilities Services or any user of the Airport Facilities and Assets; or
- (b) a material impairment to the Airport Facilities or to the continuing use of the Airport as a commercial service Airport,

in each case including any such event affecting the Airport Facilities and Assets that is recognized or declared as an emergency by the Governor of the State, the Federal Emergency Management Agency, the U.S. Department of Homeland Security or any other Governmental Authority, including the FAA and TSA, with legal authority to recognize or declare an emergency.

“Encumbrance” means any mortgage, lien, judgment, execution, pledge, charge, security interest, restriction, easement, servitude, option, reservation, lease, claim, trust, deemed trust or encumbrance of any nature whatsoever, whether arising by operation of Law, judicial process, contract, agreement or otherwise created.

“End Date” means the last Day of the scheduled Term or the Early Termination Date, if applicable.

“Environmental Assessment” shall mean the environmental assessment required under NEPA for the New Terminal Project and the Runway Project.

“Environmental Laws” mean and include all Law relating to environmental quality (including land surface or subsurface strata, sediments, groundwater, surface water, air, ambient air, plant and animal life, and any other environmental medium or natural resource), health and safety (as they relate to exposure to Hazardous Materials), contamination, and clean-up, as they currently exist or may exist in the future, including the Clean Air Act, 42 U.S.C. §7401 et seq.; the Clean Water Act, 33 U.S.C. §1251 et seq.; the Water Quality Act of 1987; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 et seq.; the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. §1401 et seq.; the Noise Control Act, 42 U.S.C. §4901 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. §300f et seq.; the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq., as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right to Know Act, and the Radon Gas and Indoor Air Quality Research Act; the Hazardous Material Transportation Act, 49 U.S.C. §9601 et seq.; the Toxic Substance Control Act, 15 U.S.C. §2601 et seq.; the Atomic Energy Act, 42 U.S.C. §2011 et seq.; the Nuclear Waste Policy Act of 1982, 42 U.S.C. §1010 et seq.; the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §651 et seq.; all State environmental protection, superlien and environmental clean-up statutes (including the Connecticut Transfer Act, Conn. Gen. Stat. §22a-134 et seq.); all implementing rules, regulations, guidelines, and orders and all local laws, regulations, rules, ordinances, and orders insofar as they are equivalent or similar to the federal laws recited above or purport to regulate Hazardous Materials; and judicial interpretations of each of the foregoing.

“Equity Investments” means (a) any form of direct investment by Equity Participants, including the purchase of newly issued equity shares in and/or the provision of Equity Participant Debt to Lessee, and (b) any draws by or on behalf of Lessee of an irrevocable on demand letter of credit issued by an eligible letter of credit issuer for the account of an Equity Participant naming Lessee and/or the Collateral Agent as beneficiary.

“Equity Participant” means any Person who holds any shares of capital stock, units, partnership or membership interests, other equity interests or equity securities of Lessee.

“Equity Participant Debt” means any obligations created, issued or incurred by Lessee for borrowed money that: (a) is owed to any Equity Participant or any Affiliate thereof or of Lessee; and (b) is subordinated in priority of payment and security to all indebtedness held by Persons who are not Equity Participants or any Affiliate thereof.

“ESC” has the meaning given to it in Section 10.11.1(a)(i).

“**EUR**” or “**Environmental Use Restriction**” means an engineered and/or institutional control implemented in accordance with R.C.S.A. §§ 22a-133q-1 through 9, as amended, such as a prohibition on the disturbance of soil rendered inaccessible by pavement or clean fill or environmentally isolated by an existing building or structure.

“**Excess Equity Gain**” has the meaning given to it in Sections 15.3(e)(ii).

“**Excess Equity Gain Amount**” means an Initial Excess Equity Gain Amount or a Subsequent Excess Equity Gain Amount, as the context requires.

“**Excluded Liabilities**” has the meaning given to it in Section 2.2.7(b).

“**Executive Director**” means the Executive Director of the Tweed-New Haven Airport Authority.

“**Exhibit**” means an exhibit attached hereto and incorporated in this Agreement, unless otherwise expressly indicated by the terms of this Agreement.

“**Expected Terminal Substantial Completion Date**” has the meaning given to it in Section 4.4(d).

“**Expedited Dispute**” has the meaning given to it in Section 16.7(b).

“**Expedited DRP**” has the meaning given to it in Section 16.2.

“**FAA**” means the Federal Aviation Administration.

“**FBO**” means K.R. Robinson Associates Limited Partnership or any additional or subsequent FBO at the Airport.

“**FBO Agreement**” means that certain lease agreement between K.R. Robinson Associates Limited Partnership and the Authority, originally entered into between K.R. Robinson Associates Limited Partnership and the City in 1986, and subsequently assumed by the Authority and assigned to Lessee pursuant to this Agreement.

“**Fifth Project Loan**” has the meaning set forth in the Management Contract.

“**Financial Close**” means the satisfaction or waiver of all conditions precedent to the initial disbursement to Lessee or receipt and utilization by Lessee of Lessee Debt proceeds or the effectiveness of the lenders’ commitments, as applicable, under the financing documents with respect to the New Terminal Project, including execution and delivery of all documentation requested or required by the lenders in connection therewith, including a non-disturbance and recognition agreement with the City and binding airline commitments for scheduled air service at the New Terminal, in each case satisfactory to the lenders and Lessee.

“**Fiscal Year**” means July 1st of each Calendar Year through June 30th of each Calendar Year.

“**Force Majeure Compensation Event**” means any single Force Majeure Event that continues either:

- (a) for a period in excess of one hundred and twenty (120) consecutive Days; or
- (b) together with all other Force Majeure Events, an aggregate period of one hundred and eighty (180) Days; and
- (c) which materially, adversely, and continuously for the relevant period:
 - i. affects Lessee's ability to perform its rights and obligations under this Agreement;
 - ii. increases, on a net basis, notwithstanding Lessee's reasonable efforts to mitigate its Losses, costs associated with Lessee's performance of its obligations under this Agreement; or
 - iii. decreases, on a net basis, revenues derived from the operations of the Terminal Facilities, where Available Insurance or condemnation or other proceeds, including, any State and federal grants, subsidies, forgivable loans, or similar cash benefits for which Lessee qualifies (or would qualify but for being debarred due to its misconduct) as a result of the Force Majeure Event, are insufficient to restore Lessee to the same economic position as it would have been in the absence of such Force Majeure Event.

“Force Majeure Event” means any event beyond the reasonable control of the applicable performing Party that prevents, delays, interrupts or limits the performance of such Party's obligations hereunder, including:

- (a) war (including civil war and revolution), invasion, an intervening act of a public enemy or foreign enemy, armed conflict, or military or armed blockade, or act of terror, sabotage, riot or other public disorder, civil commotions, interference by civil or military authorities;
- (b) condemnation or confiscation of property or equipment by any Governmental Authority;
- (c) any action or order of any Governmental Authority;
- (d) explosion, nuclear, chemical or biological contamination or emissions (including as applicable associated radiation);
- (e) fire, tornado, earthquake, weather event manifesting severe and historically unusual wind and/or liquid precipitation conditions directly affecting any part of the Airport Facilities and Assets;
- (f) epidemic or pandemic, provided that COVID-19 will not qualify as a Force Majeure Event except to the extent of (i) a Governmental Authority action or order related thereto or (ii) any effects of or responses thereto that had not occurred or were not foreseeable as of the Effective Date; or
- (g) any official or unofficial strike, labor dispute or other labor protest, stop-work order or injunction issued by a Governmental Authority, or governmental embargo;

provided that such event or the cause thereof is not otherwise specifically dealt with in this Agreement and excluding any event claimed by a Party to the extent such arises as a result of any Acts and Faults of or by such Party.

“**GAAP**” means Generally Accepted Accounting Principles in the United States of America as in effect from time to time.

“**General Ordinances**” means the Code of Ordinances of the City of New Haven, Connecticut.

“**Governmental Authority**” means any court, federal, state, local or foreign government, department, commission, board, bureau, agency or other regulatory, administrative, governmental or quasi-governmental authority.

“**Government Agreement**” means any agreement with a Governmental Authority.

“**Grant Agreement**” means an agreement between the Authority and the United States government required for the receipt of a grant-in-aid or federal financial assistance (by way of example only, “Grant Agreement” includes an agreement between the Authority the United States government related to receipt of Airport Improvement Program grants).

“**Grant Assurances**” means those statutorily mandated contractual commitments made by a Sponsor to the federal government in connection with the application and grant agreement for receipt of Airport Improvement Program grants (or predecessor, successor or similar financial grants-in-aid programs administered by the Federal Aviation Administration).

“**Handback Amount**” has the meaning given to it in Section 14.4.5(a).

“**Handback Reserve Fund**” has the meaning given to it in Section 14.4.5(c).

“**Hazardous Materials**” means any and all materials, substances, products, by-products, waste, or other materials of any nature or kind whatsoever which is or becomes listed or regulated as a “hazardous” or “toxic” material, substance, or waste, or words of similar import, under any Environmental Laws, including fuel, petroleum based and/or asbestos based materials, products, by-products, or waste, radioactive materials or waste, lead or lead-containing materials, urea formaldehyde foam insulation, MBTE, perfluoroalkyl and polyfluoroalkyl substances, and polychlorinated biphenyls.

“**Hazardous Materials Compensation Event**” means:

- (a) a Compensation Event under clause (d) of the definition of Compensation Event; or
- (b) a Compensation Event under clause (f) of the definition of Compensation Event solely to the extent related to Hazardous Materials.

“**Immaterial Variance**” has the meaning given to it in Section 3.9.5(d).

“**Indemnified Party**” has the meaning given to it in Section 11.1.1 and Section 11.2.1.

“**Indemnifying Party**” has the meaning given to it in Section 11.1.1 and Section 11.2.1.

“**Independent Expert**” has the meaning given to it in Section 15.3(g).

“**Index**” means the “Consumer Price Index — All Urban Consumers – Northeast Region, All Items” (not seasonally adjusted) as published by the U.S. Department of Labor, Bureau of Labor Statistics; provided, however, that if the Index is changed so that the base year of the Index changes, the Index will be converted in accordance with the conversion factor published by the U.S. Department of Labor, Bureau of Labor Statistics; provided further, that if the Index is discontinued or revised during the Term, such other index or computation with which it is replaced will be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

“**Information**” means any and all information relating to the Leased Property, the Terminal Facilities and Assets, the Terminal Facilities Services, the Terminal Facilities Fees, the Lessee Revenues (other than Airfield Fees) and Lessee’s performance under this Agreement.

“**Initial Excess Equity Gain Amount**” has the meaning given to it in Section 15.3(a).

“**Initial Restricted Transfer Period**” has the meaning given to it in Section 15.2.1(b)(ii).

“**Insolvency Event**” means, in respect of any Person:

- (a) any of:
 - (i) the commencement of a voluntary petition pursuant to federal bankruptcy law;
 - (ii) the filing of a petition seeking to take advantage of any other law, domestic or foreign, relating to bankruptcy, insolvency, reorganization, winding up or composition for adjustment of debts;
 - (iii) the application for or the consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or of a substantial part of its property, domestic or foreign;
 - (iv) the admission in writing of its inability to pay its debts as they become due;
 - (v) the making of a general assignment for the benefit of creditors; or
 - (vi) the taking of any corporate (or equivalent) action for the purpose of authorizing any of the foregoing; or
- (b) the commencement of a case or other proceeding against such Person in any court of competent jurisdiction seeking:

- (i) relief pursuant to Federal bankruptcy law or pursuant to any other law, domestic or foreign, relating to bankruptcy, insolvency, reorganization, winding up or adjustment of debts; or
- (ii) the appointment of a trustee, receiver, custodian, liquidator or the like for such Person or for all or any substantial part of their respective assets, domestic or foreign,

and, either:

- (iii) the petition that commenced such case or proceeding is not contested by such Person within the amount of time provided pursuant to Law; or
- (iv) either:
 - (A) such case or proceeding continues without dismissal or stay for a period of sixty (60) days; or
 - (B) an order granting the relief requested in such case or proceeding (including, but not limited to, an order for relief pursuant to such Federal bankruptcy law) is entered and not appealed to the extent that the order for relief is stayed.

“Installment Threshold” has the meaning given to it in Section 2.5.2(e)(ii).

“Institutional Lender” means any of:

- (a) the United States of America, any state thereof or any agency or instrumentality of either of them, any municipal agency, public benefit corporation or public authority, advancing or insuring mortgage loans or making payments which, in any manner, assist in the financing, development, operation and maintenance of projects;
- (b) any
 - (i) savings bank, savings and loan association, commercial bank, trust company (whether acting individually or in a fiduciary capacity) or insurance company organized and existing under the laws of the United States of America or any state thereof;
 - (ii) foreign insurance company or commercial bank qualified to do business as an insurer or commercial bank as applicable under the laws of the United States of America;
 - (iii) pension fund, foundation or university or college or other endowment fund; or

- (iv) investment bank, pension advisory firm, mutual fund, investment company or money management firm;
- (c) any “qualified institutional buyer” under Rule 144(A) under the Securities Act or any other similar Law hereinafter enacted that defines a similar category of investors by substantially similar terms;
- (d) a Governmental Authority acting (directly or through a trust or other single purpose vehicle controlled by it) as a conduit for the purpose of issuing private activity bonds authorized by Law for the benefit of Lessee; or
- (e) any other financial institution or entity designated by Lessee and approved by the Authority (provided that such institution or entity, in its activity under this Agreement, will be acceptable under then current guidelines and practices of the Authority);

provided, however, that each such entity (other than entities described in clause (c) of this definition) or combination of such entities if the Institutional Lender will be a combination of such entities will have individual or combined assets, as the case may be, of not less than one million dollars (\$1,000,000,000), which will include, in the case of an investment or advisory firm, assets controlled by it or under management.

“**Inspection**” has the meaning given to it in Section 3.5.1(a)(i).

“**Intellectual Property**” or “**IP**” means common law and statutory rights recognized in any jurisdiction in the world, in, to, or associated with: (a) patents, patent applications, and invention disclosures; (b) copyrights, copyright registrations and applications, and mask work rights; (c) the protection of trade or industrial secrets or confidential information; (d) trademarks, service marks, and other designations of source or origin; (e) industrial designs; (f) databases and data collections; (g) all other intellectual property rights and proprietary rights; (h) for any items described in (a) through (g) above, any divisions, continuations, continuations-in-part, counterparts, re-examinations, post-grant reviews, inter parties reviews, supplemental examinations, provisionals, renewals, reissuances, extensions, and rights to apply for, file for, certify, register, record, or perfect; or (i) rights of attribution, paternity, integrity, modification, disclosure and withdrawal, and any other rights throughout the world that may be known as or referred to as “moral rights,” “artist’s rights,” “droit moral,” or the like.

“**Law**” means any order, writ, injunction, decree, judgment, law, ordinance, decision, opinion, ruling, policy, statute, code, rule or regulation of any Governmental Authority.

“**Leased Property**” means the land shown on Exhibit A at the Airport in the County of New Haven, State of Connecticut; such land, together with all buildings, structures, fixtures, improvements and other property of the Authority located therein, thereon or thereunder, and all structures, improvements, additions, buildings, installations and facilities located, constructed or installed, or which may be located, constructed or installed therein, thereon or thereunder, and the equipment permanently affixed or permanently located therein, such as electrical, plumbing, sprinkler, fire protection and fire alarm, heating, steam, sewage, drainage, refrigerating, communications, gas and other systems, and their pipes, wires, mains, lines, tubes, conduits,

equipment and fixtures, and all paving, drains, culverts, ditches and catch-basins constructed therein, thereon or thereunder.

“**LEP**” or “**Licensed Environmental Professional**” means an environmental professional licensed pursuant to Conn. Gen. Stat. § 22a-133v.

“**LEP Cost Estimate**” has the meaning given to it in Section 2.2.8(c)(i).

“**Lessee**” has the meaning given to it in the preamble to this Agreement.

“**Lessee Airfield Project**” has the meaning given to it in Section 4.5(a).

“**Lessee Background Intellectual Property**” means the Intellectual Property owned by Lessee on the Effective Date and any improvements, enhancements, additions, modifications, or new versions thereof created, conceived, developed, or reduced to practice by Lessee (solely or jointly with others) following the Effective Date.

“**Lessee Compensation**” means compensation paid to Lessee pursuant to this Agreement in an amount sufficient to restore Lessee to the same after-Tax economic position Lessee would have enjoyed if the applicable Compensation Event or Authority Default (as applicable) had not occurred, which shall be calculated as the sum of (without duplication) the following (after taking into account any Available Insurance):

- (a) all documented Losses (including increased operating, financing and capital and maintenance costs, but excluding any costs and expenses that Lessee would otherwise expend or incur in order to comply with this Agreement or in the ordinary course of the performance of the Terminal Facilities Services or the carrying on of business in the ordinary course) that are reasonably attributable to such Compensation Event or Authority Default (as applicable); plus
- (b) any documented Losses of Lessee’s present and future revenues generated by Lessee under this Agreement that are reasonably attributable to such Compensation Event or Authority Default (as applicable); plus
- (c) if Lessee is required to expend its own funds (whether from operating cash flows or the proceeds of any debt or equity financing or otherwise) with respect to any Compensation Event or Authority Default (as applicable) prior to receipt or financing of the corresponding Lessee Compensation or if the payment of Lessee Compensation is deferred under Section 13.5.3, then the determination of Lessee Compensation will, in addition to the components described above, include such additional amounts as may be necessary to permit Lessee to earn an after-Tax rate of return at the then-applicable market-based rate of return to be agreed by Lessee and the Authority.

“**Lessee Debt**” means, at the relevant time, the aggregate of (without double counting), any *bona fide* indebtedness of Lessee for or in respect of funds borrowed in relation to the Work (including *bona fide* indebtedness with respect to any financial insurance issued for funds borrowed), the repayment of which may be secured by one or more Mortgages, including:

- (a) principal, capitalized interest, interest by virtue of original issue discount, accrued interest (including default interest);
- (b) customary lender or financial insurer, agent and trustee fees, costs, premiums, expenses, indemnities and reimbursement obligations (whether liquidated or contingent) with respect thereto;
- (c) payment obligations under interest rate and inflation rate hedging agreements or other derivative facilities with respect thereto;
- (d) reimbursement obligations with respect thereto;
- (e) lease financing obligations; and
- (f) any Breakage Costs,

but excluding:

- (g) any Equity Investments, including any Equity Participant Debt;
- (h) any increase in indebtedness to the extent resulting from an agreement or other arrangement Lessee enters into or first becomes obligated to repay after the occurrence of an event giving rise to an obligation of the Authority to pay amounts for or in respect of Lessee Debt under this Agreement;
- (i) any debt with respect to which the Secured Party did not provide the Authority Board with notice of its Mortgage in accordance in all material respects with the Secured Party Notice Requirements; and
- (j) any debt incurred in violation of this Agreement.

“**Lessee Default**” has the meaning given to it in Section 14.1.1.

“**Lessee Dispute Representative**” has the meaning given to it in Section 16.3(c).

“**Lessee Indemnified Parties**” has the meaning given to it in Section 11.1.1.

“**Lessee Interest**” means Lessee’s rights and obligations under this Agreement, including the right to collect Lessee Revenues (other than Airfield Fees) as well as Lessee’s obligation to operate and maintain the Terminal Facilities and perform the Terminal Facilities Services created by this Agreement and the other rights and obligations of Lessee under this Agreement.

“**Lessee Interest Value**” means, at any given date, the fair market value of Lessee Interest at that time (excluding the effect of any relevant Adverse Action or Authority Default or the termination of any subleases or other contracts caused by the early termination of this Agreement) as determined pursuant to Section 14.3.3(c)(ii).

“**Lessee Representative**” has the meaning given to it in Section 19.2.1(a).

“Lessee Revenue” means, for any period, (i) solely for purposes of calculating Authority Revenue Rent pursuant to Section 2.4.3, all Airfield Fees actually collected from Airport users (which, for the avoidance of doubt, shall be net of any fee waivers, credits, discounts or incentive payments), and (ii) all revenue (without duplication) actually collected from the Leased Property and the Terminal Facilities, to the extent reasonably related to the rights and obligations granted by the Authority to Lessee pursuant to this Agreement, including the following:

- (a) all airside revenues excluding Airfield Fees, subject to revenues to which an FBO is entitled under any FBO Agreement;
- (b) all landside revenues including:
 - (i) terminal revenues, including rent or other payments from airlines, terminal tenants, and food/beverage/retail revenues;
 - (ii) auto parking, transportation network company fees, rental cars and automotive fuel and supplies, and CFC fees associated with the terminal;
- (c) all other aeronautical and non-aeronautical revenues generated within the Leased Property and Terminal Facilities (except as otherwise set forth herein) including from fixed base operations and revenue from all other aeronautical tenants excluding Airfield Fees;
- (d) all enforcement fees including for access and parking, except those imposed by local, municipal, state, or federal law enforcement officials;
- (e) all revenue derived from the monetization of customer-related data from users of the Leased Property and the Terminal Facilities (except as otherwise set forth herein) to the extent not inconsistent with any existing agreements concerning such facilities or laws governing retention and use of customer data;
- (f) all revenue derived from mass or public transit services except those collected by or on behalf of the applicable transit agency;
- (g) all revenue derived from electric vehicle charging;
- (h) all revenue derived from branding rights, sponsorship, or advertisement, excluding naming rights with respect to the Airport;
- (i) all proceeds from business interruption insurance;
- (j) any other receipts otherwise arising or derived from or paid in respect of the Leased Property; and
- (k) any other revenues collected by a Lessee Affiliate on the Leased Property,

but excluding any (i) grants, subsidies or other funding from any Governmental Authority (including PFCs or AIP Grants), (ii) proceeds of borrowings, (iii) equity contributions to Lessee,

(iv) proceeds of condemnation proceedings and asset sales to the extent that such proceeds are not reinvested in replacement property, (iv) insurance payments other than proceeds from business interruption insurance, and (v) otherwise permitted sources of revenue to the extent such is derived from Prohibited Business Activities.

“Letter of Credit” means a committed, irrevocable, unconditional, commercial letter of credit, in favor of the Authority, in form and content reasonably acceptable to the Authority, payable in U.S. dollars upon presentation of a sight draft and a certificate confirming that the Authority has the right to draw under such letter of credit in the amount of such sight draft, without presentation of any other document, which letter of credit:

- (a) is issued by a commercial bank or trust company that is a member of the New York Clearing House Association and that has a current credit rating of A1 or better by Standard & Poor’s Ratings Services and an equivalent credit rating by another Rating Agency (or an equivalent credit rating from at least two nationally recognized Rating Agencies if the named Rating Agency ceases to publish ratings) (or such other commercial bank or trust company reasonably acceptable to the Authority and approved by the Authority prior to the submission of the letter of credit); and
- (b) provides for the continuance of such letter of credit for a period of at least one (1) Year or as otherwise provided in this Agreement,

where the office for presentment of sight drafts specified in the Letter of Credit will be located at a specified street address within the New York, New York area or other location acceptable to the Authority.

“Letter of Intent” means that certain Letter of Intent between the Authority and Avports, dated May 6, 2021.

“Litigation” has the meaning given to it in Section 16.2.

“Loss” or **“Losses”** means, with respect to any Person, any loss, claim, liability, damage, penalty, charge or out-of-pocket and documented cost or expense (including fees and expenses of counsel and any Tax losses) actually suffered or incurred by such Person.

“Management Contract” means that certain the Amendment and Restatement of Management Agreement for the Operation of Tweed-New Haven Airport Between Tweed-New Haven Airport Authority and the Manager (as successor to Macquarie Aviation North America 2, Inc. d/b/a AvPORTS), dated July 1, 2004, which agreement was thereafter duly assigned to and assumed by the Manager, effective January 1, 2009, as amended by Amendment No. 1, dated as of March 19, 2014, Amendment No. 2, dated as of September 21, 2016, Amendment No. 3, dated as of January 1, 2018, Amendment No. 4, dated as of May 17, 2019, Amendment No. 5, dated as of May 6, 2021, Amendment No. 1 to the Amendment No 5, dated as of October 1, 2021, and Amendment No. 6, dated as of the Effective Date.

“**Manager**” means (i) Avports, (ii) following any assignment by Avports of its obligations under the Management Agreement, any such assignee of Avports, solely to the extent such assignee is an Affiliate of Lessee.

“**Master Lease**” means the Amended and Restated Lease and Operating Agreement by and between the City and the Authority dated as of the Effective Date, as amended, amended and restated, supplemented or otherwise modified from time to time.

“**Master Lease Premises**” means the “Leased Premises” as defined in the Master Lease.

“**Minimum Standards**” means the Minimum Standards for the Tweed New Haven Airport directed to be published by the Authority on August 17, 2022 by Resolution 569, as may be amended from time to time by the Authority.

“**Modification**” means a modification or change to the dimensions, character, quantity, quality, description, location, or position of any part of the Terminal Facilities or making other changes to the Terminal Facilities; provided, however, that no Modification may require either Party to do or omit any act that could reasonably be expected to violate any applicable Law or cause either Party to fail to be in compliance with this Agreement.

“**Modification Agreement**” has the meaning given to it in Section 5.3(a).

“**Modification Proposal**” has the meaning given to it in Section 5.1(a).

“**Mortgage**” means any mortgage, lease, indenture, deed of trust, pledge or other security agreement or arrangement, including a securitization transaction with respect to revenues generated at the Terminal Facilities, encumbering any or all of Lessee Interest or the shares or equity interests in the capital of Lessee and any of its Affiliates and any cash reserves or deposits held in the name of Lessee, in each case that satisfies all of the conditions in Section 17.1.

“**Negotiation Period**” has the meaning given to it in Section 16.7.4(a).

“**NEPA**” shall mean the National Environmental Policy Act, 42 U.S.C. §4321 et seq., as amended.

“**NEPA Approval Documents**” shall mean the Environmental Assessment and finding of no significant impact and/or record of decision issued by FAA under NEPA with respect to the New Terminal Project and the Runway Project.

“**New Agreement**” has the meaning given to it in Section 17.4.2(a).

“**New Terminal**” means the new passenger terminal building to be designed and constructed on the Leased Property. For the avoidance of doubt, the “New Terminal” shall not include contiguous landside terminal access ramps, passenger boarding ramps, vehicle circulation facilities related to in-bound and out-bound baggage systems, apron areas, parking areas, access roads or roadways or other support buildings or facilities.

“**New Terminal Construction Commencement Date**” has the meaning given to it in Section 4.4(c).

“**New Terminal Facilities**” means (i) the New Terminal, along with its associated aircraft apron and landside facilities, including auto parking, access roads and roadways, rental car facilities, and other support facilities and (ii) any other facilities now or hereafter located on the Leased Property.

“**New Terminal Financial Close Date**” has the meaning given to it in Section 4.4(b).

“**New Terminal Project**” means the design and construction of the New Terminal Work.

“**New Terminal Work**” means the design and construction of the New Terminal Facilities.

“**No Build Termination Sum**” has the meaning given to it in Section 14.3.3(a)(i).

“**Notice of Dispute**” has the meaning given to it in Section 16.7.3(a).

“**Ongoing Support Services**” has the meaning given to it in Section 14.4.4(b).

“**Overflow Lot Area**” means the area within the West Terminal Facilities depicted on Exhibit E.

“**Panel**” has the meaning given to it in Section 16.7.2(a)(i).

“**Parking Lots**” means the areas marked as “Parking Lots” in Exhibit D.

“**Party**” means a party to this Agreement and “**Parties**” means both of them.

“**Party Representative**” has the meaning given to it in Section 19.2.1(a).

“**Passenger Airline**” means Persons operating or intending to operate civil aircraft as an air carrier or commercial operator, or both, in air commerce as defined in 14 CFR Part 119.1 and whose operations are conducted under 14 CFR Parts 121, 125, 129 or 135.

“**Permitted Authority Encumbrance**” means:

- (a) Lessee Interest;
- (b) the Master Lease;
- (c) any Use Agreement entered into by the Authority prior to the Effective Date, including any Encumbrance created in favor of an airline pursuant to its respective Use Agreement;
- (d) any Encumbrance that is being contested, or being caused to be contested, by the Authority in accordance with Section 3.10.2 (but only for so long as such contest effectively postpones enforcement of any such Encumbrance);
- (e) inchoate materialmen’s, mechanics’, workmen’s, repairmen’s, employees’, carriers’, warehousemen’s or other like Encumbrances arising in the ordinary course of business of the Airport Facilities and Assets or the Authority’s performance of any of its rights or obligations hereunder, and are either:

- (i) not delinquent; or
 - (ii) which are being contested, or are being caused to be contested, by the Authority in accordance with Section 3.10.2 (but only for so long as such contest effectively postpones enforcement of any such Encumbrance);
- (f) any existing leasehold rights of any third party, easement, covenant, condition, right-of-way, servitude, or any zoning, building, environmental, health or safety Law relating to the development, use or operation of the Airport Facilities and Assets (or other similar reservation, right and restriction) or other defects and irregularities in the title to the applicable assets that do not materially interfere with the Leased Property or Lessee's rights with respect thereto, or materially interfere with Terminal Facilities Services or the rights and benefits of Lessee under this Agreement or materially impair the value of Lessee Interest (it being understood and agreed that nothing in this clause (f) will limit or otherwise affect the Authority's obligations or Lessee's rights hereunder);
 - (g) the police and regulatory powers of the State, the City and the federal government with respect to the Airport Facilities and Assets and the Airport (it being understood and agreed that nothing in this clause (g) will limit or otherwise affect the Authority's obligations or Lessee's rights hereunder);
 - (h) any right reserved to or vested in any Governmental Authority by any statutory provision or under common law (it being understood and agreed that nothing in this clause (f) will limit or otherwise affect the Authority's obligations or Lessee's rights hereunder);
 - (i) any other Encumbrance created or permitted under this Agreement;
 - (j) any Encumbrances created, incurred, assumed or suffered to exist by Lessee or any Person claiming through it;
 - (k) any rights reserved to or vested in the Authority or the City by any statutory provision (it being understood and agreed that nothing in this definition will limit or otherwise affect the Authority's obligations or Lessee's rights hereunder);
 - (l) one or more EURs, provided the Authority either obtains Lessee's express consent, such consent not to be unreasonably withheld, delayed, or denied, or such EUR does not unreasonably restrict any uses reasonably related to airport-related uses typical on Comparable Airport Facilities, and in either case the Authority has an obligation to secure consent from the relevant property owner(s);
 - (m) any amendment, extension, renewal or replacement of any of the foregoing.

“Permitted Lessee Encumbrance” means, with respect to the Leased Property, Authority Property and Terminal Facilities and Assets and subject to limitations set forth in Section 17:

- (a) Lessee Interest;

- (b) any Encumbrance that is being contested in accordance with Section 3.10.1 (but only for so long as such contest effectively postpones enforcement of any such Encumbrance);
- (c) any:
 - (i) lien or security interest for obligations not yet due and payable to a Subcontractor or other Person;
 - (ii) statutory lien, deposit, or other non-service lien;
 - (iii) lien, deposit, or pledge to secure mandatory statutory obligations or performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases, or for purposes of like general nature, any of which are incurred in the ordinary course of business of the Terminal Facilities Services, and are either:
 - (A) not delinquent or
 - (B) which are being contested by Lessee in accordance with Section 3.10.1 (but only for so long as such contest effectively postpones enforcement of any such Encumbrance);
 - (iv) inchoate materialmen's, mechanics', workmen's, repairmen's, employees', carriers', warehousemen's, or other like Encumbrances arising in the ordinary course of business of the Terminal Facilities Services or Lessee's performance of any of its rights or obligations hereunder, and either:
 - (A) not delinquent or
 - (B) which are being contested by Lessee in accordance with Section 3.10.1 (but only for so long as such contest effectively postpones enforcement of any such Encumbrance);
 - (v) any right reserved to or vested in any Governmental Authority by any statutory provision or under common law (it being understood and agreed that nothing in this clause (v) will limit or otherwise affect the Authority's obligations or Lessee's rights hereunder);
 - (vi) any other Encumbrance permitted hereunder (including any Mortgage (and financing statements or other means of perfection relating thereto));
 - (vii) any Encumbrance imposed upon Lessee or any Affiliate of Lessee as to Lessee's or any such Affiliate's assets arising from borrowings, financings, leases or similar transactions (including reimbursement obligations under a letter of credit) in the ordinary course of business;

- (viii) liens incurred in the ordinary course of business in connection with workers' compensation, unemployment insurance, social security and other governmental rules and that do not in the aggregate materially impair the use, value or operation of the Airport Facilities and Assets;
- (ix) any Encumbrance for Taxes not yet due and payable or being contested in good faith;
- (x) any Encumbrances created, incurred, assumed or suffered to exist by the Authority or any Person claiming through the Authority;
- (xi) any Encumbrances created pursuant to a sublease or use, concession or similar agreement granted by Lessee in connection with Lessee's conduct of the Terminal Facilities Services;
- (xii) one or more EURs, provided Lessee either obtains the Authority's express consent, such consent not to be unreasonably withheld, delayed, or denied, or such EUR does not unreasonably restrict any uses reasonably related to airport-related uses typical on Comparable Airport Facilities, and in either case the Authority has an obligation to secure consent from the relevant property owner(s); and
- (xiii) any amendment, extension, renewal or replacement of any of the foregoing.

"Persistent Breach Month" has the meaning given to it in Section 14.1.1(i).

"Person" means any individual (including, the heirs, beneficiaries, executors, legal representatives or administrators thereof), corporation, partnership, joint venture, trust, limited liability company, joint stock company, unincorporated association or other entity or a Governmental Authority, including each of Lessee and the Authority.

"PFAs" means any amounts received, directly or indirectly, by Lessee from the FAA, the Authority, the City or the State, including the portion of the Airport Reserve Fund used by the Authority to fund improvements of the Airport Facilities and Assets and any landing fees owed to the Authority from airlines that are assigned to Lessee for other Work being performed by Lessee for the Authority or as a tenant improvement allowance for property treated as owned by the Authority for federal income tax purposes.

"PFC" means the passenger facility charge authorized pursuant to 49 USC § 40117, or any predecessor or successor Law, and as approved by the FAA from time to time with respect to the Airport.

"Privacy Records" means employee, patron, tenant, or user data generated by, or accumulated or collected in connection with, conducting the Work, employing individuals, providing access and use of Terminal Facilities Services and Terminal Facilities and areas to individuals, and generating and collecting fees and revenues, including lists, identification numbers, contact information, account information and billing records, biometric or fingerprint recognition data, and other individual specific information, system performance statistics, and real time information, which:

- (a) may consist of or include information that identifies an individual who is an employee, patron, tenant, or user of, or visitor to, the Airport, including names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, vehicle registration information, medical data, facial, biometric, or fingerprint recognition data, law enforcement records, source or object code, security data, or other information that relates to any of these types of information; and
- (b) is exempt from disclosure to the public or other unauthorized persons under Law.

“Prohibited Business Activities” means commercial activities at the Airport that are prohibited by applicable Law.

“Prohibited Person” means any Person who is:

- (a) debarred, suspended, proposed for debarment with a final determination still pending, declared ineligible or voluntarily excluded (as such terms are defined in any of the Debarment Regulations) from participating in procurement or nonprocurement transactions with the United States federal government or any department, agency or instrumentality thereof pursuant to any of the Debarment Regulations;
- (b) indicted, convicted or had a civil or administrative judgment rendered against such Person for any of the offenses listed in any of the Debarment Regulations and no event has occurred and no condition exists that is likely to result in the debarment or suspension of such Person from contracting with the United States federal government or any department, agency or instrumentality thereof;
- (c) listed on the “Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs” issued by the U.S. General Services Administration;
- (d) located within, or doing business or operating from, a country or other territory subject to a general embargo administered by the U.S. Treasury Department's Office of Foreign Assets Control (“**OFAC**”), currently Cuba, Iran, North Korea, Syria and the Crimea Region;
- (e) designated on OFAC's List of Specially Designated Nationals and Blocked Persons (“**SDN List**”) or fifty percent (50%) or more owned by a person on the SDN List;
- (f) a banking institution chartered or licensed in a jurisdiction against which the United States Secretary of the Treasury has imposed special measures under Section 311 of the USA PATRIOT Act (“**Section 311**”);
- (g) located within or is operating from a jurisdiction that has been designated as non-cooperative with international anti-money laundering principles by the Financial Action Task Force on Money Laundering;

- (h) a financial institution against which the United States Secretary of the Treasury has imposed special measures under Section 311;
- (i) a “senior foreign political figure” or a prohibited “foreign shell bank” within the meaning of 31 C.F.R. § 1010.65; or
- (j) any Person with whom the Authority is engaged in litigation relating to performance of contract or business practices (unless the Authority has first waived (in the Authority’s sole discretion) by written notice to the transferring equity holder, with a copy to Lessee, the prohibition on a transfer to such Person during the continuance of the relevant litigation).

“**Project**” means (i) the West Terminal Work, (ii) the New Terminal Work, and/or (iii) any capital improvement projects on the Leased Property proposed and pursued by Lessee pursuant to this Agreement.

“**Project Intellectual Property**” means the Intellectual Property created, used, applied or reduced to practice by Lessee exclusively in connection with the Work, including the ongoing operation and maintenance of the Terminal Facilities and Assets and interconnected systems and infrastructure, but expressly excludes the Lessee Background Intellectual Property.

“**Quarter**” means a calendar quarter of each Year of the Term.

“**Rating Agency**” means any of Standard & Poor’s Corporation, Moody’s Investors Service, Inc. or Fitch Investors Service, Inc. or any similar entity or any of their respective successors; provided in each case that such entity is at the relevant time a nationally recognized statistical rating organization registered with the Office of Credit Rating of the U.S. Securities and Exchange Commission.

“**Reasonable Efforts**” means all those steps in the power of the relevant Party that are capable of producing the desired result, being steps which a prudent, determined and reasonable person desiring to achieve that result would take; provided that, subject to its other express obligations pursuant to this Agreement, the relevant Party will not be required to:

- (a) expend funds except for (A) those reasonably incidental or ancillary to the steps to be taken by the relevant Party (including its reasonable travel expenses, correspondence costs and general overhead expenses) and (B) those that the other Party agrees in advance to reimburse; or
- (b) take any action that is contrary to this Agreement, Law, or any Authorization.

“**Reasonably Expected Economic Life**” means, for any asset, Lessee’s reasonably expected economic life for that asset based on one or more of the following: (1) the “asset depreciation range” midpoint life of the asset, as set forth by the Internal Revenue Service (“**IRS**”), and (2) in the case of buildings, IRS Revenue Procedure 62-21 (provided, that the economic life shall not be longer than the reasonable expectations of Lessee and the Authority based upon the particular asset, the circumstances of use and other factors that may impact the useful life of the asset).

“**Referral**” has the meaning given to it in Section 16.7.4(c).

“**Reference Information**” has the meaning given to it in Section 2.2.6(b).

“**Reimbursable Law Enforcement Costs**” has the meaning given to it in Section 3.8.1(d).

“**Release**” means any actual or threatened spilling, leaking, emitting, discharging, disposing, depositing, leaching, escaping, dumping, pumping, emptying, injecting, pouring, or migration into or through the environment.

“**Remaining Transaction Balance**” has the meaning given to it in Section 2.5.2(e)(i).

“**Replacement Management Contract**” has the meaning given to it in Section 14.3.3(a)(ii)(B).

“**Representative**” means, with respect to any Person, any director, officer, employee, official, partner, member, owner, agent, lawyer, accountant, auditor, professional advisor, consultant, engineer, Subcontractor, other Person for whom such Person is at law responsible or other representative of such Person and any professional advisor, consultant or engineer designated by such Person as its “Representative”.

“**Required Coverages**” has the meaning given to it in Section 12.1.1.

“**Response Letter**” has the meaning given to it in Section 16.7.3(b).

“**Restricted Transfer**” has the meaning given to it in Section 15.2.1(b).

“**Restoration**”, “**Restore**”, or “**Restoring**” means, with respect to any casualty loss, destruction or damage of the Airport Facilities, to repair or rebuild the affected portions of the Airport Facilities in accordance with all Laws applicable at the time of the repair or rebuilding to restore them to at least the same condition in which they were before the occurrence of such casualty loss, destruction or damage.

“**Restoration Funds**” has the meaning given to it in Section 12.3.1.

“**Revenue Use Policy**” means the policy entitled *FAA’s Policy and Procedures Concerning the Use of Airport Revenue*, 64 F.R. 7696, as amended.

“**RSRs**” or “**Remediation Standard Regulations**” means regulatory criteria relative to Hazardous Materials as established under R.C.S.A. §§ 22a-133k-1 through 3, as amended.

“**Rules and Regulations**” means the rules and regulations for the Tweed New Haven Airport directed to be published by the Authority on August 17, 2022, by Resolution 569, as may be amended from time to time by the Authority.

“**Runway Construction Commencement Date**” has the meaning given to it in Section 4.1.1(b)(ii)(B).

“**Runway Project**” means the design and construction of the Runway Work.

“**Runway Project Outside Date**” has the meaning given to it in Section 4.1.1(b)(iii).

“**Runway Work**” means the design and construction of a runway extension to a length no greater than 6,635 feet and no less than 6,500 feet.

“**Schedule**” means a schedule attached hereto and incorporated in this Agreement, unless otherwise expressly indicated by the terms of this Agreement.

“**Secured Party**” means the holder or beneficiary of a Mortgage.

“**Secured Party Notice Requirements**” means the delivery by a holder or beneficiary of a Mortgage to the Authority of a true and complete copy of the executed original of such Mortgage, together with a notice containing the name and post office address of the holder of such Mortgage.

“**Secured Party’s Notice**” has the meaning given to it in Section 17.6(a).

“**Senior Representatives**” has the meaning given to it in Section 16.3(d).

“**State**” means the State of Connecticut.

“**Subcontractor**” means, with respect to a Person, any contractor, sublessee or other third party with whom such Person contracts to perform work or supply materials or labor or perform services in relation to the Airport Facilities and the Work, including any Subcontractor of any tier, supplier or materialman directly or indirectly employed pursuant to a subcontract with a Subcontractor.

“**Subcontract Breakage Costs**” means any Losses that have been or will be reasonably properly incurred by Lessee to demobilize and terminate the contracts between Lessee and third-parties or Affiliates in connection with performance of Lessee’s rights and obligations under this Agreement as a direct result of such termination, excluding Lessee’s non-contractual liabilities and indemnity liabilities (contractual or noncontractual) to third-parties or Affiliates.

“**Subsequent Excess Equity Gain Amount**” has the meaning given to it in Section 15.3(b).

“**Substantial Completion**” means (i) with respect to the New Terminal Work, the stage of Work where the New Terminal Facilities are operational and open to passengers and aeronautical users, as applicable, subject only to the completion of customary punch-list work and (ii) with respect to the Runway Work, the stage of Work where the runway extension is operational, subject only to the completion of customary punch-list work.

“**Substantial Completion Deadline**” means the date that is forty-eight (48) months from the New Terminal Construction Commencement Date.

“**Supervening Event**” means each a Compensation Event and a Delay Event.

“**Supervening Event Claim**” has the meaning given to it in Section 13.1.2(a).

“**Tax**” means any federal, state, local or foreign income, gross receipts, commercial activity, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits,

environmental, customs duties, permit fees, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, parking, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated or other tax, levy, impost, stamp tax, duty, fee, withholding or similar imposition of any kind payable, levied, collected, withheld or assessed at any time, including any interest, penalty or addition thereto, whether disputed or not.

“**Tax-Exempt Bonds**” means any obligations the interest on which is excludable from gross income for federal income tax purposes under Section 103(a) of the Code, except for any period that any such obligations shall be held by a “substantial user” or “related person” of facilities provided from the proceeds of such obligations, within the meaning of Section 147(a) of the Code, to the extent that the proceeds of such obligations are allocated to facilities leased by Lessee under this Agreement.

“**Term**” has the meaning given to it in Section 2.1.

“**Terminal and Admin Buildings**” has the meaning given to it in Section 4.6(a).

“**Terminal Facilities**” means the New Terminal Facilities and the West Terminal Facilities, but, in the case of the West Terminal Facilities, excluding any area (i) which the Authority develops pursuant to and in accordance with Section 4.7(b) or (ii) which is part of the Authority Development Area and with respect to which Lessee’s rights to which have been terminated pursuant to and in accordance with Section 4.6(c)(ii).

“**Terminal Facilities and Assets**” means the Terminal Facilities and the personal property/tangible assets of Lessee and its Subcontractors used in connection with operation, maintenance and management of the Terminal Facilities, including the Assigned Assets.

“**Terminal Facilities Fees**” has the meaning given to it in Section 6.2(a).

“**Terminal Facilities Operating Standards**” means the standards, specifications, policies, procedures and processes that apply to the operation and maintenance of the Terminal Facilities and Assets and to the performance of the Terminal Facilities Services set forth in Schedule 2A, as such may be modified from time to time pursuant to Section 3.3.2 or 3.3.3.

“**Terminal Facilities Services**” means (i) the operation, maintenance and management (including capital and financial management) of the Terminal Facilities and Assets, in each case in accordance with this Agreement, and (ii) all other actions relating to the operation of the Terminal Facilities and Assets or otherwise that are to be performed by or on behalf of Lessee pursuant to this Agreement (including the Terminal Facilities Operating Standards).

“**Test**” has the meaning given to it in Section 7.3.3(a).

“**Third Party Claim**” means any Claim asserted against an Indemnified Party by any Person who is not a Party or an Affiliate of such a Party.

“**Threshold Transfer Amount**” has the meaning given to it in Section 15.3(e)(iii).

“**Total Community Investment**” has the meaning given to it in Section 10.11.6(a).

“**Town**” means the Town of East Haven in the State of Connecticut.

“**Transfer**” means any direct or indirect assignment, transfer, conveyance or sale of equity interests in Lessee or the Authority, whether in a single transaction or series of transactions.

“**Transfer Notice**” has the meaning given to it in Section 15.3(c).

“**TSA**” means the Transportation Security Administration created under the Aviation and Transportation Security Act, 49 U.S.C. § 40101 et seq., or any successor agency thereto.

“**USDOT**” means the United States Department of Transportation.

“**Use Agreement**” means any airline use and/or lease agreement between the Authority and any airline.

“**West Ramp Area**” has the meaning given to it in Section 4.6(a).

“**West Terminal**” means the passenger terminal existing at the Airport as of the Effective Date as improved by the West Terminal Work.

“**West Terminal Facilities**” means the West Terminal, along with its associated aircraft apron and landside facilities, including auto parking, access roads and roadways, rental car facilities, and other support facilities, existing at the Airport as of the Effective Date, as improved by the West Terminal Work or otherwise, as more particularly described on Exhibit D.

“**West Terminal Project**” means the project to renovate the West Terminal to accommodate Avelo Airlines (and any other Passenger Airline) on an interim temporary basis pending availability of the New Terminal for Passenger Airlines.

“**West Terminal Work**” means the construction, renovation and development of the West Terminal in furtherance of the West Terminal Project.

“**Work**” means (i) the West Terminal Work, (ii) the New Terminal Work, (iii) any capital improvement projects required or permitted pursuant to this Agreement, and (iv) Terminal Facilities Services.

“**Year**” or “**Calendar Year**” means a calendar year.

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SCHEDULES

- Schedule 1 Representations and Warranties
- Schedule 2A Terminal Facilities Operating Standards
- Schedule 2B Airfield Facilities Operating Standards
- Schedule 3 Authority Contracts and Assigned Contracts
- Schedule 4 Assigned Assets
- Schedule 5 Required Federal Provisions
- Schedule 5A Contingent Required Federal Provisions
- Schedule 6 Single Purpose Covenants

SCHEDULE 1: REPRESENTATIONS AND WARRANTIES

PART A: REPRESENTATIONS AND WARRANTIES OF LESSEE

1. ORGANIZATION

- a. Lessee is duly organized, validly existing and in good standing under the laws of the State of Delaware.
- b. Lessee is authorized to transact business, and is registered with the Secretary of State of the State of Connecticut.
- c. The capital stock, units, partnership or membership interests and other equity interests or securities of Lessee (including options, warrants and other rights to acquire any such equity interests) are owned by the Persons set forth in a written certification that Lessee delivered to the Authority on or prior to the Effective Date.

2. POWER AND AUTHORITY

Lessee has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof.

3. AUTHORIZATION, DUE EXECUTION AND ENFORCEABILITY

- a. Lessee has duly authorized and approved the execution and delivery of this Agreement and the performance by Lessee of its obligations contained in this Agreement.
- b. The Person executing this Agreement on behalf of Lessee has been duly authorized to execute and deliver such document on behalf of Lessee.
- c. This Agreement constitutes a valid and legally binding obligation of Lessee, enforceable against it in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and applicable Laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

4. NO CONFLICTS

The execution and delivery of this Agreement by Lessee, the consummation of the transactions contemplated hereby and the performance by Lessee of the terms, conditions and provisions hereof have not and will not contravene or violate or result in a material breach (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of Lessee under:

- a. any applicable Law;
- b. any material agreement, instrument or document to which Lessee is a party or by which it is bound; or
- c. the articles, bylaws or other governing documents of Lessee.

5. CONSENTS

No consent is required to be obtained by Lessee from, and no notice or filing is required to be given or made by Lessee to or with any Person (including any Governmental Authority) in connection with the execution, delivery and performance by Lessee of this Agreement or the consummation of the transactions contemplated hereby, except for such consents which have been obtained and notices or filings which have been given or made as of the Effective Date or such other consents, notices or filings that are not required to be obtained as of the Effective Date and are expected to be obtainable following the Effective Date.

6. COMPLIANCE WITH LAW; LITIGATION

- a. Lessee is not in breach of any applicable Law such that such breach could have a material adverse effect on the ability of Lessee to comply with its obligations under this Agreement.

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- b. Neither Lessee nor any of its Affiliates is presently disqualified, suspended or debarred from bidding, proposing or contracting with any state-level, interstate or federal Governmental Authority, listed on the U.S. Department of the Treasury's Office of Foreign Assets Control's List of Specially Designated Nationals and Blocked Persons or on any other list of Persons with which the Authority may not do business under applicable Law.
- c. There is no action, suit or proceeding pending (or, to the best of Lessee's knowledge, threatened) by or against or affecting Lessee before any Governmental Authority or arbitrator.

7. ACCURACY OF INFORMATION

To the knowledge of Lessee, all information regarding Lessee provided to the Authority by or on behalf of Lessee in connection with the execution of this Agreement was accurate in all material respects at the time such information was provided.

8. BROKERS

Except for any broker whose fees will be paid by Lessee or its Affiliates, there is no investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on behalf of Lessee or any of its Affiliates who might be entitled to any fee or commission in connection with the transactions contemplated by this Agreement.

9. FOREIGN CORRUPT PRACTICES ACT

To Lessee's knowledge, none of Lessee, its directors, officers, employees, agents or Representatives acting on behalf of Lessee, have made, offered, promised, or authorized any payment or gift, of any money or anything of value, directly or indirectly, to or for the benefit of any Government Official for the purposes of: (i) influencing any official act or decision by a Government Official; (ii) inducing such Government Official to use his or her influence to affect any act or decision of a Governmental Authority; or (iii) securing any improper advantage, in order to assist Lessee in obtaining or retaining business for or with, or directing business to, any Person, in each case, in violation of the U.S. Foreign Corrupt Practices Act ("FCPA"). None of Lessee, its directors, officers, employees, agents or Representatives acting on behalf of Lessee, has made or authorized any bribe, unlawful rebate, payoff, influence payment, kickback or other unlawful payment of funds. None of Lessee, its directors, officers, employees, agents or Representatives acting on behalf of Lessee, is the subject of any allegation, voluntary disclosure, investigation, prosecution or other civil or criminal enforcement action by any Governmental Authority related to the FCPA.

10. MANAGER'S AGREEMENTS

Lessee has knowledge of and has reviewed all agreements entered into by the Manager in connection with the Airport.

PART B: REPRESENTATIONS AND WARRANTIES OF THE AUTHORITY

1. ORGANIZATION

The Authority is a political subdivision of the State of Connecticut, duly organized and validly existing under the laws of the State of Connecticut.

2. POWER AND AUTHORITY

The Authority has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof.

3. AUTHORIZATION, DUE EXECUTION AND ENFORCEABILITY

- a. The Authority has duly authorized and approved the execution and delivery of this Agreement and the performance by the Authority of its obligations contained in this Agreement.
- b. The Person executing this Agreement on behalf of the Authority has been duly authorized to execute and deliver such document on behalf of the Authority.
- c. This Agreement constitutes a valid and legally binding obligation of the Authority, enforceable against the Authority in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

4. NO CONFLICTS

The execution and delivery of this Agreement by the Authority, the consummation of the transactions contemplated hereby and the performance by the Authority of the terms, conditions and provisions hereof have not and will not contravene or violate or result in a material breach (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Authority under:

- a. any applicable Law; or
- b. any material agreement, instrument or document to which the Authority is a party or by which it is bound; or
- c. the articles, bylaws or other governing documents of the Authority.

5. CONSENTS

No consent is required to be obtained by the Authority from, and no notice or filing is required to be given or made by the Authority to or with any Person (including any Governmental Authority) in connection with the execution, delivery and performance by the Authority of this Agreement or the consummation of the transactions contemplated, except for such consents which (i) have been obtained and notices or filings which have been given or made as of the Effective Date; and (ii) are contemplated pursuant to this Agreement (including, by way of example but not by way of exclusion, the NEPA Approval Documents and the DEEP Approval Documents).

6. COMPLIANCE WITH LAW; LITIGATION

- a. Except with respect to FAA's Corrective Action Plan letter dated July 12, 2022 with respect to PFC reporting and any ongoing compliance matters related thereto, to the knowledge of the Authority, neither the Authority nor the Airport is in breach of any applicable Law such that such breach could have a material adverse effect on Lessee, the Leased Property, the Airport Facilities and Assets or the Terminal Facilities Services, or on the Authority's ability to comply with its obligations under this Agreement.
- b. To the knowledge of the Authority,
 - i. neither the Authority nor the Airport is in breach of terms and conditions of any Authorizations from Governmental Authorities relating to the Airport and the Airport

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Facilities and Assets such that such breach could have a material adverse effect on Lessee, the Leased Property, the Airport Facilities and Assets or the Terminal Facilities Services, or on the Authority's ability to comply with its obligations under this Agreement; and

- ii. except with respect to correspondence by the Connecticut Airport Authority relating to the transaction contemplated hereunder, no claim has been made by any Governmental Authority to the effect that an Authorization that the Authority has not obtained is necessary with respect to the Airport, the Airport Facilities and Assets and the delivery of the Terminal Facilities Services.
- c. There is no action, suit or proceeding pending (or to the best of the Authority's knowledge threatened) by, against or affecting the Authority before any Governmental Authority or arbitrator.

7. BROKERS

Except for any broker whose fees will be paid by the Authority, there is no investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on behalf of the Authority who might be entitled to any fee or commission from the Authority in connection with the transactions contemplated by this Agreement.

8. TITLE

- a. The Authority holds (i) a good and valid leasehold interest in the Leased Property, the Master Lease Premises and the Authority Property, which leasehold interest remains in full force and effect; and (ii) holds good and valid title and rights to the Airport Facilities and Assets free and clear of all Encumbrances other than Permitted Authority Encumbrances, and is able to, respectively, lease, grant, assign, and transfer each to Lessee as provided in Section 2.2 of this Agreement.
- b. Except with respect to Permitted Authority Encumbrances, there is no recorded or unrecorded agreement, contract, option, commitment, right, privilege or other right of another binding upon, or which at any time in the future may become binding upon, the Authority to sell, transfer, convey, subject to lien, charge, grant a security interest in, or in any other way dispose of or materially encumber the Leased Property, the Airport Facilities and Assets or any material portion thereof.
- c. No indebtedness for borrowed money of the Authority is or will be secured by any right or interest in the Leased Property, the Airport Facilities and Assets or any other revenue or income permissibly derived from the Airport Facilities and Assets and the performance of the Terminal Facilities Services by Lessee, and no Person will have any claim or right to, or interest in, any income, profits, rents or revenue derived from or generated with respect to the Airport Facilities and Assets and the performance of the Terminal Facilities Services by Lessee (other than Lessee and any claims, rights or interests granted by or otherwise relating to Lessee), provided that the foregoing will not apply to:
 - i. revenues to which the Authority is or may be entitled to under this Agreement; or
 - ii. revenues or income derived after the termination of the Agreement.

9. ASSIGNED CONTRACTS

To the knowledge of the Authority and subject Lessee's representation in Part A, Section 10 of this Schedule 1:

- a. Each Assigned Contract is in full force and effect on the Effective Date and will be in full force and effect after assignment on the Effective Date.
- b. The Authority is not in material breach of its obligations under any Assigned Contract, and no act or event has occurred which, with notice or lapse of time, or both, would constitute a material breach thereof, and, to the knowledge of the Authority, no other party to any Assigned Contract is in material breach of its obligations under any Assigned Contract, and

no act or event has occurred with respect to any such party, which with notice or lapse of time, or both, would or is reasonably be expected to constitute a material breach thereof.

- c. The Assigned Contracts are all of the material contracts and agreements to which the Authority is a party that relate to or bind the Leased Property and West Terminal Facilities operations in any material respect.
- d. The Authority has provided true and complete copies of each of the Assigned Contracts. There are no contracts pursuant to which a counterparty to such contract is claiming exclusivity rights with respect to Leased Property or Terminal Facilities and Assets. The Authority has not entered into any amendments, supplements, side agreements or other understandings with the counterparties to the Assigned Contracts.

10. ABSENCE OF CHANGES

- a. Since May 6, 2021, there has not been any agreement executed by the Authority that has resulted or is reasonably likely to result in a material adverse effect on Lessee, the Leased Property, the Airport Facilities and Assets or the Terminal Facilities Services. The parties agree the following agreements are deemed to not have a material adverse effect on the Lessee, Leased Property, the Airport Facilities and Assets or the Terminal Facilities Services:
 - i. Amended and Restated Lease and Operating Agreement by and between the City and the Authority dated as of the date hereof;
 - ii. Airline Operating Permit between the Authority and Avelo Airlines, Inc. (formerly TEM Enterprises) effective October 31, 2021;
 - iii. Three-Party Agreement by and among Authority, Avelo Airlines, Inc. (formerly TEM Enterprises), and Avports dated June 21, 2021;
 - iv. Letter of Intent between the Authority and Avports dated May 6, 2021; and
 - v. Amendment No. 5 to the Management Contract between the Authority and Avports dated May 6, 2021, as amended by the First Amendment to Amendment No. 5, dated October 1, 2021; and
 - vi. Amendment No. 6 to the Management Contract between the Authority and Avports dated as of the date hereof.
- b. Since May 6, 2021, the Authority and the Authority's Representatives have:
 - i. not disposed of or acquired any Airport Assets other than in the ordinary course of business without the consent of Lessee;
 - ii. not entered into any material contracts related to the Airport Facilities and Assets or the Terminal Facilities Services unless such contracts are terminable by Lessee on the Effective Date (at no cost to Lessee) or have been consented to by Lessee prior to execution;
 - iii. performed (or caused to be performed) in all material respects all of the Authority's obligations under the Assigned Contracts;
 - iv. not entered into any material amendments or modifications to the Assigned Contracts (excluding amendments, modifications, consents or supplements to existing contracts that do not or will not reasonably be expected to have an adverse effect on the operations of the Airport Facilities and Assets); and
 - v. not incurred any liens on the Airport Facilities and Assets that are not satisfied by the Effective Date or retained by the Authority after the Effective Date;

all with the purpose that the Airport Facilities and Assets as a going concern shall be unimpaired as of the Effective Date in a condition substantially similar to the condition as

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of May 6, 2021, but excluding, for certainty, any agreements entered into by the Manager pursuant to the Management Agreement.

SCHEDULE 2A–TERMINAL FACILITIES OPERATING STANDARDS
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Section 1

INTRODUCTION AND BACKGROUND

This section of the Terminal Facilities Operating Standards describes the purpose of the Terminal Facilities Operating Standards, its approval mechanism, and an overview of the document's organizational structure. Capitalized terms used but not otherwise defined in this Terminal Facilities Operating Standards have the meanings given to such terms in Annex A (Definitions) of the Agreement (as defined below).

1.1 PURPOSE OF THE OPERATING STANDARDS

The purpose of this document is to provide the minimum requirements that The New HVN LLC ("Lessee") will meet for the benefit of the Tweed-New Haven Airport Authority (the "Authority") in the operation and maintenance of the Terminal Facilities, how the achievement of those minimum standards will be determined, and the process for remedying any deficiencies of performance. As indicated in Section 3.3.1(a) of the Lease and Development Agreement, dated as of the Effective Date (the "Agreement"), by and between the Authority and Lessee:

Lessee will, and will cause the Terminal Facilities Services to, comply with and implement the Terminal Facilities Operating Standards in all material respects at all times.

In addition to the Terminal Facilities Operating Standards, there are Airfield Facilities Operating Standards that cover the Airfield Facilities with which the Authority must comply.

1.2 OPERATING STANDARDS OVERVIEW

This document provides guidance as to the development of a Terminal Facilities operations plan ("Operations Plan") that identifies minimum operating standards that are to be met or exceeded, ensuring the safe and continuous operation of the Airport.

1.2.1 Objectives

The Terminal Facilities will be operated and maintained such that it meets or exceeds certain minimum standards. Lessee will comply with reasonable performance measures that are both quantitative and qualitative in nature, unless and except to the extent that acts or omissions of an airline, the Authority, a Governmental Authority or a Force Majeure Event reasonably impede or prevent Lessee (after reasonable mitigation undertaken by Lessee) from so complying. The quantitative measurements are based on operating statistics and physical inventories, while the qualitative measurements are based on user perceptions and expectations.

- Quantitative measurements will be collected and assessed by tracking a variety of airport operating and physical statistics.
- Qualitative measurements will be collected through surveys of airport users, visual observations, and by reporting procedures established by the Authority and Lessee.

The performance measures identified in this report are separated into several categories intended to capture various aspects of the Airport's operating performance. They include trend data on air traffic demand and physical airport facilities, statistical performance metrics, quality of service measures, condition of airport facilities, regulatory compliance, community relations, and others. Lessee is expected to collect all relevant data and to demonstrate compliance with all applicable standards identified in this manual.

1.2.2 Organizational Structure of this Document

This document, coupled with the Airport Certification Manual ("ACM"), Airport Security Program ("ASP") and other relevant documents, provides Lessee with the minimum operating standards for the development and implementation of an Operations Plan for the Airport.

The Operations Plan will include specifications for the operation of all Terminal Facilities, including assets, systems and facilities, as well as reporting requirements for the same. The Operations Plan will address each of the following functional components of the Terminal Facilities, as follows:

- Terminal Facilities Standards Plan (Section 2)
- Terminal Facilities Capital Asset Management Plan (Section 3)
- Environmental Sustainability Plan (Section 4)
- Health and Safety Plan (Section 5)
- Customer Experience Plan (Section 6)

Each of the above shall be developed by the Lessee and provided to the Authority within twelve (12) months of the Effective Date.

This document also includes appendices as follows:

- Available Guidance and Standards (Appendix A)
- Form of Operational Performance Metrics Report (Appendix B)

Each individual component of the Operations Plan will generally include the following:

- Objective of the plan – a straightforward statement of the objective of the plan

- Essential staffing – minimum staffing levels required and identification of key personnel roles and responsibilities
- Stakeholder coordination – identification of the affected stakeholders and Lessee’s coordination plan
- Scope of plan – identification of the physical facilities or operating procedures that are covered by the plan and the efforts involved in executing the plan
- Performance schedule – the frequency/schedule for which various tasks are executed for the requisite operation or procedure
- Reporting requirements – the scope of reporting and auditing that is required to ensure the plan requirements are being met or exceeded, as well as the specifications and methods for reporting.

Accordingly, this document provides sections including guidance as to the minimum requirements that will be addressed for each of these functional areas within the Operations Plan that Lessee will develop, provide and/or update.

1.2.3 Title 14 CFR Part 139 Compliance

Lessee will maintain the Terminal Facilities in compliance with Title 14 CFR Part 139, as specified in the ACM, and other relevant documents. The Operations Plan, at a minimum, shall define the procedures that Lessee will execute to meet the requirements of Title 14 CFR Part 139.

For clarification, the Operations Plan defined in this document will make direct reference to those sections already present in the most current ACM and other relevant documents.

1.2.4 Coordination with Other Agencies

Lessee will coordinate with several agencies and entities including but not limited to-

- the Authority (and its designated agent or Manager)
- Federal Aviation Administration (“FAA”)
- Transportation Security Administration (“TSA”)
- Customs and Border Protection (“CBP”)
- United States Centers for Disease Control and Prevention (“CDC”)
- Connecticut State Department of Public Health (“DPH”)
- Commercial air carrier(s)
- General aviation tenants

- Airport concessionaires
- Other ancillary supporting third party companies
- United States Environmental Protection Agency (“USEPA”)
- United States Department of Agriculture (“USDA”)
- Local law enforcement
- Mutual aid fire and EMS

1.2.5 Required Reports

This document will identify the required reporting policies and procedures. Lessee annual report (“Annual Report”) will detail year over year traffic numbers, safety incidents within the Terminal Facilities, projects or other improvements undertaken or completed throughout the year, and the Airport Development Plan (“ADP”). The Annual Report will include:

- FAA Annual Certification Inspection Report
- Operational Performance Report (including air traffic)
- Facilities Condition Assessment
- Airport Development Plan
- Sustainability Report
- Emergency Report, if applicable
- Safety Assessment Report
- Customer Experience Report

Lessee shall also prepare a Security Assessment Report; however, this need not be summarized in the Annual Report. In addition, the Sustainability Report, Safety Assessment Report, Emergency Report, and Customer Experience Report need not be stand-alone documents. These can be produced as sections of the Annual Report. Outlines for each of these reports are provided in Appendix B.

If the time from the Effective Date to Fiscal Year end is less than 6 months, then the first Annual Report reporting period shall cover the time from the Effective Date to Fiscal Year end and the entire following Fiscal Year. If the time from the Effective Date to Fiscal Year end is greater than 6 months, then the first Annual Report reporting period shall cover the Effective Date to Fiscal Year end.

1.3 OPERATING STANDARDS SUBJECT TO FACILITY LEASE

The interpretation of these Terminal Facilities Operating Standards and Lessee's compliance with these Terminal Facilities Operating Standards (including any goals contained herein and any provisions where objective performance is described in absolute terms (i.e., "all", "every", "in all instances", "completely", etc.)) shall be subject to the provisions set forth in Section 3.3 of the Agreement.

1.4 RELATIONSHIP TO DOCUMENTS REQUIRED BY LAW

To the extent Lessee's compliance with any provision of these Terminal Facilities Operating Standards can be demonstrated by reference to any other document required by Law to be maintained by the Authority or the Lessee, such as the ACM, the Airport Emergency Plan or the TSA-approved ASP, Lessee's compliance with the relevant provisions of these Terminal Facilities Operating Standards may be demonstrated by cross-referencing any other such documents and providing such documents to the Authority, to the extent permitted by applicable Law, and provided further that the Authority shall not object to the process of cross-referencing and providing such documents to the Authority.

Lessee's obligation to comply with the FAA's guidance or Advisory Circulars extends only to FAA guidance and Advisory Circulars for which the FAA has made compliance mandatory on airport operators. To the extent that any FAA guidance or Advisory Circular is not mandatory, Lessee is not obligated to comply with it (by virtue of such FAA guidance or Advisory Circular) but may do so in its discretion, so long as Lessee maintains compliance with Part 139 Certificate requirements.

To the extent that these Terminal Facilities Operating Standards refer to any particular Law, regulation, ordinance, order, directive, FAA guidance or Advisory Circular, the reference is to the then-current version of the same, as it may have been amended, revised, replaced or succeeded from time to time.

1.5 APPLICABLE LAW

The provisions of the Terminal Facilities Operating Standards and of the Operations Plan established under them shall comply with all applicable Laws, rules, regulations, ordinances, orders and directives. For convenience, these are referred to as "Legal Requirements" throughout this document.

Appendix A contains a list of available guidance and standards and applicable regulations with respect to the Airport. The list is not intended to include all applicable standards and regulations – it is the responsibility of Lessee to identify and comply with all existing standards and regulations in a timely manner.

1.6 PLAN SUBMISSION AND REVISIONS; COMPLIANCE WITH APPLICABLE INDUSTRY STANDARDS

The Operations Plan, each of its component sections, and any modifications thereto will be based on applicable industry standards in effect at Comparable Airport Facilities and will be developed by Lessee in consultation with the Authority. The Operations Plan and each of its component sections will be revised at such times as described herein; *provided however*, that (i) the initial Capital Asset Management Plan shall be submitted by Lessee for approval to the Authority (such approval not to be unreasonably withheld or delayed), and (ii) revisions to the Capital Asset Management Plan shall be submitted by Lessee as required and when applicable for approval to the Authority, in each case as set forth in Section 3 below.

Contemporaneously with the submission of Annual Report, Lessee will submit any proposed modification to the Terminal Facilities Operating Standards to the Authority if applicable. Any changes to the Terminal Facilities Operating Standards and these documents are subject to the requisite approvals (if any) pursuant to Section 3.3 of the Agreement; *provided however*, that changes to the Terminal Facilities Operating Standards after moving from the West Terminal to the New Terminal are not considered a proposed modification by the Lessee under Section 3.3.3(a) of the Agreement. As further set forth in Section 1.8 below, the Terminal Facilities Operating Standards as applied to the West Terminal will be considered 'interim' and the revised Terminal Facilities Operating Standards for the New Terminal will be the "baseline" prior to any modifications.

Lessee is responsible for becoming familiar with future standards and regulations during the term of the Agreement, including applicable industry practices that apply to the design, operation, repair, and maintenance of the Terminal Facilities.

1.7 GENERAL STAFFING REQUIREMENTS

The staff levels required will be determined by the needs of Lessee to fulfill its maintenance, operation, and contractual obligations as well as statutory and regulatory requirements under the Agreement, applicable Law, the Terminal Facilities Operating Standards and the Operations Plan then in effect. Lessee will also comply with the staffing and training requirements set forth in Title 14 CFR Part 139.

The Airport is a 24-hours-per-day, 365-days-per-year operation. For this reason, Lessee recognizes the need to have variable work shifts, employees, supervisors, and personnel to maintain constant operations consistent with the levels of operations at the Airport at such times (with the understanding that Lessee may make reasonable judgments as to when increased or decreased staffing levels are appropriate). Lessee will create work shifts that ensure the continual operation of the Airport. Staff requirements will be based upon the operational needs of the Airport.

1.8 WEST TERMINAL

While these Terminal Facilities Operating Standards will apply to all Terminal Facilities under the Agreement, the Lessee and the Authority both acknowledge that initial operations at the

West Terminal and the condition of the West Terminal Facilities are less than optimal and the Parties intend to move to the New Terminal as set forth in the Agreement. Therefore, the Lessee and the Authority agree to cooperate in good faith and act reasonably in identifying and remedying any material deficiencies noted at the West Terminal.

The Parties agree that the Lessee will comply with all requirements of these Operating Standards to ensure safety and security in the West Terminal Facilities as required by applicable Law. The Parties do not anticipate that Lessee will perform significant additional capital expenditures on the West Terminal Facilities.

While the Lessee is required to develop a comprehensive Operations Plan for the New Terminal, the Authority will permit the Lessee to incorporate certain documents and policies existing as of the Effective Date, reasonably revise such existing documents and policies, and develop a suitable Operations Plan on an interim basis for the West Terminal. Lessee represents that Lessee has delivered copies of such existing documents and policies to the Authority.

Section 2

TERMINAL FACILITIES STANDARDS PLAN

2.1 BACKGROUND

The Terminal Facilities Standards Plan (“TFSP”) provides assurance to the Authority that Lessee is executing appropriate and timely actions that maintain the safe, secure, sustainable, and continuous operation of the Terminal Facilities. The TFSP will be developed and executed by Lessee and submitted to the Authority for approval (such approval not to be unreasonably withheld or delayed). The TFSP shall address both the operation and maintenance of all Terminal Facilities. The TFSP does not generally include aspects related to Title 14 CFR Part 139 certification.

2.2 REGULATORY COMPLIANCE

The TFSP will identify and comply with all applicable Legal Requirements. Lessee will ensure that employees and representatives responsible for the operation of airport facilities comply with the provisions of the TFSP.

Title 14 Code of Federal Regulations, specifically Part 139 sections applicable to the Airport, will be addressed in the ACM and the Airfield Facilities Operations Standards Plan. The TFSP may make reference to those provisions in order to avoid duplication. Lessee will ensure that its employees and representatives conducting airport operations and maintenance procedures on its behalf, comply with the provisions of the TFSP.

2.3 EXISTING PLANS

To the extent applicable and accurate, Lessee will utilize any available existing plans and descriptions of Airport facilities, systems, and procedures provided to it in the development of the TFSP, including the ACM and Airport Emergency Plan (“AEP”).

2.4 REQUIREMENTS OF THE PLAN

The TFSP will identify the plan’s objectives, essential staffing, stakeholders, scope, performance schedule, and reporting requirements as described below.

2.4.1 Objectives of TFSP

The objective of the TFSP is to establish policies and procedures, responsibilities, and minimum requirements to ensure the organized, efficient, continuous, and safe operation and maintenance of all Terminal Facilities.

2.4.2 Essential Staffing

An organizational chart will be included in the TFSP which identifies the essential staff responsible for each of the facilities covered under the TFSP

The organizational chart will be supplemented by a summary of the levels of staffing, minimum training, staff certification and schedules that would be provided for each of the facilities operations for each season.

2.4.3 Stakeholders

The TFSP will identify all stakeholders (both public and private) that may be affected by the performance of the TFSP and define any necessary applicable coordination with individual stakeholders.

2.4.4 Scope of Plan

The TFSP will identify and address the operation and maintenance of all current and planned Terminal Facilities. The facilities that will be addressed within the TFSP include the following primary functional areas:

- Assets utilized for Ground Transportation, access roadway system, terminal curb front, and all on-Airport roadways (excluding the airfield);
- Assets utilized to transition people, baggage, and parcels, excluding those directly managed by airlines or their agents;
- Vehicle parking facilities;
- Transportation parking and storage facilities;
- Passenger terminals and concourses; and
- Other on-Airport facilities (maintenance buildings, central utility plant, law enforcement facilities, fueling facilities, and other Terminal Facilities), excluding those directly managed by airlines or their agents.

The TFSP will address performance standards for operations, which may include quantitative and qualitative standards for performance and methods for remediation of sub-standard performance. Lessee will, at minimum, include the relevant standards for performance and descriptions of facilities, systems and activities contained in Appendix B (Form of Operational Performance Metrics Report) as requirements under this section.

Given the Airport is operational on a 24-hour basis throughout the entire year, Lessee will define the management and operation of all major facilities such that planned and unforeseen interruption of normal operations is minimized to the maximum extent possible.

The TFSP will also document:

- The inventory of all major facilities and systems directly managed by Lessee, including identification of the type of facility;
- The routine maintenance program for all major facilities and systems, thereby ensuring the condition of said facilities will permit the continuous operation of the Airport;
- The schedule for major repairs as an input to the Capital Asset Management Plan.

Operation and Maintenance of Facilities

Lessee will provide descriptions of the procedures required for the operation and maintenance of each asset, facility or system within the Terminal Facilities. At a minimum, the TFSP will include the following for each facility:

- An exhibit of the location and key functional components of the facility;
- A brief narrative description of the facility and its components;
- The immediate-, near-, and long-term needs of the facility in terms of its capital requirements;
- The minimal and optimal resources required to operate the facility in terms of staffing and equipment;
- The identification of the essential staff that is responsible for the supervision and organization of the facility; and
- The routine operation and maintenance plan for the facility in accordance with manufacturers' preventive maintenance requirements, where applicable (e.g. passenger loading bridges, HVAC and vertical circulation).

For routine operation and maintenance activities, Lessee may, temporarily close roadways, doorways, and other areas at the Airport including within the passenger terminal buildings. Permanent closing of assets will require approval from the Authority unless part of a previously submitted Development Plan (such approval not to be unreasonably withheld or delayed).

The following procedures will also be addressed within the TFSP or the Agreement. The performance standards included in Appendix B (Form of Operational Performance Metrics Report) will be included in the development of the TFSP.

- Custodial procedures
- Airport concessions management procedures– including Airport Concessions Disadvantage Business Enterprise (“ACDBE”) compliance.

- General terminal operations procedures
- Terminal Facility Utilization, including gate scheduling procedures.
- Airport parking and ground transportation procedures– including transportation network companies (“TNC”), taxi and shuttles.
- General contract administration procedures
- Hardscaping and Landscaping maintenance procedures – when applicable

Operation and Maintenance of Systems

Lessee will provide descriptions of the various systems required for the operation of the Terminal Facilities. At a minimum, the TFSP will include a description of the following systems for each facility, as appropriate:

- Mechanical, electrical and plumbing;
- Communications and information technology;
- Life safety systems (e.g. emergency communications, fire protection, security, backup systems);
- Civil engineering systems, including pavement drainage, traffic signals, pavement maintenance standards;
- Architectural systems (e.g. signage and way finding, structural);
- Public and private utility corridors, including sewer and water systems; and
- Landscape systems (e.g. drainage, landscaping, and erosion control).

The maintenance plan for each of the systems will also be addressed by this plan. Table 2-1 lists the basic functional areas of the Terminal Facilities that the maintenance plan will address. The maintenance plan will address scheduled preventive maintenance.

Table 2-1

TERMINAL FACILITIES MAINTENANCE PLAN FUNCTIONAL AREAS

Functional Area	Major Facilities and Systems
Passenger terminal and concourses	Architectural elements and systems
	Airport Signage (both internal and external)
	Flooring
	Roofing
	Hardscaping and Landscaping
	Civil and structural systems (including apron, vehicle parking lot, terminal curb front, access roadway pavements)
	Mechanical systems, including HVAC
	Electrical systems, including controls and other automated systems, including emergency lighting and electrical systems
	Plumbing systems
	Life safety, fire protection and other emergency systems
	Passenger loading bridges
	Utility systems
	Communications systems
	Security systems
	Ground power systems for aircraft
Preconditioned air systems for aircraft	
Potable water for aircraft	

Functional Area	Major Facilities and Systems
	Janitorial and trash removal
	Baggage handling systems
	Passenger conveyance systems (including transport carts, escalators, elevators, and moving walkways – when applicable)
On-airport landside, roadway, and parking facilities	Ground access elements
	Utility systems
	Stormwater sewer systems
	On-Airport pavement, roads, and parking lots
	Landscaping and trash removal
	Commercial vehicle staging areas
	Parking and Roadway signage, marking and lighting
	Communications systems
	Bridges and elevated structures
	Roadway and parking facility lighting
	Public and employee parking, public and employee on-airport transportation
Other on-Airport facilities	Ground access elements
	Pavement
	Landscaping
	Architectural elements and systems
	Structural systems

Functional Area	Major Facilities and Systems
	Mechanical systems
	Electrical systems, including controls and other automated systems
	Plumbing systems
	Life safety, fire protection and other emergency systems
	Utility systems
	Triturator
	Communications systems
	Security systems
	Fuel storage, handling and delivery, unless performed by others
	SWPPP Systems
	Glycol recovery unless deemed Airfield

Additional Detail on Critical Systems

The continuous operation of the Airport requires certain critical systems to have detailed plans for their operational integrity. Chief among these systems are the life safety systems. Additional detail regarding the life safety systems standards is provided in this section.

Regarding life safety systems, the TFSP must address the following individual components:

- Emergency communications, including the emergency public address system, telephones, radios, and other mobile communication devices;
- Fire protection and suppression, including sprinkler systems, heat, smoke, and carbon dioxide detectors, and fire alarms;
- First response medical stations, including first aid supplies and personnel adequately trained and certified (if required by regulation) and automated external defibrillators; and

- Security systems (as included within the Airport Security Plan), including Airport and airfield access control and fencing, passenger security screening, video surveillance, emergency personnel identification, and random security procedures.

For each of the above, the TFSP will indicate: the operational procedures and policies that would be routinely executed to ensure that these systems are capable of operating without interruption, tested regularly for functionality and proper performance; and upgraded or improved as necessary.

Regarding the energy distribution systems, the TFSP will address the procedures and policies employed by Lessee to ensure that the energy distribution systems always remain fully operational.

The Plan will also address Lessee's plan for enhancing reliability, providing redundancy, arranging for backup equipment, staff, power, and others and any other action required to safeguard continuous operations. The TFSP must address the following individual components:

- Electrical supply, including emergency lighting, backup generators;
- Mechanical systems, including: (i) heating, ventilation, and air conditioning (HVAC) systems; and (ii) plumbing systems; and
- Computer systems necessary for routine operations, including appropriate redundancy, data back-up procedures, cyber-security, anti-hacking and power supply backups.

As with the life safety systems, these systems should be routinely tested for functionality and proper performance and upgraded or improved as necessary.

2.4.5 Performance Schedule

The TFSP section of the Operations Plan will be reviewed annually and revised as needed by Lessee to reflect a good faith effort to update the TFSP as appropriate to maintain an accurate assessment of current Terminal Facilities.

2.4.6 Reporting Requirements

Lessee will report on the performance of various facilities on an annual basis in the form of an Operational Performance Report ("OPR"). Lessee will report on the quantifiable performance measures contained in the Form of Operational Performance Metrics Report, attached as Appendix B. The metrics and targets represented in this Report will be determined upon mutual agreement between the Authority and Lessee, following existing industry benchmarks applicable to the specific operational environment in the Airport. A specific process to agree on evolution and improvements of these targets is also included in Appendix B.

2.4.7 West Terminal

The TFSP for the West Terminal will describe how the Lessee will maintain the facility in a reasonable condition prior to the opening of the New Terminal, to the extent possible under Lessee's control and not relating to airline operations, ensuring that critical infrastructure is operational, and manage airline and customer operations in a facility that may be less than optimal.

Lessee shall provide the Authority a draft of the Terminal Facility Standards Plan for the West Terminal 90 days after the Effective Date based on existing documents.

Section 3

CAPITAL ASSET MANAGEMENT PLAN

3.1 BACKGROUND

The Terminal Facilities Capital Asset Management Plan (“Terminal CAMP”) section of the Operations Plan will provide assurance to the Authority that Lessee is planning and implementing appropriate and timely actions that demonstrate fiscal responsibility and maintain and preserve the Terminal Facilities while accommodating growth in aviation demand. Primary focus will remain on maintaining compliance and a state of good repair.

3.2 REGULATORY COMPLIANCE

The Terminal CAMP will comply with all Legal Requirements as per Section 1.5. Lessee will ensure that employees and representatives responsible for the operation of Terminal Facilities comply with the provisions of the Terminal CAMP and all Legal Requirements.

3.3 EXISTING PLANS

Lessee will utilize any available existing plans and descriptions of Airport facilities, systems, and procedures provided to it in the development of the Terminal CAMP. Lessee will ensure that the Terminal CAMP complies with the relevant standards within the ACM including the AEP which, in addition to the requirements described herein, shall be considered minimum standards.

3.4 REQUIREMENTS OF THE PLAN

The Terminal CAMP will identify the plan’s objectives, essential staffing, stakeholders, scope, performance schedule, and reporting requirements as described below.

3.4.1 Objectives of Terminal CAMP

The objective of the Terminal CAMP section of the Operations Plan is to preserve and provide for continuous improvement of all Terminal Facilities, including assets, facilities and systems by evaluating their conditions and planning their maintenance, rehabilitation, replacement, and/or modernization. The Terminal CAMP will also provide guidance as to the priority of capital improvement projects and maintenance, with the most critical airport assets receiving the greatest attention.

3.4.2 Essential Staffing

An organizational chart will be included in the Terminal CAMP which identifies the essential staff responsible for capital asset management and planning.

3.4.3 Stakeholders

The Terminal CAMP will identify all stakeholders (both public and private) that may be affected by the performance of the Terminal CAMP and define any necessary applicable coordination with individual stakeholders.

3.4.4 Scope of Plan

The Terminal CAMP will identify and address all major capital assets comprising the Terminal Facilities. The facility assets shall be described for the following primary airport functional areas:

- Passenger terminals and concourses;
- Aircraft aprons;
- Landside and roadway system;
- Other Terminal Facilities assets, systems and facilities (maintenance buildings, other on-Airport buildings);
- Vehicle Parking facilities.

The Terminal CAMP will outline asset management actions that are based on regularly scheduled conditions assessments, self-inspection routines, preventative and coordinated maintenance, capital improvements, expansion, modernization, and rehabilitation projects. The Terminal CAMP will define the process for conducting regular condition assessments, reporting of results, and accounting for emerging trends at the Airport that could affect asset management.

3.4.5 Performance Schedule

The Terminal CAMP will be submitted by Lessee to the Authority with reasonably sufficient time for Authority review and approval prior to any FAA deadlines for submittal. The Authority's approval of the Terminal CAMP shall not be unreasonably withheld or delayed, and in no event shall exceed ninety (90) days and must be provided at least forty-eight (48) hours prior to any FAA deadline for submittal. If the Authority does not respond within such time period, the Terminal CAMP shall be deemed approved by the Authority. Revisions to the Terminal CAMP will be submitted by Lessee annually for consultation with to the Authority.

3.4.6 Reporting Requirements

The Terminal CAMP will specify the following reports as described below in greater detail: Facilities Condition Assessment ("FCA"), ADP and a Master Equipment Replacement Plan ("MER") covering smaller assets and equipment. In addition, as described below, the Terminal CAMP shall require the preparation of an Air Traffic Summary ("ATS") monthly, which shall be limited to the information received by Lessee from airlines pursuant to an

airport use agreement. If a pavement condition index (PCI) report is prepared, this report will be shared with the Board, and the findings incorporated into the CAMP.

Facilities Condition Assessment

The Terminal CAMP should outline the process for preparing an FCA and the FCA will be completed in accordance with the following schedule:

- If the period between the Effective Date and the date for FAA submittal of the ACIP is less than 9 months, then no FCA shall be required prior to the first ACIP submittal.
- If the period between the Effective Date and the date for FAA submittal of the ACIP is greater than 9 months, then the FCA shall be required prior to the first ACIP submittal.
- While passenger operations occur on the west side of the airport, the FCA to be completed every other year.
- Thirty-six (36) months after the commencement of air service from the New Terminal, the first FCA for the New Terminal will be completed.
- After the first FCA for the New Terminal is completed per the above, an FCA for the New Terminal will be completed annually by the Lessee through a self-assessment process. The Lessee has the right to hire a licensed professional engineer or engineering firm (“Engineering Firm”) to conduct such assessment pursuant to Section 3.4.7, at the Lessee’s cost and expense.
- Notwithstanding anything to the contrary herein, at any time during the Term, the Authority may elect to retain an Engineering Firm to prepare the FCA at the Authority’s cost and expense. The Authority shall provide notification to Lessee no later than 120 days after receiving the Lessee’s FCA, or 90 days after providing to Lessee the FCA completed by the Authority retained Engineering Firm that it intends to retain an Engineering Firm for the following year.
- For the years in which the Authority engages an Engineering Firm, Lessee will not be obligated to prepare the FCA.
- All major facilities and systems will be evaluated in each FCA, except that all new facilities associated with the New Terminal can be excluded from the self-assessment FCA or the FCA completed by the Lessee-retained Engineering Firm for the first thirty-six (36) months after commencement of air services from the New Terminal. The Authority may elect to retain an Engineering Firm to prepare an FCA solely for the New Terminal at the Authority’s cost and expense at any time during the first 36 months after commencement of air services from the New Terminal.

The FCA will generally include, but not be limited to the following:

- Review of the prior FCA findings;
- Assessment of applicable Terminal Facilities buildings relative to current codes and regulations, including those leased to third party landlords, from a safety and operational perspective (all health and safety issues must be identified for resolution by Lessee in accordance with the findings of appropriate studies and investigations, and to be followed by appropriate mitigation as soon as practical);
- Assessment of applicable major equipment assets (e.g. tools and vehicles);
- Assessment of applicable building mechanical, electrical, communication, and plumbing systems: this work should be carried out by a licensed engineer or engineering firm that specializes in building systems (see Section 3.4.7 for further information regarding the details regarding the retention of the licensed engineer or engineering firm);
- Field inspection of critical Terminal Facilities utilities, including storm sewer, sanitary sewer, electrical, water, and communication;
- Field inspection of above and below ground storage tanks and maintenance recommendations;
- Field inspection of pavements, including aircraft aprons, and vehicle service roads;
- Recommendations in terms of capital improvements that should be carried out immediately due to safety concerns, including, where appropriate, a reference to the applicable regulation regarding such improvements;
- Recommendations in terms of near-, intermediate- and long-term capital improvements.

The FCA will be governed by a manual to be developed by Lessee and approved by the Authority, such approval not to be unreasonably withheld or delayed, and in no event shall exceed ninety (90) days. The manual will be similar to manuals at Comparable Airport Facilities. The manual will specify the scope of the assessment, safety requirements for execution of the assessment, and the reporting standards for the deliverable. The findings of the self-performed FCA will be communicated to the Authority when performed by Lessee, and the Authority will share the final FCA with Lessee when performed by the Engineering Firm.

The FCA will classify the condition of the facilities assessed using the following categories:

- Excellent – no operational deficiencies, minimum standards exceeded;
- Good – minor operational deficiencies, minimum standards exceeded or met;

- Fair – minor operational deficiencies, most minimum standards met, some capital improvements or corrective actions should be considered, intermediate-term improvements should be identified;
- Poor – significant operational deficiencies, facility is failing to meet minimum standards, capital improvements or corrective actions must be taken in near-term;
- Critical – major operational deficiencies, urgent corrective action must be undertaken, and/ or safety issues are present. This category may also include improvements mandated by new laws or regulations. Any items identified as critical or poor will be included in monthly updates provided to the Authority Board until resolved.

With respect to the New Terminal, Lessee will maintain each facility or system in “good” condition or better in the appropriate rating system used for assessment or self-assessment (as permitted) of that facility or system. Lessee will report on conditions less than good for any facilities or systems existing as of the Effective Date and propose plans and recommendations to attain “good” conditions or other solutions acceptable for the Authority. With respect to the West Terminal, Lessee and the Authority agree to cooperate in good faith and act reasonably in identifying and remedying any material deficiencies noted at the West Terminal.

With respect to the New Terminal, the FCA will include specific timelines to repair, rectify, or otherwise address any items classified as less than “good”. These timelines will reasonably account for factors that may impact any required projects such as permits, studies, plans, procurement, environmental analysis, grant applications, and weather impacts that may occur during project planning and implementation. Notwithstanding anything to the contrary in the Lease, the Parties agree that Lessee’s failure to meet the timeline identified in the FCA with respect to the New Terminal (without prior approval by the Authority) shall be considered a breach of a material obligation by Lessee under Section 14.1.1(k)(ii) of the Lease and failure to remedy such breach pursuant to Section 14.1.1(k) of the Lease shall result in Lessee Default thereunder.

At a minimum, the inspection or self-inspection component of the FCA will include the following categories of facilities and their respective major systems and elements as outlined in Table 3-1:

- Passenger terminal and concourses
- Aircraft aprons
- Landside facilities
- Other non-aeronautical Terminal Facilities

Table 3-1

FUNCTIONAL AREAS FOR -INSPECTION

Functional Area	Major Systems and Elements
Apron	Utility systems for deicing pad
	Pavement
Terminal and concourses	Signage, lights and markings
	Flooring
	Roofing
	Landscaping and hardscaping systems
	Environmental systems
	Structural systems
	Baggage handling systems
	Mechanical systems
	Electrical systems, including controls and other automated systems
	Plumbing systems
	Life safety systems: fire protection and other emergency systems
	Passenger conveyance systems and elevators as applicable
	Utility systems
	Communications systems
Security systems	
Ground access elements	

Functional Area	Major Systems and Elements
Landside, roadway, and parking facilities	Utility systems including electric vehicle charging stations as applicable
	Pavement
	Commercial vehicle staging areas
	Signage
	Communications systems
	Bridges and structures
	Roadway and parking facility lighting
	Vehicle parking lots and bus shelters
	Drainage and flood mitigation systems
	Hardscaping including steps, ramps, curbing, walkways and cross walks
General	Other areas, facilities, or assets as required by the Agreement and/or Master Lease

Air Traffic Summary (“ATS”). As required, Lessee will provide the engineer or engineering firm engaged to conduct a FCA, a summary of the current year’s capital improvements, as well as the ATS to inform the firm of emerging trends that could affect capital expenditures. The ATS will provide access to monthly data regarding passenger enplanements, passenger deplanements, international passengers, domestic passengers, connecting passengers, origin-destination passengers, and passenger load factors. The ATS will also include a monthly accounting of commercial aircraft operations, general aviation aircraft operations, and military aircraft operations, provided this information is available from the FAA Air Traffic Control Tower or other sources including TSA and airline reports. The ATS will provide access to year-over-year and month-over-month comparisons for each of the data accounted therein.

Airport Development Plan (“ADP”) The FCA and ATS will form the basis of the ADP and be prepared in accordance with 4.1.2 of the Agreement. The ADP will outline the near-, intermediate-, and long-term projects planned to address the findings of the FCA and any other planning studies (e.g. master plan) conducted by Lessee or the Authority. The ADP

should prioritize the projects, identify projects that are eligible for FAA funding, and identify the environmental requirements necessary for project implementation.

- For all facilities assessed within the FCA as fair, poor, or critical, a corrective action plan will be identified within the ADP. The improvements recommended as part of the action plan will be prioritized, using the following categories:
- Critical – capital improvements will be executed immediately or as soon as practical;
- High – capital improvements will be executed in the near-term;
- Low – capital improvements may be warranted in the near-term to realize operational efficiencies, but may be elective to some extent.

The ADP will provide a brief description of the planned capital improvements for the near-term (0-5 years), including the project justification. It will also generally include a probable cost estimate for each of the planned capital improvements for all projects for the near- and intermediate-terms (0-10 years); including identification of probable funding sources. For the long-term, potential capital improvement projects (as they are identified) will be listed along with order of magnitude cost estimates and ranked in terms of their priority.

The ADP will include the following:

- Executive summary;
- Introduction and background;
- Summary of the methodology used to prioritize the capital improvements and identification of the studies or work done to identify the capital improvements;
- Recommendations for planned capital improvements for the next five years with the greatest detail regarding projects to be completed in the first year of the CIP;
- Funding sources and financial impact to the Authority – if any.

3.4.7 Retention of Engineering Firm for the FCA When Required

Pursuant to Section 3.4.6 above, the Authority or Lessee may retain an independent and licensed professional consulting engineer or engineering firm (“Engineering Firm”), not associated, owned, or partnered with the Authority or Lessee, to perform the services associated with the preparation of the FCA.

The same Engineering Firm can be retained for a maximum six-year duration. The purpose of these requirements is to develop a fair, impartial, independent, and objective assessment of the condition of the Terminal Facilities.

3.4.8 West Terminal

Lessee will comply with the Terminal CAMP for the West Terminal Facilities which will set forth the requirements for Lessee's operation of the West Terminal Facilities prior to operation of the New Terminal, evaluate critical needs, and maintain the West Terminal Facilities in a safe and operable condition until the New Terminal is completed.

Section 4

ENVIRONMENTAL SUSTAINABILITY PLAN

4.1 BACKGROUND

Planning for sustainability generally means meeting the needs of the present without compromising the ability of future generations to meet their own needs.

4.2 REGULATORY COMPLIANCE

The Environmental Sustainability Plan (“ESP”) will identify all Legal Requirements relevant to sustainability planning. Further, Lessee will consider the standards set forth by the United States Green Building Council (“USGBC”) and its “Leadership in Energy and Environmental Design” (“LEED”) rating system as guiding criteria for achieving sustainable design in the development and remodeling of airport facilities. These standards will only be applicable to the East Development. Lessee will ensure that employees and representatives responsible for the sustainability planning comply with the provisions of the TFSP and all Legal Requirements.

4.3 EXISTING PLANS

Lessee will utilize any available existing plans and descriptions of environmental sustainability standards in the development of the ESP section of the Operations Plan.

4.4 REQUIREMENTS OF THE PLAN

The ESP will identify the plan’s objectives, essential staffing, stakeholders, scope, performance timeframe, and reporting requirements as described below.

4.4.1 Objectives of ESP

The objective of the ESP section of the Operations Plan is to define responsibilities, procedures, and minimum requirements for the staff dedicated to sustainability, thereby reducing the Airport’s environmental footprint. The ESP will also provide guidance regarding staff training targeted at sustainability.

4.4.2 Essential Staffing

An organizational chart will be included in the ESP which identifies the essential staff responsible for each of the facilities covered under the ESP.

4.4.3 Stakeholders

The ESP will identify all stakeholders (both public and private) that may be affected by the performance of the ESP and define any necessary applicable coordination with individual stakeholders.

4.4.4 Scope of Plan

Airport development and operations can become more sustainable by incorporating the following considerations into everyday practices: economic sustainability, operational efficiency, natural resource conservation, and social improvement.

Consistent with those considerations, the ESP will cover the following topics:

- Goal definition;
- Sustainability assessment;
- Program evaluation;
- Development / redevelopment;
- Staff training; and
- Airport recycling plan.

Goal definition: This section of the ESP will identify Lessee’s sustainability policies, including goals and objectives associated with the ESP. Goals and objectives for the Terminal Facilities may include (but are not limited to): reducing emissions and noise exposure, water conservation, sustainable land use planning, disposal of hazardous materials, minimizing vehicular traffic, sustainable construction practices, maximizing renewable energy, sustainable waste disposal, and encouraging public participation. The goals definition should be informed by a baseline assessment of the existing condition. Potential goals include:

- “Net zero” waste management;
- “Net zero” carbon footprint;
- Facility and building related goals;
- Use of green building materials and reuse and recycling of building materials;
- Landscaping and erosion control;
- Alternative energy and fuel sources; and
- Ground handling, vehicle, and equipment related goals.

Sustainability assessment: This section of the ESP will document current Terminal Facilities, sustainability practices, and environmental practices related to waste, recycling, energy use and conservation, water recycling, and materials procurement. The assessment will document all Lessee and tenant practices relevant to sustainability planning, including (but not limited to) aircraft movements, ground transportation vehicle movements, and maintenance activities.

Program evaluation: This section of the ESP will define requirements for reviewing and evaluating all new Airport programs and projects. These requirements will ensure all four sustainability elements are addressed in a balanced, holistic, and measurable approach.

Development / redevelopment. The ESP will identify criteria for reviewing tenant development/redevelopment projects and methods for providing incentives to encourage sustainable design features. This section will also include standards for all new leases, agreements, and contracts that support the Airport’s sustainability goals.

Staff training. This section of the ESP will identify the minimum training program for the employees responsible for sustainability management and acceptable certifications if required. The goal of the training is to establish a work environment that supports innovation, productivity, pride, and a personal commitment to sustainability.

Recycling Plan. This section of the ESP will provide the details of a recycling plan for waste disposal campus wide. The plan should be developed consistent with the guidelines provided in “Developing and Implementing an Airport Recycling Program,” authored by U.S. Environmental Protection Agency.

4.4.5 Performance Schedule

From time to time the ESP will be reviewed and revised as needed by Lessee to reflect a good faith effort to make improvements in areas where sustainability goals have not been met to the standards of Lessee, as identified in the annual reporting described in the following section.

4.4.6 Reporting Requirements

Reporting on sustainability performance allows Lessee to measure and therefore manage performance of the Terminal Facilities. Reporting on environmental, economic, and social sustainability performance annually demonstrates a commitment to accountability and ongoing improvement.

Lessee will prepare a Sustainability Report as part of the overall Annual Report. This report will document the Airport’s environmental goals and achievements, and measure progress against environmental goals, historical performance and compliance.

4.4.7 West Terminal

Lessee represents that it has developed and delivered to the Authority copies of, existing environmental policies with respect to the West Terminal and will reasonably update and comply with such policies while operations remain in the West Terminal.

Section 5

HEALTH AND SAFETY PLAN (“HSP”)

5.1 BACKGROUND

The Safety Plan section of the Operations Plan will provide the Authority the assurance that Lessee will conduct all operations in a healthy and safe manner, protecting both employees and the general public. The Safety Plan should be developed and executed by Lessee and submitted to the Authority for its reference.

5.2 REGULATORY COMPLIANCE

The HSP will identify and comply with all Legal Requirements as per Section 1.5. Lessee will ensure that employees and representatives responsible for the operation of airport facilities comply with the provisions of the HSP and all Legal Requirements.

5.3 EXISTING PLANS

Lessee will utilize any available applicable plans and descriptions of Airport facilities, systems, and procedures provided to it in the development of the Safety Plan. Lessee must ensure that the Safety Plan complies with the relevant standards within the ACM, ASP and AEP which, in addition to the requirements described herein, should be considered the minimum standard.

5.4 REQUIREMENTS OF THE PLAN

The HSP shall identify the plan’s objectives, essential staffing, stakeholders, scope, performance schedule, training, certification if required, and reporting requirements as described below.

5.4.1 Objectives of the Safety Plan

The objective of the HSP is to ensure that Lessee’s practices prevent unsafe conditions for the general public and all airport employees and to provide the framework for identifying and mitigating health and safety issues as they arise.

The HSP will be modified or revised by Lessee as appropriate to address specific issues, needs, or concerns related to the Airport that develop over time and as required by relevant authorities with jurisdiction.

The HSP shall include scheduled meetings with stakeholders and incorporate findings from other safety efforts including but not limited to CFR part 139 self-inspections and insurance audits.

5.4.2 Essential Staffing

An organizational chart will be included in the Safety Plan which identifies the essential staff responsible for various components of its execution.

The organizational chart will be supplemented by a summary of the levels of staffing, minimum training and the acceptable certification if required for those responsible for each component of the HSP.

5.4.3 Stakeholders

The Safety Plan will identify all stakeholders (both public and private) that may be affected by the performance of the Safety Plan and define any necessary applicable coordination with individual stakeholders.

5.4.4 Scope of plan

The Safety Plan will provide:

- Guidance as to the necessary health and safety training that various Airport employees shall receive, including first aid training;
- A plan for implementation of a health and safety management framework addressing the safety of both the general public and Airport employees within the airport property;
- Best practices for Lessee employees to increase awareness of potential safety issues before they arise;
- Development and implementation of appropriate letters of agreement or other means of establishing appropriate safety practices and policies;
- A policy manual for Lessee construction zones and other potentially hazardous areas, including guidance as to the use of information signage, physical barriers, traffic control infrastructure and other equipment to maintain a safe environment for the general public;
- A manual for self-inspection of facilities for safety issues in accordance with FAA Advisory Circular 150/5200-18C;
- Additional health and safety measures as included, for example, in the ACI Airport Health Accreditation framework;
- A process for reporting and monitoring safety issues.

The Safety Plan shall also provide a graphical depiction of the areas that will be subject to execution of the plan.

Staff Training and Education

Lessee will conduct training to establish a safety culture and educate employees regarding safety issues. The training shall address the requirements and workplace standards of the OSHA.

The HSP will include the following at a minimum:

- Training that incorporates findings from the execution of the framework;
- General training that covers OSHA standards and overall safety awareness for all Lessee employees, including executives;
- Training specific to the responsibilities of the employee, including identification of equipment required to execute specific tasks safely, safe driving of vehicles, and safe operation of equipment;
- Provision of safety training for new employees and the provision of recurrent safety training for all employees along with a typical schedule for such training;
- Provision of a lessons learned/case histories component;
- Establishment of procedures aimed at ensuring employees understand the safety policies and adhere to safe work practices;
- How to document safety issues in the reporting system.

The training will also provide background regarding anticipated work activities and hazards, and the protocol that shall be followed should an incident occur.

5.4.5 Performance Schedule

The HSP will be reviewed annually and revised as needed by Lessee to reflect a good faith effort to make improvements in any areas which have been subject to safety incidents throughout the applicable time frame. The revisions will be made to prevent the same type of incident from recurring.

5.4.6 Reporting Requirements

Lessee will prepare a summary of safety performance on an annual basis for inclusion in the Annual Report. The reporting shall indicate the rate of safety incidents relative to historical data as well as identify any deficiencies that need to be corrected and projects undertaken during the year to correct any safety issues

Values to be observed include but not limited to: workman's compensation claims awarded, insurance claims awarded, and reports of non-compliant conditions.

5.4.7 West Terminal

Lessee represents that it has developed and delivered to the Authority copies of, existing health and safety plans with respect to the West Terminal and will reasonably update and comply with such plans while operations remain in the West Terminal, and will report health and safety incidents to the Authority and any other required agencies or personnel in an appropriate and timely manner.

Section 6

CUSTOMER EXPERIENCE PLAN

6.1 BACKGROUND

The Customer Experience Plan (“CXP”) section of the Operations Plan will provide assurance to the Authority that Lessee is planning and implementing appropriate measures to ensure high levels of customer experience. The CXP will be developed and executed by Lessee and submitted to the Authority for reference.

6.2 REGULATORY COMPLIANCE

The CXP will identify all Legal Requirements relevant to customer experience. Lessee will ensure that employees and representatives responsible for customer experience comply with the provisions of the CXP and all Legal Requirements.

6.3 COMMUNITY RELATIONS PROGRAMS

The Authority, on behalf of itself or another governmental entity, reserves the right to operate its own community relations programs in addition to any community relations program conducted by Lessee.

6.3.1 Tourism

Lessee will, during the Term, provide the Connecticut Office of Tourism with information and support related to its promotional activities to the traveling public.

6.4 EXISTING PLANS

Lessee will utilize any available existing plans and descriptions of customer experience standards provided to it in the development of the CXP section of the Operations Plan.

6.5 REQUIREMENTS OF THE PLAN

The CXP will identify the plan’s objectives, essential staffing, stakeholders, scope, performance schedule, and reporting requirements as described below.

6.5.1 Objectives of CXP

The objective of the customer experience section of the Operations Plan is to define the responsibilities, procedures, and minimum requirements for the staff dedicated to customer experience; and will also provide guidance regarding staff training relating to customer experience. Further, the customer experience section of the Operations Plan will define a system for: (1) identifying customer feedback, needs and expectations; (2) documenting, benchmarking, and tracking the findings and strategies; and (3) establishing the action plan to manage customer experience continuous improvements.

6.5.2 Essential Staffing

An organizational chart will be included in the CXP which identifies the essential staff responsible for each of the facilities covered under the CXP.

6.5.3 Stakeholders

The CXP will identify all stakeholders (both public and private) that may be affected by the performance of the CXP and define any necessary applicable coordination with individual stakeholders.

6.5.4 Scope of Plan

The CXP will generally address the following topics:

- Staff training and recurrent training;
- Customer feedback survey system;
- Passenger assistance protocols;
- Information services;
- Airport web site and social media outlets; and
- Customer Experience Report.

Staff training. This CXP section of the Operations Plan will identify the training program for the employees responsible for customer experience. The goal of the training shall be to ensure that all employees that interact with Airport patrons will provide courteous, efficient, and helpful service. This training will provide a protocol for interactions with customers to guide Airport customer experience representatives and all members of the airport community to ensure high levels of customer satisfaction.

Customer feedback system. This CXP section of the Operations Plan will identify the system used to identify, track, mitigate, and resolve customer feedback. The system will be capable of identifying the priority of the feedback items and the timeframe for their resolution. The system will also identify the procedure for follow-up communication to the customer in the event a formal complaint or concern arises. If the customer feedback resolution involves physical improvements or procedural modifications, these will be documented in revisions to the Operations Plan. Physical improvements recommended will be addressed in the Capital Asset Management Plan; procedural modifications will be folded in the Facilities Standards Plan.

Passenger assistance protocols. This CXP section of the Operations Plan will identify the protocol for provision of passenger assistance. This assistance includes provisions for: (1) the transportation for the elderly and disabled patrons to and from their aircraft, as necessary; (2) overnight kits in the event of an emergency or extreme aircraft delays requiring overnight stay in the passenger terminal; (3) lost and found; (4) customer paging; and (5) provisions for

those individuals with special needs, children traveling alone, traveling alone with babies and small children, unless provided by an airline or their agents.

Information services. This CXP section of the Operations Plan will identify the minimum requirements for the provision of information to airport patrons. Information services include: provision of an airport website (as defined below) and on-site guidance support (either physical or virtual /electronic). At a minimum, Lessee will facilitate the availability of information regarding: (1) regional transportation options; (2) local and regional lodging; (3) maps of the airport facilities and surrounding region; (4) dates for major public events in the municipalities of New Haven and East Haven; (5) information on venues in the municipalities of New Haven and East Haven (e.g. convention center, tourist attractions, museums, et cetera), (6) current weather information, (7) information regarding airport concessions, and (8) facts about the Airport. To the extent possible, customer experience representatives with multilingual expertise shall be provided.

Airport website and Social Media outlets. This CXP section of the Operations Plan will identify the minimum requirements for the public Airport website. The website will follow international standards for public websites and include at a minimum: (1) passenger terminal map; (2) Airport map showing main access roadways; (3) directions to and from the Airport; (4) contact information for the airport and airlines customer experience departments; (5) a customer experience page; (6) a site map for web site navigation; and (7) information regarding Airport security for passenger awareness.

Minimum target performance. For each function of the Airport, Lessee will define the minimum target performance that should be met for compliance with the CXP.

Customer Experience Report. A Customer Experience Report will be prepared annually as described in the reporting requirements section below. The findings of the Customer Experience Report will be folded into the Capital Asset Management Plan to ensure that facilities that are operating below a minimum level of service as defined by Lessee are earmarked for improvements.

6.5.5 Performance Schedule

The customer experiences section of the Operations Plan should be reviewed annually and revised as needed by Lessee to reflect a good faith effort to make improvements in areas where customer experience has not met the standards of Lessee, as identified in the annual reporting described in the following section.

6.5.6 Reporting Requirements

Lessee will prepare a Customer Experience Report on an annual basis. This report shall document the findings of periodic surveys of passengers regarding: airport access, automobile parking, terminal curb front, passenger check-in, passenger security screening, terminal concessions, departure holdrooms, baggage claim, and airport way finding. Surveys will be completed throughout the year to cover all seasonal variations and the effects of any changes at the Airport. The Customer Experience Report shall indicate whether the function is providing excellent (5), very good (4), good (3), fair (2), or poor (1) individual ratings. The Customer Experience Report shall report the percentage of responses for each of the

categories. Functions that receive a grade of poor from 20% or more respondents must be addressed. The goal of Lessee shall be to receive excellent or good feedback on each facility from at least 80% of respondents.

The Authority and Lessee may agree to modify the Customer Experience Report goals of excellent or good feedback on each facility from at least 80% of respondents to consider periods of Airport construction and other events that may affect users of the Airport. It is acknowledged that the Customer Experience Report goals are intended to be a target and that, in the event that target is not reached in a given year, it will not provide an independent basis for declaring a Lessee Default under the Facility Lease but, rather, Lessee's compliance will be subject to the provisions set forth in Section 3.3 of the Facility Lease.

For each of the areas surveyed, Lessee will establish a history of customer feedback by reporting the historical results adjacent to the current year's results. The survey will also capture feedback regarding passenger comfort level, convenience, quality of service, and overall traveling experience at the Airport. For those areas with reported poor levels of service, Lessee will develop an action plan to address the concerns, either through a combination of training for staff, physical improvements, procedural changes, or further study.

6.5.7 West Terminal

Lessee represents that it has developed and delivered to the Authority copies of, existing CXP policies with respect to the West Terminal and will reasonably update and comply with such policies while operations remain in the West Terminal.

APPENDIX A
AVAILABLE GUIDANCE AND STANDARDS

Airport Operation Guidance Documents	
Number	Title
General Reference: (Airfield, Security, Safety, Emergency)	
150/5000-15A	Announcement of Availability of Airport-Related Research and Development Products
150/5070-6B	Airport Master Plans
150/5100-14D	Procurement of Professional Services
150/5190-4A	A Model Zoning Ordinance to Limit Height of Objects Around Airports
150/5190-7	Minimum Standards for Commercial Aeronautical Activities
150/5200-12C	First Responders_ Responsibility for Protecting Evidence at the Scene of an Aircraft Accident/Incident
150/5200-18C	Airport Safety Self-Inspection
150/5200-28D	Notices to Airmen (“NOTAMS”) for Airport Operators
150/5200-29A	Announcement Of Availability Of Airport Self-Inspection DVD
150/5200-30C	Airport Winter Safety And Operations
150/5200-31C	Airport Emergency Plan (Consolidated AC includes Change 2)
150/5200-32A	Reporting Wildlife Aircraft Strikes
150/5200-33B	Hazardous Wildlife Attractants On or Near Airports
150/5200-34A	Construction or Establishment of Landfills near Public Airports
150/5200-35A	Submitting the Airport Master Record in Order to Activate a New Airport
150/5200-36	Qualifications for Wildlife Biologist Conducting Wildlife Hazard Assessments and Training Curriculums for Airport Personnel Involved in Controlling Wildlife Hazards on Airports

Airport Operation Guidance Documents	
Number	Title
150/5200-37	Introduction to Safety Management Systems (“SMS”) for Airport Operators
150/5210-13C	Airport Water Rescue Plans and Equipment
150/5210-14B	Aircraft Rescue Fire Fighting Equipment, Tools and Clothing
150/5210-15A	Aircraft Rescue and Firefighting Station Building Design
150/5210-17B	Programs for Training of Aircraft Rescue and Firefighting Personnel
150/5210-18A	Systems for Interactive Training Of Airport Personnel
150/5210-19A	Driver's Enhanced Vision System (“DEVs”)
150/5210-20	Ground Vehicle Operations on Airports
150/5210-22	Airport Certification Manual (“ACM”)
150/5210-23	ARFF Vehicle and High Reach Extendable Turret (“HRET”) Operation, Training and Qualifications
150/5210-24	Airport Foreign Object Debris (“FOD”) Management
150/5210-5D	Painting, Marking, and Lighting of Vehicles Used on an Airport
150/5210-6D	Aircraft Fire and Rescue Facilities and Extinguishing Agents
150/5210-7D	Aircraft Rescue and Fire Fighting Communications
150/5220-10D	Guide Specification for Aircraft Rescue and Fire Fighting Vehicles
150/5220-17B	Aircraft Rescue and Fire Fighting (“ARFF”) Training Facilities
150/5220-21B	Guide Specification for Devices Used to Board Airline Passengers with Mobility Impairments
150/5220-22A	Engineered Materials Arresting Systems (“EMAS”) for Aircraft Overruns
150/5220-25	Airport Avian Radar Systems
150/5220-4B	Water Supply Systems for Aircraft Fire and Rescue Protection

Airport Operation Guidance Documents	
Number	Title
150/5220-9A	Aircraft Arresting Systems
150/5230-4A	Aircraft Fuel Storage, Handling, and Dispensing on Airports
150/5300-13	Airport Design
Various	Applicable and supporting Airport Cooperative Research Program reports.

Airport Operation Guidance Documents	
Number	Title
General Reference: (Airfield, Security, Safety, Emergency) (continued)	
150/5300-16A	General Guidance and Specifications for Aeronautical Surveys: Establishment of Geodetic Control and Submission to the National Geodetic Survey
150/5300-17B	General Guidance And Specifications For Aeronautical Survey Airport Imagery Acquisition And Submission To The National Geodetic Survey
150/5300-18B	General Guidance And Specifications For Submission Of Aeronautical Surveys To NGS: Field Data Collection And Geographic Information System (GIS) Standards
150/5320-6E	Airport Pavement Design and Evaluation
150/5340-18F	Standards for Airport Sign Systems
150/5340-1K	Standards for Airport Markings
150/5370-2E	Operational Safety on Airports During Construction
70/7460-2K	Proposed Construction or Alteration of Objects That May Affect the Navigable Airspace
Wildlife Hazard Management	
Certalert No. 09-10	Wildlife Hazard Assessments in Accordance with Part 139 Requirements
Certalert No. 98-05	Grasses Attractive To Hazardous Wildlife
Certalert No. 04-09	Relationship Between FAA And Wildlife Services
Certalert No. 04-16	Deer Hazard to Aircraft and Deer Fencing
Certalert No. 06-07	Requests by State Wildlife Agencies to Facilitate and Encourage Habitat for State-Listed Threatened and Endangered Species and Species of Special Concern on Airports

Airport Operation Guidance Documents	
Number	Title
150/5200-32A	Reporting Wildlife Aircraft Strikes
150/5200-33B	Hazardous Wildlife Attractants On Or Near Airports
150/5200-34A	Construction or Establishment of Landfills Near Public Airports
150/5200-36	Qualifications for Wildlife Biologist Conducting Wildlife Hazard Assessments and Training Curriculum for Airport Personnel Involved in Controlling Wildlife Hazards on Airport

Airport Operation Guidance Documents	
Number	Title
Environmental Management and Public Relations	
150/5020-1	Noise Control and Compatibility Planning for Airports
150/5050-4	Citizen Participation in Airport Planning
150/5050-8	Environmental Management Systems for Airport Operators
Additional Reference Documents (if applicable)	
ICAO Annex 14 – Aerodromes	
IATA Airport Development Reference Manual, 9th Edition	
Federal Regulations and Orders	
49 CFR Parts 1540 and 1542, Airport Security	
FAR Part 139, Certification of Airports	
FAR Part 150, Noise Compatibility Program	
FAR Part 161, Noise Compatibility Program	
FAR Part 77, Objects Affecting Navigable Airspace	
FAA Order 405, Standards for Aeronautical Surveys	
FAA Order 5100.38C, Airport Improvement Program Handbook	
FAA Order 1050.1E, Environmental Impacts: Policies and Procedures	
FAA Order 5050.4B, National Environmental Policy Act (NEPA)	
23 CFR Part 772, Procedures for Abatement of Highway Traffic Noise and Construction Noise	
29 CFR Part 1926 (Originally CFR Part 1518) Safety and Health Regulations for Construction of the Williams Steiger Occupational Safety and Health Act of 1970 (Federal, OSHA)	
29 Code of Federal Regulations (CFR) Parts 1910 and 1926	
29 CFR Part 1926, Construction Safety and Health Regulations	

Airport Operation Guidance Documents	
Number	Title
29 CFR 1926.62,	Lead Exposure in Construction
Federal Regulations and FAA Orders (continued)	
40 CFR Part 280,	Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (USTs)
40 CFR 763	Asbestos
49 U.S.C. Section 44718	
Americans with Disabilities Act of 1990	
Atomic Energy Act (42 U.S.C. Sec. 2011, et seq.)	
Aviation and Transportation Security Act of 2001	
Clean Air Act (42 U.S.C. ' 7401 et seq.)	42 U.S.C. 87401
Clean Water Act (33 U.S.C. ' 1251 et seq.)	
Comprehensive Environmental Response and Compensation and Liability Act (42 U.S.C. ' 9601 et seq.)	
Council of Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended	
Determining Conformity of Federal Actions to State or Federal Implementation Plans, 40 C.F.R. Part 93	
Emergency Planning and Community Right-to-Know Act (42 U.S.C. ' 11001 et seq.)	
Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 59 Fed. Reg. 7629, Feb. 16, 1994	
Federal Insecticide Fungicide and Rodenticide Act (7 U.S.C. Sec 136, et seq.)	
Federal requirements for the use of ULSD fuel for both on-road (2007) and off-road (2010) vehicles	
Federal Trade Commission's "Guide for the Use of Environmental Marketing Claims," 16 CFR 260.7(e)	

Airport Operation Guidance Documents	
Number	Title
	Federal Transit Act, 40 C.F.R. Part 51, Subpart T Hazardous Material Transportation Act (49 U.S.C. ' 1801 et seq.)
	National Emission Standards for Hazardous Air Pollutants (NESHAP), under Section 112 of the Clean Air Act
	Occupational Safety and Health Act of 1970 (29 U.S.C. ' 651 et seq.)
	OSHA's lead-in-construction rule, contained in 29 CFR 1926.62 33 U.S.C. 8651
	Federal Regulations and FAA Orders (continued)
	Resource Conservation and Recovery Act of 1976 (42 U.S.C. ' 6901 et seq.)
	Safe Drinking Water Act (42 U.S.C. ' 300f)
	Toxic Substances Control Act of 1976 (15 U.S.C. ' 2601 et seq.) 8261
	U.S. DOT regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622
	U.S. DOT statutory requirements on environmental matters at 49 U.S.C. § 5324(b)
	U.S. EPA regulations, Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C.
	Worker's Compensation Act
	Asbestos Hazard Emergence Response Act, 15 U.S.C. 82641

APPENDIX B

FORM OF OPERATIONAL PERFORMANCE METRICS REPORT

This appendix provides outlines for the various reports required by these Terminal Facilities Operating Standards. The reports may include material beyond that listed, but they should at a minimum address the items listed in the following tables.

The standard targets will be determined by the following process:

- For those aspects included in specific FAA, TSA or other Federal, State or Local regulation, the targets considered will be the same as the ones required in the regulations
- For those aspects where published industry benchmarks applicable to the operational conditions of the Airport exist, these would be considered as targets
- For those aspects where there are no existing benchmarks or are specific to the Airport, the parties will determine by mutual agreement the applicable targets during the collaboration and consultation process during the design and construction of the New Terminal Project.
- Every year, Lessee will propose an analysis and evolution of the performance standard targets based on the evolution of industry benchmarks and internal measurements, together with a plan to meet these new targets in case a change or modification is necessary

Operational Performance Report		
Category	Metric	Standard Targets
Passenger Terminal Complex		
Public restrooms	Cleanliness – average number of cleanings per day per restroom Perception of cleanliness (Customer Experience Survey)	Determined after first year of reporting
	Supervisor inspections of restrooms per 8-hour shift	

Operational Performance Report		
Category	Metric	Standard Targets
Aircraft apron	Lead-in line markings	As per FAA measured applicable benchmarks
	Stop line markings	As per FAA measured applicable benchmarks
	Safety envelope markings	As per FAA measured applicable benchmarks
	Ramp lighting	As per FAA measured applicable benchmarks
	Lightning protection	As per FAA measured applicable benchmarks
Loading bridges	Doors	Determined after first year of reporting
	Overall functionality	Determined after first year of reporting
	Ground power	Determined after first year of reporting
	Potable water	Determined after first year of reporting
	Pre-conditioned air	Determined after first year of reporting
Baggage handling system	Outbound baggage; Inbound baggage; Baggage claim devices	Determined after first year of reporting
	Elevators/escalators/moving walkways	Determined after first year of reporting

Operational Performance Report		
Category	Metric	Standard Targets
	Hours of operation	From the first scheduled arrival time to the last scheduled arrival
	Average baggage delivery time as provided by ground handler and/or airline	
Flight information displays	Overall functionality	Determined after first year of reporting
Paging systems	Gate paging system	Determined after first year of reporting
	Terminal-wide paging system	Determined after first year of reporting
Terminal building climate	Temperature between 70 and 74 degrees Fahrenheit	Determined after first year of reporting
Terminal building power	# and % of use of Emergency generators	Determined after first year of reporting
Terminal building janitorial	Clean floors of public walkways, departure holdrooms, passenger loading bridges, and all public areas Passenger perception of cleanliness	Determined after first year of reporting
Terminal Wait Times	Check-in and Security screening as provided by TSA and airlines	
Terminal Wayfinding	Passenger perception of signage	
Terminal Safety	Number of recorded slips, falls, and recorded claims	

Operational Performance Report		
Category	Metric	Standard Targets
Terminal building waste removal	Empty waste receptacles; replace liners	Determined after first year of reporting

Operational Performance Report		
Category	Metric	Standard Targets
Ground transportation and parking		
Vehicle departures curb	Percentage of double-parked vehicles	Determined after first year of reporting
Vehicle arrivals curb	Percentage of double-parked vehicles	Determined after first year of reporting
Taxicabs	Maximum wait time (minutes)	Determined after first year of reporting
Transportation Network Companies	Maximum wait time (minutes)	Determined after first year of reporting
Parking lot shuttles	Maximum wait time (minutes)	Determined after first year of reporting
Hourly vehicle parking	Maximum number of hours per year the lot is full or closed	Determined after first year of reporting
Daily vehicle parking	Maximum number of hours per year the lot is full or closed	Determined after first year of reporting
Economy vehicle parking	Maximum number of hours per year the lot is full or closed	Determined after first year of reporting
Snow and ice removal from access roads and curbs		

Facilities Condition Assessment	
<p>Assessed facilities should be classified using the following categories:</p> <p>Excellent – no operational deficiencies, minimum standards exceeded;</p> <p>Good – minor operational deficiencies, minimum standards exceeded or met;</p> <p>Fair – minor operational deficiencies, most minimum standards met, some capital improvements or corrective actions should be considered, intermediate-term improvements should be identified;</p> <p>Poor – significant operational deficiencies, facility is failing to meet minimum standards, capital improvements or corrective actions must be taken in near-term;</p> <p>Critical – major operational deficiencies, urgent corrective action must be undertaken, and/ or safety issues are present. This category may also include improvements mandated by new laws or regulations.</p>	
Buildings	Inspect all Terminal Facilities buildings from a safety and operational perspective: all safety issues must be identified for resolution by Lessee as soon as possible.
Building systems	<p>Inspect all Terminal Facilities building systems from a safety and operational perspective.</p> <p>Building systems include mechanical, electrical, communication, and plumbing systems.</p> <p>This work should be carried out by a licensed engineer or engineering firm that specializes in building systems (see Section 3.4.7 for further information regarding the details regarding the retention of the licensed engineer or engineering firm).</p>
Equipment	Inspect all Terminal Facilities equipment (e.g. maintenance equipment) from a safety and operational perspective: all safety issues must be identified for resolution by Lessee as soon as possible.
Utilities	Inspect critical Terminal Facilities utilities, including storm sewer, sanitary sewer, electrical, water, and communication.
Airfield pavements	Field inspection of airfield pavements, including aircraft aprons, and non-airfield vehicle service roads.
Capital improvement recommendations (immediate)	Recommendations to Lessee in terms of capital improvements that should be carried out immediately due to safety concerns.

Capital improvement recommendations (future)	Recommendations to Lessee in terms of near-, intermediate- and long-term capital improvements.
--	--

Air Traffic Summary	
The Air Traffic Summary (ATS) would provide monthly detail and month-over-month / year-over-year comparisons for each of the data listed below.	
Aircraft Operations	
Annual Operations	All commercial operations
	All general aviation operations
	All military operations
	All operations
Peak Month Operations	All commercial operations
	All general aviation operations
	All military operations
	All operations
Peak Month Average Day Ops (Peak Month/31 days)	All commercial operations
	All general aviation operations
	All military operations
	All operations
Peak Hour Operations	All commercial operations
	All general aviation operations
	All military operations
	All operations
Commercial Fleet Mix	Wide body jet (%)
	Narrow body jet (%)
	Regional jet (%)
	Turboprop (%)
General Aviation Fleet Mix	Jet (%)
	Turboprop (%)
Non-stop Markets	Number of domestic markets

	Number of int'l markets
Commercial Activity (provided that this information becomes available from the airlines)	
Passenger load factor	The number of revenue passengers expressed as a percentage of available seats, which represents the proportion of airline output that is actually consumed.
Annual Passengers	Domestic passengers
	International passengers
	O&D passengers
	Connecting passengers
	Total passengers
Peak Month Passengers	Domestic passengers
	International passengers
	O&D passengers
	Connecting passengers
	Total passengers
Peak Month Average Day Passengers	Domestic passengers
	International passengers
	O&D passengers
	Connecting passengers
	Total passengers
Peak Hour Passengers	Domestic passengers
	International passengers
	Departing passengers (1)
	Arriving passengers (1)
	All passengers
Airport Users (Tenants)	
Passenger Airlines	US-based airlines

	Foreign-based airlines
General Aviation (GA)	Based aircraft (GA)
	Fixed Base Operators

Airport Development Plan	
The Airport Development Plan (ADP) should outline the near-, intermediate-, and long-term projects planned to address the findings of the Facilities Condition Assessment (FCA) and any other planning studies (e.g. master plan) conducted by Lessee.	
Executive summary, introduction, and background	Description and summary of ADP contents.
Methodology	Summary of the methodology used to prioritize the capital improvements and identification of the studies or work done to identify the capital improvements.
Corrective action plan	<p>For all facilities assessed within the FCA as fair, poor, or critical, a corrective action plan must be identified within the ADP. The improvements recommended as part of the action plan should be prioritized, using the following categories:</p> <p>Critical – capital improvements should be executed immediately or as soon as practical;</p> <p>High – capital improvements should be executed in the near-term;</p> <p>Low – capital improvements may be warranted in the near-term to realize operational efficiencies, but may be elective to some extent.</p>
Near-term capital improvement project descriptions	Recommendations for planned capital improvements for the next five years with the greatest detail regarding projects to be completed in the first year of the CIP.
Cost estimates	<p>Probable cost estimate for each of the planned capital improvements for all projects for the near- and intermediate-terms (0-10 years); including identification of probable funding sources.</p> <p>For the long-term, potential capital improvement projects (as they are</p>

	identified) should be listed along with order of magnitude cost estimates.
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Sustainability Report	
The Sustainability Report* shall document the Airport's environmental goals and achievements, and measure progress against environmental goals and historical performance.	
Introduction	This section should describe the Airport's sustainability policy and sustainability program.
Sustainability goals and achievements	Descriptions of the Airport's goals and achievements, which may include, but are not limited to, the following categories:
<ul style="list-style-type: none"> • Climate change 	<ul style="list-style-type: none"> • Goals and achievements related to reducing contributions to climate change, to be defined.
<ul style="list-style-type: none"> • Energy conservation 	<ul style="list-style-type: none"> • Goals and achievements related to reducing energy use - including use of renewable resources.
<ul style="list-style-type: none"> • Water conservation 	<ul style="list-style-type: none"> • Goals and achievements related to reducing consumption of water resources.
<ul style="list-style-type: none"> • Natural resources management 	<ul style="list-style-type: none"> • Goals and achievements related to the protection of natural habitats and wildlife populations, to be defined.
<ul style="list-style-type: none"> • Solid waste reduction / recycling 	<ul style="list-style-type: none"> • Goals and achievements related to minimizing solid waste and recycling collected waste products.
<ul style="list-style-type: none"> • Air quality 	<ul style="list-style-type: none"> • Goals and achievements related to the Airport's efforts to minimize emissions.
<ul style="list-style-type: none"> • Noise 	<ul style="list-style-type: none"> • Goals and achievements related to reducing aircraft noise impacts in areas surrounding the Airport, to be defined based on independent measurement and feedback.

<ul style="list-style-type: none"> • Hazardous materials 	<ul style="list-style-type: none"> • Goals and achievements related to the reduction of hazardous materials use by the Airport and tenants.
<ul style="list-style-type: none"> • Historical performance 	<ul style="list-style-type: none"> • Comparison of current and historical sustainability achievements.
<p>*The Sustainability Report may be included as a subsection of an Annual Report prepared by Lessee.</p>	

Safety Report	
The Safety Report* shall document the Airport's safety performance on an annual basis.	
Introduction	Description of the Airport's safety policy and historical performance.
Safety incidents	Identification of safety incidents relative to historical data.
Safety risks	Safety deficiencies to be corrected in the upcoming period.
Self-inspection summary	Results of self-inspection program conducted in accordance with FAA Advisory Circular 150/5200-18C.
*The Safety Report may be included as a subsection of an Annual Report prepared by Lessee.	

Security Assessment Report	
The Security Assessment Report* shall document the Airport's security performance on an annual basis.	
Introduction	Summary of the Airport Security Plan.
Security incidents	Summary of all security incidents occurring during the reporting period.
Proposed program changes	Identification of potential changes to the Airport Security Program to prevent or mitigate future incidents.
*The Security Assessment Report may be included as a subsection of an Annual Report prepared by Lessee, but may be redacted to protect SSI or only disclosed to approved stakeholders.	

Emergency Report	
The Emergency Report* shall document the Airport's actual and simulated emergency response performance on an annual basis.	
Introduction	Summary of the Airport's Emergency Plan. This section should also include significant historical emergency incidents.
Emergency incidents	Emergency incidents occurring during the reporting period.
Training	Summary of emergency incidents, training, drills, and exercises performed during the reporting period.
Deficiencies	Deficiencies noted during emergency incidents, training, drills, and exercises.
Corrective measures	Correction of deficiencies noted, and emergency related projects to be undertaken during the next reporting period.
*The Emergency Report may be included as a subsection of an Annual Report prepared by Lessee.	

Customer Experience Report	
A Customer Experience Report* should be prepared annually and address the following functional areas and summarize the results of the customer experience survey.	
Airport functional area	Component
Airport access / parking	Signage and way finding to and from Airport
	Economy parking availability
	Short-term parking availability
	Terminal curb front congestion
	Shuttle services
	Way finding to / from rental car facilities
	TNC availability
	Overall affordability of ground transportation options
Passenger ticketing	General appearance and cleanliness
	Customer experience from airport employees
	Wait times and congestion
	Overall ticketing lobby experience
	Signage and way finding
Passenger security screening	Customer experience from security personnel
	Wait time and congestion
Departure holdrooms	General appearance and cleanliness
	Access to flight information
	Availability of seating

	Space available and passenger circulation
	Availability of concessions

Airport functional area	Component
Terminal concessions	General appearance and cleanliness
	Adequacy of food and beverage options
	Adequacy of retail options
	Adequacy of news and gift options
	Customer experience by Lessee employees
Terminal restrooms	General appearance and cleanliness
	Adequacy pre-security and post-security
	Walking distance to restrooms (accessibility)
Baggage claim	General appearance and cleanliness
	Information regarding baggage claim device
	Wait time for retrieval of luggage
	Space available and passenger circulation
	Way finding from gate to baggage claim area
	Way finding from baggage claim area to ground transportation
	Availability of concessions
General Customer Facilities	Electrical device charging availability, ADA facilities (including pet relief areas)
*Report may be included as a subsection of an Annual Report prepared by Lessee.	

SCHEDULE 2B– AIRFIELD FACILITIES OPERATING STANDARDS

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Section 1

INTRODUCTION AND BACKGROUND

This section of the Airfield Facilities Operating Standards describes the purpose of the Airfield Facilities Operating Standards, its approval mechanism, and an overview of the document's organizational structure. Capitalized terms used but not otherwise defined in this Airfield Facilities Operating Standards have the meanings given to such terms in Annex A (Definitions) of the Agreement (as defined below).

1.1 PURPOSE OF THE OPERATING STANDARDS

The purpose of this document is to provide the minimum requirements that the Tweed-New Haven Airport Authority (the "Authority") will meet for the benefit of the Airport in the operation and maintenance of the Airfield Facilities, how the achievement of those minimum standards will be determined, and the process for remedying any deficiencies of performance. As indicated in Section 3.9.2(a) of the Lease and Development Agreement, dated as of the Effective Date (the "Agreement"), by and between the Authority and Lessee:

The Authority will comply with and implement the Airfield Facilities Operating Standards in all material respects at all times.

In addition to the Airfield Facilities Operating Standards, there are Terminal Facilities Operating Standards that cover the Terminal Facilities with which the Lessee must comply.

1.2 OPERATING STANDARDS OVERVIEW

This document provides guidance as to the development of an Airfield Facilities operations plan ("Operations Plan") that identifies minimum operating standards that are to be met or exceeded, ensuring the safe and continuous operation of the Airport.

1.2.1 Objectives

The Airfield Facilities will be operated and maintained such that it meets or exceeds certain minimum standards. The Authority will comply with reasonable performance measures that are both quantitative and qualitative in nature, unless and except to the extent that acts or omissions of an airline, the Authority, a Governmental Authority, other airfield operational users and stakeholders or a Force Majeure Event impede or prevent the Authority from so complying. The quantitative measurements are based on operating statistics and physical inventories, while the qualitative measurements are based on user perceptions and expectations.

- Quantitative measurements will be collected and assessed by tracking a variety of airport operating and physical statistics.

- Qualitative measurements will be collected through surveys of airport users, visual observations, and by reporting procedures established by the Authority and Lessee.

The performance measures identified in this report are separated into several categories intended to capture various aspects of the Airport's operating performance. They include trend data on air traffic demand and physical airport facilities, statistical performance metrics, quality of service measures, condition of airport facilities, regulatory compliance, community relations, and others. The Authority is expected to collect all relevant data and to demonstrate compliance with all applicable standards identified in this manual.

1.2.2 Organizational Structure of this Document

This document, coupled with the Airport Certification Manual ("ACM"), Airport Security Program ("ASP") and other relevant documents, provides the Authority with the minimum operating standards for the development and implementation of an Operations Plan for the Airport.

The Operations Plan will include specifications for the operation of all Airfield Facilities, including assets, systems and facilities, as well as reporting requirements for the same. The Operations Plan will address each of the following functional components of the Airfield Facilities, as follows:

- Airfield Facilities Standards Plan (Section 2)
- Airfield Facilities Capital Asset Management Plan (Section 3)
- Environmental Sustainability Plan (Section 4)
- Health and Safety Plan (Section 5)

This document also includes appendices as follows:

- Available Guidance and Standards (Appendix A)
- Form of Operational Performance Metrics Report (Appendix B)

Each individual component of the Operations Plan will generally include the following:

- Objective of the plan – a straightforward statement of the objective of the plan
- Essential staffing – minimum staffing levels required and identification of key personnel roles and responsibilities
- Stakeholder coordination – identification of the affected stakeholders and the Authority's coordination plan

- Scope of plan – identification of the physical facilities or operating procedures that are covered by the plan and the efforts involved in executing the plan
- Performance schedule – the frequency/schedule for which various tasks are executed for the requisite operation or procedure
- Reporting requirements – the scope of reporting and auditing that is required to ensure the plan requirements are being met or exceeded, as well as the specifications and methods for reporting.

Accordingly, this document provides sections including guidance as to the minimum requirements that will be addressed for each of these functional areas within the Operations Plan that the Authority will develop, provide and/or update.

1.2.3 Title 14 CFR Part 139 Compliance

The Authority will maintain the Airfield Facilities in compliance with Title 14 CFR Part 139, as specified in the ACM, and other relevant documents. The Operations Plan, at a minimum, shall define the procedures that the Authority will execute to meet the requirements of Title 14 CFR Part 139.

For clarification, the Operations Plan defined in this document will make direct reference to those sections already present in the most current ACM and other relevant documents.

1.2.4 Coordination with Other Agencies

The Authority will coordinate with several agencies and entities including but not limited to

- the Lessee
- Federal Aviation Administration (“FAA”)
- Transportation Security Administration (“TSA”)
- Customs and Border Protection (“CBP”)
- United States Centers for Disease Control and Prevention (“CDC”)
- Connecticut State Department of Public Health (“DPH”)
- Commercial air carrier(s)
- General aviation tenants
- Other ancillary supporting third party companies
- United States Environmental Protection Agency (“USEPA”)
- United States Department of Agriculture (“USDA”)

- Local law enforcement
- Mutual aid fire and EMS

1.2.5 Required Reports

This document will identify the required reporting policies and procedures. The Authority annual report (“Annual Report”) will detail year over year traffic numbers, safety incidents within the Airfield Facilities, projects or other improvements undertaken or completed throughout the year, and the Airport Development Plan (“ADP”). The Annual Report will include:

- FAA Annual Certification Inspection Report
- Operational Performance Report
- Facilities Condition Assessment
- Airport Development Plan
- Sustainability Report
- Emergency Report, if applicable
- Safety Assessment Report

The Authority shall also prepare a Security Assessment Report; however, this does not need to be summarized in the Annual Report. In addition, the Sustainability Report, Safety Assessment Report and Emergency Report do not need to be stand-alone documents. These can be produced as sections of the Annual Report. Outlines for each of these reports are provided in Appendix B.

1.3 OPERATING STANDARDS SUBJECT TO FACILITY LEASE

The interpretation of these Airfield Facilities Operating Standards and Authority’s compliance with these Airfield Facilities Operating Standards (including any goals contained herein and any provisions where objective performance is described in absolute terms (i.e., “all”, “every”, “in all instances”, “completely”, etc.)) shall be subject to the provisions set forth in Section 3.9 of the Agreement.

1.4 RELATIONSHIP TO DOCUMENTS REQUIRED BY LAW

To the extent the Authority's compliance with any provision of these Airfield Facilities Operating Standards can be demonstrated by reference to any other document required by Law to be maintained by the Authority or the Lessee, such as the Airport Certification Manual, the Airport Emergency Plan or the TSA-approved Airport Security Program, the Authority's compliance with the relevant provisions of these Airfield Facilities Operating Standards may be demonstrated by cross-referencing any other such documents.

To the extent that any term or provision of these Airfield Facilities Operating Standards conflicts with any term or provision otherwise specified in the Title 14 CFR Federal Aviation Regulations ("FARs"), FAA orders, FAA directives, Advisory Circulars, and other FAA guidance and the Airport Certification Manual (including any subsequently-issued amendments thereto as issued by the FAA or the TSA-approved Airport Security Program (including any subsequently issued requirements thereunder as issued by the TSA)), then such term or provision of the Airfield Facilities Operating Standards shall be construed flexibility in light of their objectives, and the Airport Certification Manual, the TSA-approved Airport Security Program, FARs, FAA orders, directives, and mandatory FAA Advisory Circulars as applicable, shall govern and shall supersede any such conflicting term or provision of these Airfield Facilities Operating Standards.

The Authority's obligation to comply with the FAA's guidance or Advisory Circulars extends only to FAA guidance and Advisory Circulars for which the FAA has made compliance mandatory on airport operators. To the extent that any FAA guidance or Advisory Circular is not mandatory, the Authority is not obligated to comply with it (by virtue of such FAA guidance or Advisory Circular) but may do so in its discretion, so long as the Authority maintains compliance with Part 139 Certificate requirements.

To the extent that these Airfield Facilities Operating Standards refer to any particular law, regulation, ordinance, order, directive, FAA guidance or Advisory Circular, the reference is to the then-current version of the same, as it may have been amended, revised, replaced or succeeded from time to time.

1.5 APPLICABLE LAW

The provisions of the Operating Standards and of the Operations Plan established under them shall comply with all applicable Laws, rules, regulations, ordinances, orders and directives. For convenience, these are referred to as "Legal Requirements" throughout this document.

Appendix A contains a list of available guidance and standards and applicable regulations with respect to the Airport. The list is not intended to include all applicable standards and regulations – it is the responsibility of the Authority to identify and comply with all existing standards and regulations in a timely manner.

1.6 PLAN SUBMISSION AND REVISIONS; COMPLIANCE WITH APPLICABLE INDUSTRY STANDARDS

The Operations Plan, each of its component sections and any modifications thereto will be based on applicable industry standards in effect at Comparable Airport Facilities and will be developed by the Authority in consultation with the Lessee. The Operations Plan and each of its component sections will be revised at such times as described herein.

Contemporaneously with the submission of Annual Report, the Authority will submit any proposed modification to the Airfield Facilities Operating Standards to the Lessee if applicable. Any changes to the Airfield Facilities Operating Standards and these documents are subject to the requisite approvals (if any) required under the Agreement.

The Authority is responsible for becoming familiar with future standards and regulations during the term of the Agreement, including applicable industry practices that apply to the design, operation, repair, and maintenance of the Airfield Facilities.

1.7 GENERAL STAFFING REQUIREMENTS

The staff levels required will be determined by the needs of Authority to fulfill its maintenance, operation, and contractual obligations as well as statutory and regulatory requirements under the Agreement, applicable Law, the Airfield Facilities Operating Standards and the Operations Plan then in effect. The Authority will also comply with the staffing and training requirements set forth in Title 14 CFR Part 139.

The Airport is a 24-hours-per-day, 365-days-per-year operation. For this reason, the Authority recognizes the need to have variable work shifts, employees, supervisors, and personnel to maintain constant operations consistent with the levels of operations at the Airport at such times (with the understanding that the Authority may make reasonable judgments as to when increased or decreased staffing levels are appropriate). The Authority will create work shifts that ensure the continual operation of the Airport. Staff requirements will be based upon the operational needs of the Airport.

Section 2

AIRFIELD FACILITIES STANDARDS PLAN

2.1 BACKGROUND

The Airfield Facilities Standards Plan (“AFSP”) provides assurance that the Authority is executing appropriate and timely actions that maintain the safe, secure, sustainable, and continuous operation of the Airfield Facilities. The AFSP will be developed and executed by the Authority. The AFSP shall address both the operation and maintenance of all Airfield Facilities and systems.

2.2 REGULATORY COMPLIANCE

The AFSP will identify and comply with all applicable Legal Requirements. The Authority will ensure that employees and representatives responsible for the operation of airfield facilities and system operations comply with the provisions of the AFSP.

Title 14 Code of Federal Regulations, specifically Part 139 sections applicable to the Airport, will be addressed in the ACM and referenced in the AFSP. These provisions will be highlighted to avoid duplication. The Authority will ensure that its employees and representatives conducting airport operations and maintenance procedures on its behalf, comply with the provisions of the AFSP.

2.3 EXISTING PLANS

To the extent applicable and accurate, the Authority will utilize any available existing plans and descriptions of Airport facilities, systems, and procedures provided to it in the development of the AFSP, including the ACM and Airport Emergency Plan (“AEP”).

2.4 REQUIREMENTS OF THE PLAN

The AFSP will identify the plan’s objectives, essential staffing, stakeholders, scope, performance schedule, and reporting requirements as described below.

2.4.1 Objectives of AFSP

The objective of the AFSP is to establish policies and procedures, responsibilities, and minimum requirements to ensure the organized, efficient, continuous, and safe operation and maintenance of all Airfield Facilities.

2.4.2 Essential Staffing

An organizational chart will be included in the AFSP which identifies the essential staff responsible for each of the facilities covered under the AFSP.

The organizational chart will be supplemented by a summary of the levels of staffing, minimum training, staff certification and schedules that would be provided for each of the facilities operations for each season.

2.4.3 Stakeholders

The AFSP will identify all stakeholders (both public and private) that may be affected by the performance of the AFSP and define any necessary applicable coordination with individual stakeholders.

2.4.4 Scope of Plan

The AFSP will identify and address the operation and maintenance of all current and planned Airfield Facilities. The facilities that will be addressed within the AFSP include the following primary functional areas:

- Pavement areas including runways, taxiways, and taxi lanes, runway and taxiway safety areas, airfield pavement markings, airfield signage, runway and taxiway lighting, navigational aids, obstructions, public protection infrastructure, wildlife hazards, snow and ice control (when required), construction safety (when required);
- Public protection measures: fence line, barriers, etc.
- Ground equipment fueling facilities as included in the airfield area;
- Airfield vehicles including ARFF, snow removal, maintenance, and operations

The AFSP will address performance standards for operations, which may include quantitative and qualitative standards for performance and methods for remediation of sub-standard performance. The Authority will, at minimum, include the relevant standards for performance and descriptions of facilities, systems and activities contained in Appendix B (Form of Operational Performance Metrics Report) as requirements under this section.

Given the Airport is operational on a 24-hour basis throughout the entire year, the Authority will define the management and operation of all major facilities such that planned and unforeseen interruption of normal operations is minimized to the maximum extent possible.

The AFSP will also document:

- The inventory of all major facilities and systems directly managed by the Authority, including identification of the type of facility;
- The routine maintenance program for all major facilities and systems, thereby ensuring the condition of said facilities will permit the continuous operation of the Airport;
- The schedule for major repairs as an input to the Capital Asset Management Plan

Operations and Maintenance of Airfield Facilities

The Authority will provide descriptions of the procedures required for the operation and maintenance of each asset or facility within the Airfield Facilities. At a minimum, the AFSP will include the following for each facility:

- An exhibit of the location and key functional components of the facility;
- A brief narrative description of the facility and its components;
- The immediate-, near-, and long-term needs of the facility in terms of its capital requirements;
- The minimal and optimal resources required to operate the facility in terms of staffing and equipment;
- The identification of the essential staff that are responsible for the supervision, organization, and maintenance of the facility;
- The routine maintenance plan for the facility;

The performance standards included in Appendix B (Form of Operational Performance Metrics Report) will be included in the development of the AFSP.

The description of the operational requirements for each facility will also include descriptions of the inspection and maintenance routines. In the conduct of routine airfield operations and maintenance, the Authority may require the closure of certain facilities. In the case of closure of airfield facilities, the Authority will provide advanced notice to Airport users of all airport facility closures. For emergencies or urgent matters, notification will be as soon as practical.

Operations and Maintenance of Airfield Systems

The Authority will provide descriptions of the various systems required for the operation of the Airfield Facilities. At a minimum, the AFSP will include a description of the following systems for each facility, as appropriate:

- Tidal gates and stormwater management systems;
- De-icing/Glycol systems as included in Airfield Facilities;
- Aircraft fueling storage and distribution systems as included in the airfield, except those managed by others;
- Life safety systems, including fire protection, emergency systems, emergency communications systems, and security and access control systems, airfield lighting control system;

- Electrical systems, including communications systems, lighting, and back up;
- Other utility systems; not limited to; natural gas, wireless communications.

The description of the operational requirements for each system will also generally include descriptions of the operations and maintenance routines. Table 2-1 lists the basic functional areas of the airfield that the maintenance plan will address.

Table 2-1

AIRFIELD FACILITIES AND SYSTEMS PLAN FUNCTIONAL AREAS

Major Facilities and Systems
Airfield condition and navigation systems, including airfield lighting and signage not maintained by FAA
Life safety systems
Electrical systems, including lighting, airfield lighting control systems, communications, and backup equipment
Mechanical systems
Utility systems
Communications systems
Security systems
Airfield pavements, including runways, taxiways, and vehicle service roads
Aircraft and vehicle fueling systems and associated storage facilities outside the Leased Property.
Ground equipment fueling facilities outside the Leased Property unless operated by a third party, airlines or their agents
Ramp handling and GSE equipment outside the Leased Property unless operated by airlines or their agents
Airfield drainage systems, including the stormwater sewer system glycol recovery or management systems outside Leased Property
Snow removal and winter operations equipment and snow and ice control plan
Tree pruning/removal, and landscaping
Inspection program and related software and work order systems

Additional Detail on Critical Systems

The continuous operation of the Airport requires certain critical systems to have detailed plans for their operational integrity. Chief among these systems are the life safety systems. Additional detail regarding the life safety systems standards is provided in this section.

The Authority will describe a plan for the continuous operation of the following critical systems:

- Emergency communications, including the emergency public address system, telephones, radios, and other mobile communication devices;
- Fire protection and suppression, including sprinkler systems; heat, smoke, and carbon dioxide detectors, and fire alarms;
- First response medical stations, including first aid supplies and personnel adequately trained and certified (if required by regulation) and automated external defibrillators; and
- Security systems (as included within the Airport Security Plan), including Airport and airfield access control and fencing, passenger security screening, video surveillance, emergency personnel identification, and random security procedures.

For each of the above, the AFSP will specify the operational procedures and policies that would be routinely executed to ensure that these systems are capable of operating without interruption, tested regularly for functionality and proper performance, and upgraded or improved as necessary.

- Communication systems. These systems will be operated and maintained to ensure their continual operation and compliance.
- Security and access control systems (as included within the Airport Security Plan), including: (1) access control; (2) video surveillance and closed-circuit television technology; and (3) video analytics and alarms. The operational plan for these systems will be developed in compliance with the Airport Security Plan (ASP).
- Energy distribution systems. The AFSP will address the procedures and policies employed by the Authority to ensure that the energy distribution systems always remain fully operational.
- The AFSP will also address the Authority's plan for enhancing reliability, providing redundancy, arranging for backup equipment, staff, power, and others and any other action required to safeguard continuous operations. The AFSP must address the following individual components:
 - Electrical supply, including emergency lighting, backup generators.

- Mechanical systems, including: (i) heating, ventilation, and air conditioning (HVAC) systems; and (ii) plumbing systems.

2.4.5 Performance Schedule

The AFSP section of the Operations Plan will be reviewed annually and revised as needed by the Authority to reflect a good faith effort to update the AFSP as appropriate to maintain an accurate assessment of current Airfield Facilities and systems.

2.4.6 Reporting Requirements

The Authority will report on the performance of Airfield Facilities on an annual basis within the Operational Performance Report (“OPR”). The Authority will provide the quantifiable performance measures contained in the Form of Operational Performance Metrics Report, attached as Appendix B.

Section 3

CAPITAL ASSET MANAGEMENT PLAN

3.1 BACKGROUND

The Airfield Facilities Capital Asset Management Plan (“Airfield CAMP”) section of the Operations Plan will provide assurance to the Lessee that the Authority is planning and implementing appropriate and timely actions that demonstrate fiscal responsibility and maintain and preserve the Airfield Facilities while accommodating growth in aviation demand. Primary focus will remain on maintaining compliance and a state of good repair. The Authority and the Lessee, as part of the cooperation and consultation efforts with respect to capital projects, will develop the Airfield CAMP as part of the Airport Development Plan.

3.2 REGULATORY COMPLIANCE

The Airfield CAMP will comply with all Legal Requirements as per Section 1.5. The Authority will ensure that employees and representatives responsible for the operation of Airfield Facilities comply with the provisions of the Airfield CAMP and all Legal Requirements.

3.3 EXISTING PLANS

The Authority will utilize any available existing plans and descriptions of Airport facilities, systems, and procedures provided to it in the development of the Airfield CAMP. The Authority will ensure that the Airfield CAMP complies with the relevant standards within the ACM including the AEP which, in addition to the requirements described herein, shall be considered minimum standards.

3.4 REQUIREMENTS OF THE PLAN

The Airfield CAMP will identify the plan’s objectives, essential staffing, stakeholders, scope, performance schedule, and reporting requirements as described below.

3.4.1 Objectives of Airfield CAMP

The objective of the Airfield CAMP section of the Operations Plan is to preserve and provide for continuous improvement of all Airfield Facilities, including assets, facilities and systems by evaluating their conditions and planning their maintenance, rehabilitation, replacement, and/or modernization. The Airfield CAMP will also provide guidance as to the priority of capital improvement projects and maintenance, with the most critical airport assets receiving the greatest attention.

3.4.2 Essential Staffing

An organizational chart will be included in the Airfield CAMP which identifies the essential staff responsible for capital asset management and planning.

3.4.3 Stakeholders

The Airfield CAMP will identify all stakeholders (both public and private) that may be affected by the performance of the Airfield CAMP and define any necessary applicable coordination with individual stakeholders.

3.4.4 Scope of Plan

The Airfield CAMP will identify and address all major capital assets comprising the Airfield Facilities. The facility assets shall be described for the following primary airport functional areas:

- Pavement areas including runways, taxiways, and markings and signage
- Safety areas, obstructions, public protection infrastructure,
- Airfield signage, runway and taxiway lighting,
- Tidal gates and stormwater management systems;
- De-icing/Glycol systems as included in Airfield Facilities
- Public protection measures: fence line, barriers, etc.
- Aircraft fueling storage and distribution systems as included in the airfield, except those managed by others;
- Ground equipment fueling facilities as included in the airfield area;
- Electrical systems, including communications systems, lighting, and back up;
- Other utility systems; not limited to; natural gas, wireless communications, etc.

The Airfield CAMP will outline asset management actions that are based on regularly scheduled conditions assessments, self-inspection routines, preventative and coordinated maintenance, capital improvements, expansion, modernization, and rehabilitation projects. The Airfield CAMP will define the process for conducting regular condition assessments, reporting of results, and accounting for emerging trends at the Airport that could affect asset management.

3.4.5 Performance Schedule

The Airfield CAMP will be submitted by the Authority to the Lessee in conjunction with the draft ACIP in accordance with 4.1.2 (b)(i) of the Agreement.

3.4.6 Reporting Requirements

The Airfield CAMP will specify the following reports as described below in greater detail: Facilities Condition Assessment (“FCA”), and a Master Equipment Replacement Plan (“MER”)

covering smaller assets and equipment. In addition, as described below, the Airfield CAMP shall require the preparation of an Air Traffic Summary (“ATS”) monthly, which shall be limited to the information received from airlines pursuant to an airport use agreement. The Airfield CAMP will include the findings of a pavement condition index (PCI) study, if completed.

Facilities Condition Assessment

The Airfield CAMP should outline the process for preparing an FCA and the FCA will be completed in accordance with the following schedule:

- The FCA will be completed annually.
- The Authority may elect to perform a self-inspection of the Airfield Facilities through its Manager, with such cost being an Airfield Operating Expense. The Lessee has the right to hire an independent and licensed professional consulting engineer or engineering firm (“Engineering Firm”) to conduct such assessment pursuant to Section 3.4.7, at the Lessee’s cost and expense.
- Notwithstanding anything to the contrary herein, at any time during the Term, the Authority may elect to retain an Engineering Firm to prepare the FCA at the Authority’s cost and expense. For the avoidance of doubt, this cost will not be an Airfield Operating Expense. The Authority shall provide notification to Lessee no later than 120 days after receiving the Lessee’s or Manager’s FCA, or 90 days after providing to Lessee the FCA completed by the Authority retained Engineering Firm that it intends to retain an Engineering Firm for the following year.
- For the years in which the Authority engages an Engineering Firm, the Manager will not be obligated to prepare the FCA.

The FCA will generally include, but not be limited to the following:

- Review of the prior FCA findings;
- Assessment of applicable Airfield Facilities relative to current codes and regulations from a safety and operational perspective (all health and safety issues must be identified for resolution by Authority in accordance with the findings of appropriate studies and investigations, and to be followed by appropriate mitigation as soon as practical);
- Assessment of applicable major equipment assets (e.g. tools and vehicles);
- Assessment of mechanical, electrical, communication, and plumbing systems;
- Field inspection of critical on-Airport utilities, including storm sewer, sanitary sewer, electrical, water, and communication;

- Field inspection of above and below ground storage tanks and maintenance recommendations;
- Field inspection of airfield pavements, including runways, taxiways, and vehicle service roads outside the Terminal Facilities;
- Recommendations in terms of capital improvements that should be carried out immediately due to safety concerns, including, where appropriate, a reference to the applicable regulation regarding such improvements;
- Recommendations in terms of near-, intermediate- and long-term capital improvements.

The FCA will be governed by a manual to be mutually developed and agreed by the Authority and Manager. The manual will specify the scope of the assessment, safety requirements for execution of the assessment, and the reporting standards for the deliverable. The findings of the FCA will be communicated to the Lessee.

The FCA will classify the condition of the facilities assessed using the following categories:

- Excellent – no operational deficiencies, minimum standards exceeded;
- Good – minor operational deficiencies, minimum standards exceeded or met;
- Fair – minor operational deficiencies, most minimum standards met, some capital improvements or corrective actions should be considered, intermediate-term improvements should be identified;
- Poor – significant operational deficiencies, facility is failing to meet minimum standards, capital improvements or corrective actions must be taken in near-term;
- Critical – major operational deficiencies, urgent corrective action must be undertaken, and/ or safety issues are present. This category may also include improvements mandated by new laws or regulations. Any items identified as critical will be included in monthly updates provided to the Lessee until resolved.

The Authority will, to the best of its ability, and subject to Section 3.9.2 (a) of the Agreement, maintain each facility or system in “good” condition or better in the appropriate rating system used for assessment or self-assessment (as permitted) of that facility or system.

At a minimum, the inspection or self-inspection component of the FCA will include the facilities and their respective major systems and elements as outlined in Table 3-1.

Table 3-1

FUNCTIONAL AREAS FOR -INSPECTION

Functional Area	Major Systems and Elements
Airfield	Electrical systems, including airfield lighting, controls, and other automated systems
	Mechanical systems
	Utility systems
	Communications systems
	Security systems
	Pavement
	Aircraft and vehicle fueling systems and associated storage facilities
	Triturator
	Architectural elements and systems
	Airport owned navigational aids
	Safety areas
	Protected zones
	Systems for public protection
Flood mitigation systems and tidal gates	

Air Traffic Summary (“ATS”). As required, the Authority will provide the engineering firm engaged to conduct a FCA, a summary of the current year’s capital improvements, as well as the ATS to inform the firm of emerging trends that could affect capital expenditures. The ATS will provide access to monthly data regarding passenger enplanements, passenger deplanements, international passengers, domestic passengers, connecting passengers, origin-destination passengers, and passenger load factors. The ATS will also include a monthly accounting of commercial aircraft operations, general aviation aircraft operations, and military aircraft operations, provided this information is available from the FAA Air Traffic

Control Tower or other sources including TSA and airline reports. The ATS will provide access to year-over-year and month-over-month comparisons for each of the data accounted therein.

Airport Development Plan (“ADP”) The FCA and ATS will form the basis of the ADP and be prepared in accordance with 4.1.2 of the Agreement. The ADP will outline the near-, intermediate-, and long-term projects planned to address the findings of the FCA and any other planning studies (e.g. master plan) conducted by Lessee or the Authority. The ADP should prioritize the projects, identify projects that are eligible for FAA funding, and identify the environmental requirements necessary for project implementation.

- For all facilities assessed within the FCA as fair, poor, or critical, a corrective action plan will be identified within the ADP. The improvements recommended as part of the action plan will be prioritized, using the following categories:
- Critical – capital improvements will be executed immediately or as soon as practical;
- High – capital improvements will be executed in the near-term;
- Low – capital improvements may be warranted in the near-term to realize operational efficiencies, but may be elective to some extent.

The ADP will provide a brief description of the planned capital improvements for the near-term (0-5 years), including the project justification. It will also generally include a probable cost estimate for each of the planned capital improvements for all projects for the near- and intermediate-terms (0-10 years); including identification of probable funding sources. For the long-term, potential capital improvement projects (as they are identified) will be listed along with order of magnitude cost estimates and ranked in terms of their priority.

The ADP will include the following:

- Executive summary;
- Introduction and background;
- Summary of the methodology used to prioritize the capital improvements and identification of the studies or work done to identify the capital improvements;
- Recommendations for planned capital improvements for the next five years with the greatest detail regarding projects to be completed in the first year of the ADP.
- Funding sources and financial impact to the Authority – if any

3.4.7 Retention of Engineering Firm for the FCA When Required

Pursuant to Section 3.4.6 above, the Authority or Lessee may retain an Engineering Firm not associated, owned, or partnered with the Authority or Lessee, to perform the services associated with the preparation of the FCA.

The same Engineering Firm can be retained for a maximum six-year duration. The purpose of these requirements is to develop a fair, impartial, independent, and objective assessment of the condition of the Airfield Facilities.

Section 4

ENVIRONMENTAL SUSTAINABILITY PLAN

4.1 BACKGROUND

Planning for sustainability generally means meeting the needs of the present without compromising the ability of future generations to meet their own needs.

4.2 REGULATORY COMPLIANCE

The Environmental Sustainability Plan (“ESP”) will identify all Legal Requirements relevant to sustainability planning. The Authority will ensure that employees and representatives responsible for the sustainability planning comply with the provisions of the ESP and all Legal Requirements.

4.3 EXISTING PLANS

The Authority will utilize any available existing plans and descriptions of environmental sustainability standards in the development of the ESP section of the Operations Plan.

4.4 REQUIREMENTS OF THE PLAN

The ESP will identify the plan’s objectives, essential staffing, stakeholders, scope, performance timeframe, and reporting requirements as described below.

4.4.1 Objectives of ESP

The objective of the ESP section of the Operations Plan is to define responsibilities, procedures, and minimum requirements for the staff dedicated to sustainability, thereby reducing the Airport’s environmental footprint. The ESP will also provide guidance regarding staff training targeted at sustainability.

4.4.2 Essential Staffing

An organizational chart will be included in the ESP which identifies the essential staff responsible for each of the facilities covered under the ESP.

4.4.3 Stakeholders

The ESP will identify all stakeholders (both public and private) that may be affected by the performance of the ESP and define any necessary applicable coordination with individual stakeholders.

4.4.4 Scope of Plan

Airport development and operations can become more sustainable by incorporating the following considerations into everyday practices: economic sustainability, operational efficiency, natural resource conservation, and social improvement.

Consistent with those considerations, the ESP will cover the following topics:

- Goal definition;
- Sustainability assessment;
- Program evaluation;
- Development / redevelopment;
- Staff training;
- Airport recycling plan.

Goal definition: This section of the ESP will identify the Authority’s sustainability policies, including goals and objectives associated with the ESP. Goals and objectives for the Airfield Facilities may include (but are not limited to): reducing emissions and noise exposure, water conservation, sustainable land use planning, disposal of hazardous materials, minimizing vehicular traffic, sustainable construction practices, maximizing renewable energy, sustainable waste disposal, and encouraging public participation. The goals definition should be informed by a baseline assessment of the existing condition. Potential goals include:

- “Net zero” waste management;
- “Net zero” carbon footprint;
- Facility and building related goals;
- Use of green building materials and reuse and recycling of building materials;
- Landscaping and erosion control;
- Alternative energy and fuel sources;
- Ground handling, vehicle, and equipment related goals.

Sustainability assessment: This section of the ESP will document current Airfield Facilities operations, sustainability practices, and environmental practices related to waste, recycling, energy use and conservation, water recycling, and materials procurement. The assessment will document all Authority and tenant practices relevant to sustainability planning, including (but not limited to) aircraft movements, vehicle movements, and maintenance activities.

Program evaluation: This section of the ESP will define requirements for reviewing and evaluating all new Airport programs and projects. These requirements will ensure all four sustainability elements are addressed in a balanced, holistic, and measurable approach.

Development / redevelopment. The ESP will identify criteria for reviewing tenant development/redevelopment projects and methods for providing incentives to encourage sustainable design features. This section will also include standards for all new leases, agreements, and contracts that support the Airport’s sustainability goals.

Staff training. This section of the ESP will identify the minimum training program for the employees responsible for sustainability management and acceptable certifications if required. The goal of the training is to establish a work environment that supports innovation, productivity, pride, and a personal commitment to sustainability.

Recycling Plan. This section of the ESP will provide the details of a recycling plan for waste disposal campus wide. The plan should be developed consistent with the guidelines provided in “Developing and Implementing an Airport Recycling Program,” authored by U.S. Environmental Protection Agency.

4.4.5 Performance Schedule

From time to time the ESP will be reviewed and revised as needed by the Authority to reflect a good faith effort to make improvements in areas where sustainability goals have not been met to the standards of the Authority, as identified in the annual reporting described in the following section.

4.4.6 Reporting Requirements

Reporting on sustainability performance allows the Authority to measure performance of the Airfield Facilities. Reporting on environmental, economic, and social sustainability performance annually demonstrates a commitment to accountability and ongoing improvement.

The Authority will prepare a Sustainability Report as part of the overall Annual Report. This report will document the Airport’s environmental goals and achievements, and measure progress against environmental goals, historical performance and compliance.

Section 5

HEALTH AND SAFETY PLAN (HSP)

5.1 BACKGROUND

The Safety Plan section of the Operations Plan will provide the Authority the assurance that the Authority will conduct all operations in a healthy and safe manner, protecting both employees and the general public. The Safety Plan should be developed and executed by the Authority and submitted to the Lessee for its reference.

5.2 REGULATORY COMPLIANCE

The HSP will identify and comply with all Legal Requirements as per Section 1.5. The Authority will ensure that employees and representatives responsible for the operation of airport facilities comply with the provisions of the HSP and all Legal Requirements.

5.3 EXISTING PLANS

The Authority will utilize any available applicable plans and descriptions of Airport facilities, systems, and procedures provided to it in the development of the Safety Plan. The Authority must ensure that the Safety Plan complies with the relevant standards within the ACM, ASP and AEP which, in addition to the requirements described herein, should be considered the minimum standard.

5.4 REQUIREMENTS OF THE PLAN

The HSP shall identify the plan's objectives, essential staffing, stakeholders, scope, performance schedule, training, certification if required, and reporting requirements as described below.

5.4.1 Objectives of the Safety Plan

The objective of the HSP is to ensure that the Authority practices prevent unsafe conditions for the general public and all airport employees and to provide the framework for identifying and mitigating health and safety issues as they arise.

The HSP will be modified or revised by the Authority as appropriate to address specific issues, needs, or concerns related to the Airport that develop over time and as required by relevant authorities with jurisdiction.

The HSP shall include scheduled meetings with stakeholders and incorporate findings from other safety efforts including but not limited to the Runway Safety Action Team meetings (RSAT) SMS, CFR part 139 self-inspections and insurance audits.

5.4.2 Essential Staffing

An organizational chart will be included in the Safety Plan which identifies the essential staff responsible for various components of its execution.

The organizational chart will be supplemented by a summary of the levels of staffing, minimum training and the acceptable certification if required for those responsible for each component of the HSP.

5.4.3 Stakeholders

The Safety Plan will identify all stakeholders (both public and private) that may be affected by the performance of the Safety Plan and define any necessary applicable coordination with individual stakeholders.

5.4.4 Scope of plan

The Safety Plan will provide:

- Guidance as to the necessary health and safety training that various Airport employees shall receive, including first aid training;
- A plan for implementation of a health and safety management framework addressing the safety of both the general public and Airport employees within the airport property;
- Best practices for Authority employees to increase awareness of potential safety issues before they arise;
- Development and implementation of appropriate letters of agreement or other means of establishing appropriate safety practices and policies;
- A policy manual for Authority construction zones and other potentially hazardous areas, including guidance as to the use of information signage, physical barriers, traffic control infrastructure and other equipment to maintain a safe environment for the general public;
- A manual for self-inspection of facilities for safety issues in accordance with FAA Advisory Circular 150/5200-18C;
- Additional health and safety measures as included for example in the ACI Airport Health Accreditation framework;
- A process for reporting and monitoring safety issues.

The Safety Plan shall also provide a graphical depiction of the areas that will be subject to execution of the plan.

Staff Training and Education

The Authority will conduct training to establish a safety culture and educate employees regarding safety issues. The training shall address the requirements and workplace standards of the OSHA.

The HSP will include the following at a minimum:

- Training that incorporates findings from the execution of the framework;
- General training that covers OSHA standards and overall safety awareness for all the Authority employees, including executives;
- Training specific to the responsibilities of the employee, including identification of equipment required to execute specific tasks safely, safe driving of vehicles, and safe operation of equipment;
- Provision of safety training for new employees and the provision of recurrent safety training for all employees along with a typical schedule for such training;
- Provision of a lessons learned/case histories component;
- Establishment of procedures aimed at ensuring employees understand the safety policies and adhere to safe work practices;
- How to document safety issues in the reporting system.

The training will also provide background regarding anticipated work activities and hazards, and the protocol that shall be followed should an incident occur.

5.4.5 Performance Schedule

The HSP will be reviewed annually and revised as needed by the Authority to reflect a good faith effort to make improvements in any areas which have been subject to safety incidents throughout the applicable time frame. The revisions will be made to prevent the same type of incident from recurring.

5.4.6 Reporting Requirements

The Authority will prepare a summary of safety performance on an annual basis for inclusion in the Annual Report. The reporting shall indicate the rate of safety incidents relative to historical data as well as identify any deficiencies that need to be corrected and projects undertaken during the year to correct any safety issues

Values to be observed include but not limited to: workman's compensation claims awarded, insurance claims awarded, and reports of non-compliant conditions.

APPENDIX A
AVAILABLE GUIDANCE AND STANDARDS

Airport Operation Guidance Documents	
Number	Title
General Reference: (Airfield, Security, Safety, Emergency)	
150/5000-15A	Announcement of Availability of Airport-Related Research and Development Products
150/5070-6B	Airport Master Plans
150/5100-14D	Procurement of Professional Services
150/5190-4A	A Model Zoning Ordinance to Limit Height of Objects Around Airports
150/5190-7	Minimum Standards for Commercial Aeronautical Activities
150/5200-12C	First Responders_ Responsibility for Protecting Evidence at the Scene of an Aircraft Accident/Incident
150/5200-18C	Airport Safety Self-Inspection
150/5200-28D	Notices to Airmen (“NOTAMS”) for Airport Operators
150/5200-29A	Announcement Of Availability Of Airport Self-Inspection DVD
150/5200-30C	Airport Winter Safety And Operations
150/5200-31C	Airport Emergency Plan (Consolidated AC includes Change 2)
150/5200-32A	Reporting Wildlife Aircraft Strikes
150/5200-33B	Hazardous Wildlife Attractants On or Near Airports
150/5200-34A	Construction or Establishment of Landfills near Public Airports
150/5200-35A	Submitting the Airport Master Record in Order to Activate a New Airport
150/5200-36	Qualifications for Wildlife Biologist Conducting Wildlife Hazard Assessments and Training Curriculums for Airport Personnel Involved in Controlling Wildlife Hazards on Airports

Airport Operation Guidance Documents	
Number	Title
150/5200-37	Introduction to Safety Management Systems (“SMS”) for Airport Operators
150/5210-13C	Airport Water Rescue Plans and Equipment
General Reference: (Airfield, Security, Safety, Emergency) (continued)	
150/5210-14B	Aircraft Rescue Fire Fighting Equipment, Tools and Clothing
150/5210-15A	Aircraft Rescue and Firefighting Station Building Design
150/5210-17B	Programs for Training of Aircraft Rescue and Firefighting Personnel
150/5210-18A	Systems for Interactive Training Of Airport Personnel
150/5210-19A	Driver's Enhanced Vision System (“DEVs”)
150/5210-20	Ground Vehicle Operations on Airports
150/5210-22	Airport Certification Manual (“ACM”)
150/5210-23	ARFF Vehicle and High Reach Extendable Turret (“HRET”) Operation, Training and Qualifications
150/5210-24	Airport Foreign Object Debris (“FOD”) Management
150/5210-5D	Painting, Marking, and Lighting of Vehicles Used on an Airport
150/5210-6D	Aircraft Fire and Rescue Facilities and Extinguishing Agents
150/5210-7D	Aircraft Rescue and Fire Fighting Communications
150/5220-10D	Guide Specification for Aircraft Rescue and Fire Fighting Vehicles
150/5220-17B	Aircraft Rescue and Fire Fighting (“ARFF”) Training Facilities
150/5220-21B	Guide Specification for Devices Used to Board Airline Passengers with Mobility Impairments
150/5220-22A	Engineered Materials Arresting Systems (“EMAS”) for Aircraft Overruns
150/5220-25	Airport Avian Radar Systems

Airport Operation Guidance Documents	
Number	Title
150/5220-4B	Water Supply Systems for Aircraft Fire and Rescue Protection
150/5220-9A	Aircraft Arresting Systems
150/5230-4A	Aircraft Fuel Storage, Handling, and Dispensing on Airports
150/5300-13	Airport Design
Various	Applicable and supporting Airport Cooperative Research Program reports.

Airport Operation Guidance Documents	
Number	Title
General Reference: (Airfield, Security, Safety, Emergency) (continued)	
150/5300-16A	General Guidance and Specifications for Aeronautical Surveys: Establishment of Geodetic Control and Submission to the National Geodetic Survey
150/5300-17B	General Guidance And Specifications For Aeronautical Survey Airport Imagery Acquisition And Submission To The National Geodetic Survey
150/5300-18B	General Guidance And Specifications For Submission Of Aeronautical Surveys To NGS: Field Data Collection And Geographic Information System ("GIS") Standards
150/5320-6E	Airport Pavement Design and Evaluation
150/5340-18F	Standards for Airport Sign Systems
150/5340-1K	Standards for Airport Markings
150/5370-2E	Operational Safety on Airports During Construction
70/7460-2K	Proposed Construction or Alteration of Objects That May Affect the Navigable Airspace
Wildlife Hazard Management	
Certalert No. 09-10	Wildlife Hazard Assessments in Accordance with Part 139 Requirements
Certalert No. 98-05	Grasses Attractive To Hazardous Wildlife
Certalert No. 04-09	Relationship Between FAA And Wildlife Services
Certalert No. 04-16	Deer Hazard to Aircraft and Deer Fencing
Certalert No. 06-07	Requests by State Wildlife Agencies to Facilitate and Encourage Habitat for State-Listed Threatened and Endangered Species and Species of Special Concern on Airports

Airport Operation Guidance Documents	
Number	Title
150/5200-32A	Reporting Wildlife Aircraft Strikes
150/5200-33B	Hazardous Wildlife Attractants On Or Near Airports
150/5200-34A	Construction or Establishment of Landfills Near Public Airports
150/5200-36	Qualifications for Wildlife Biologist Conducting Wildlife Hazard Assessments and Training Curriculum for Airport Personnel Involved in Controlling Wildlife Hazards on Airport

Airport Operation Guidance Documents	
Number	Title
Environmental Management and Public Relations	
150/5020-1	Noise Control and Compatibility Planning for Airports
150/5050-4	Citizen Participation in Airport Planning
150/5050-8	Environmental Management Systems for Airport Operators
Additional Reference Documents (if applicable)	
ICAO Annex 14 – Aerodromes	
IATA Airport Development Reference Manual, 12th Edition	
Federal Regulations and Orders	
49 CFR Parts 1540 and 1542, Airport Security	
FAR Part 139, Certification of Airports	
FAR Part 150, Noise Compatibility Program	
FAR Part 161, Noise Compatibility Program	
FAR Part 77, Objects Affecting Navigable Airspace	
FAA Order 405, Standards for Aeronautical Surveys	
FAA Order 5100.38C, Airport Improvement Program Handbook	
FAA Order 1050.1E, Environmental Impacts: Policies and Procedures	
FAA Order 5050.4B, National Environmental Policy Act (NEPA)	
23 CFR Part 772, Procedures for Abatement of Highway Traffic Noise and Construction Noise	
29 CFR Part 1926 (Originally CFR Part 1518) Safety and Health Regulations for Construction of the Williams Steiger Occupational Safety and Health Act of 1970 (Federal, OSHA)	
29 Code of Federal Regulations (CFR) Parts 1910 and 1926	
29 CFR Part 1926, Construction Safety and Health Regulations	

Airport Operation Guidance Documents	
Number	Title
29 CFR 1926.62,	Lead Exposure in Construction
Federal Regulations and FAA Orders (continued)	
40 CFR Part 280,	Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (USTs)
40 CFR 763	Asbestos
49 U.S.C. Section 44718	
Americans with Disabilities Act of 1990	
Atomic Energy Act (42 U.S.C. Sec. 2011, et seq.)	
Aviation and Transportation Security Act of 2001	
Clean Air Act (42 U.S.C. ' 7401 et seq.)	42 U.S.C. 87401
Clean Water Act (33 U.S.C. ' 1251 et seq.)	
Comprehensive Environmental Response and Compensation and Liability Act (42 U.S.C. ' 9601 et seq.)	
Council of Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended	
Determining Conformity of Federal Actions to State or Federal Implementation Plans, 40 C.F.R. Part 93	
Emergency Planning and Community Right-to-Know Act (42 U.S.C. ' 11001 et seq.)	
Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 59 Fed. Reg. 7629, Feb. 16, 1994	
Federal Insecticide Fungicide and Rodenticide Act (7 U.S.C. Sec 136, et seq.)	
Federal requirements for the use of ULSD fuel for both on-road (2007) and off-road (2010) vehicles	
Federal Trade Commission's "Guide for the Use of Environmental Marketing Claims," 16 CFR 260.7(e)	

Airport Operation Guidance Documents	
Number	Title
	Federal Transit Act, 40 C.F.R. Part 51, Subpart T Hazardous Material Transportation Act (49 U.S.C. ' 1801 et seq.)
	National Emission Standards for Hazardous Air Pollutants (NESHAP), under Section 112 of the Clean Air Act
	Occupational Safety and Health Act of 1970 (29 U.S.C. ' 651 et seq.)
	OSHA's lead-in-construction rule, contained in 29 CFR 1926.62 33 U.S.C. 8651
	Federal Regulations and FAA Orders (continued)
	Resource Conservation and Recovery Act of 1976 (42 U.S.C. ' 6901 et seq.)
	Safe Drinking Water Act (42 U.S.C. ' 300f)
	Toxic Substances Control Act of 1976 (15 U.S.C. ' 2601 et seq.) 8261
	U.S. DOT regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622
	U.S. DOT statutory requirements on environmental matters at 49 U.S.C. § 5324(b)
	U.S. EPA regulations, Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C.
	Worker's Compensation Act
	Asbestos Hazard Emergence Response Act, 15 U.S.C. 82641

APPENDIX B

FORM OF OPERATIONAL PERFORMANCE METRICS REPORT (OPR)

This appendix provides outlines for the various reports required by these Airfield Facilities Operating Standards. The reports may include material beyond that listed, but they should at a minimum address the items listed in the following tables.

The standard targets will be determined by the following process:

- For those aspects included in specific FAA, TSA or other Federal, State or Local regulation, the targets considered will be the same as the ones required in the regulations
- For those aspects where published industry benchmarks applicable to the operational conditions of the Airport exist, these would be considered as targets
- For those aspects where there are no existing benchmarks, the parties will determine by mutual agreement the targets applicable after the first round of reports for the first year of operation
- Every year, the Authority will propose an analysis and evolution of the performance standard targets based on the evolution of industry benchmarks and internal measurements, together with a plan to meet these new targets in case a change or modification is necessary

The performance measures will include all information required on the FAA 5010 form and the following:

- Number of aircraft operations (yearly, monthly, peak hour);
- Number of aircraft operations by types of aircraft;
- Number of based aircraft;
- Peak hour operations/departures by commercial service aircraft;
- Operational delay statistics for departures and arrivals, including cause of delay and cancellation; irregular operations.
- Commercial aircraft diversions or other notable events, such as disabled aircraft;
- Identification of runway closures, including duration and cause;
- Summary of major airfield maintenance conducted, with special attention for any unforeseen maintenance.

- List of winter weather emergencies.
 - Type and quantity of precipitation
 - Number of closures and duration.

The OPR may also provide:

- Comparison of past performance to current performance;
- Comparison of current performance to established minimum standards;
- Documentation of operational or procedural changes made to improve performance of airfield facilities; measured by percentage of out of service periods.
- Recommendations as to those facilities that require capital improvements to expand, modernize or otherwise reconfigure the facility for improved efficiency and through-put (i.e. taxiway improvements) or enhancements in response to disaster planning efforts.

The OPR will be used in concert with the Facilities Condition Assessment (FCA) to develop a capital improvement program.

Operational Performance Report		
Category	Metric	Standard Targets
Airfield		
Airfield / Airport operations	Visual airfield inspections	As required by FAR Part 139
	Visual terminal / landside inspections	Per TSR 1542
	Fueling inspections	Per FAR Part 139
	Field condition reports—standard day	Per FAR Part 139
	Pavement friction testing—standard day	Per FAR Part 139
	Airfield lighting and signs maintenance	As per FAR Part 139

Operational Performance Report		
Category	Metric	Standard Targets
Runways	Unscheduled runway closures	As per FAA measured applicable benchmarks
	Incursions by vehicles or pedestrians	As per FAA measured applicable benchmarks

Facilities Condition Assessment	
<p>Assessed facilities should be classified using the following categories:</p> <p>Excellent – no operational deficiencies, minimum standards exceeded;</p> <p>Good – minor operational deficiencies, minimum standards exceeded or met;</p> <p>Fair – minor operational deficiencies, most minimum standards met, some capital improvements or corrective actions should be considered, intermediate-term improvements should be identified;</p> <p>Poor – significant operational deficiencies, facility is failing to meet minimum standards, capital improvements or corrective actions must be taken in near-term;</p> <p>Critical – major operational deficiencies, urgent corrective action must be undertaken, and/ or safety issues are present. This category may also include improvements mandated by new laws or regulations.</p>	
Buildings	Inspect all Airfield Facilities buildings from a safety and operational perspective: all safety issues must be identified for resolution by the Authority as soon as possible.
Building systems	Inspect all Airfield Facilities building systems from a safety and operational perspective. Building systems include mechanical, electrical, communication, and plumbing systems.
Equipment	Inspect all Airfield Facilities equipment (e.g. maintenance equipment) from a safety and operational perspective: all safety issues must be identified for resolution by the Authority as soon as possible.
Utilities	Inspect critical Airfield Facilities utilities, including storm sewer, sanitary sewer, electrical, water, and communication.
Airfield pavements	Field inspection of airfield pavements, including runways, taxiways, aircraft aprons, and vehicle service roads.
Capital improvement recommendations (immediate)	Recommendations in terms of capital improvements that should be carried out immediately due to safety concerns.

Capital improvement recommendations (future)	Recommendations in terms of near-, intermediate- and long-term capital improvements.
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Airport Development Plan	
The Airport Development Plan (“ADP”) should outline the near-, intermediate-, and long-term projects planned to address the findings of the Facilities Condition Assessment (“FCA”) and any other planning studies (e.g. master plan) conducted by the Authority (or its Manager).	
Executive summary, introduction, and background	Description and summary of ADP contents.
Methodology	Summary of the methodology used to prioritize the capital improvements and identification of the studies or work done to identify the capital improvements.
Corrective action plan	<p>For all facilities assessed within the FCA as fair, poor, or critical, a corrective action plan must be identified within the ADP. The improvements recommended as part of the action plan should be prioritized, using the following categories:</p> <p>Critical – capital improvements should be executed immediately or as soon as practical;</p> <p>High – capital improvements should be executed in the near-term;</p> <p>Low – capital improvements may be warranted in the near-term to realize operational efficiencies, but may be elective to some extent.</p>
Near-term capital improvement project descriptions	Recommendations for planned capital improvements for the next five years with the greatest detail regarding projects to be completed in the first year of the CIP.
Cost estimates	Probable cost estimate for each of the planned capital improvements for all projects for the near- and intermediate-terms (0-10 years); including identification of probable funding sources.

	For the long-term, potential capital improvement projects (as they are identified) should be listed along with order of magnitude cost estimates.
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Sustainability Report	
The Sustainability Report* shall document the Airport's environmental goals and achievements, and measure progress against environmental goals and historical performance.	
Introduction	This section should describe the Airport's sustainability policy and sustainability program.
Sustainability goals and achievements	Descriptions of the Airport's goals and achievements, which may include, but are not limited to, the following categories:
Climate change	<ul style="list-style-type: none"> Goals and achievements related to reducing contributions to climate change, to be defined.
Energy conservation	<ul style="list-style-type: none"> Goals and achievements related to reducing energy use - including use of renewable resources.
Water conservation	<ul style="list-style-type: none"> Goals and achievements related to reducing consumption of water resources.
Natural resources management	<ul style="list-style-type: none"> Goals and achievements related to the protection of natural habitats and wildlife populations, to be defined.
Solid waste reduction / recycling	<ul style="list-style-type: none"> Goals and achievements related to minimizing solid waste and recycling collected waste products.
Air quality	<ul style="list-style-type: none"> Goals and achievements related to the Airport's efforts to minimize emissions.
Noise	<ul style="list-style-type: none"> Goals and achievements related to reducing aircraft noise impacts in areas surrounding the Airport, to be defined based on independent measurement and feedback.

Hazardous materials	<ul style="list-style-type: none">• Goals and achievements related to the reduction of hazardous materials use by the Airport and tenants.
Historical performance	<ul style="list-style-type: none">• Comparison of current and historical sustainability achievements.
*The Sustainability Report may be included as a subsection of an Annual Report prepared by the Authority.	

Safety Report	
The Safety Report* shall document the Airport's safety performance on an annual basis.	
Introduction	Description of the Airport's safety policy and historical performance.
Safety incidents	Identification of safety incidents relative to historical data.
Safety risks	Safety deficiencies to be corrected in the upcoming period.
Self-inspection summary	Results of self-inspection program conducted in accordance with FAA Advisory Circular 150/5200-18C.
*The Safety Report may be included as a subsection of an Annual Report prepared by the Authority.	

Security Assessment Report	
The Security Assessment Report* shall document the Airport's security performance on an annual basis.	
Introduction	Summary of the Airport Security Plan.
Security incidents	Summary of all security incidents occurring during the reporting period.
Proposed program changes	Identification of potential changes to the Airport Security Program to prevent or mitigate future incidents.
*The Security Assessment Report may be included as a subsection of an Annual Report prepared by the Authority, but may be redacted to protect SSI or only disclosed to approved stakeholders.	

Emergency Report	
The Emergency Report* shall document the Airport's actual and simulated emergency response performance on an annual basis.	
Introduction	Summary of the Airport's Emergency Plan. This section should also include significant historical emergency incidents.
Emergency incidents	Emergency incidents occurring during the reporting period.
Training	Summary of emergency incidents, training, drills, and exercises performed during the reporting period.
Deficiencies	Deficiencies noted during emergency incidents, training, drills, and exercises.
Corrective measures	Correction of deficiencies noted, and emergency related projects to be undertaken during the next reporting period.
*The Emergency Report may be included as a subsection of an Annual Report prepared by the Authority.	

SCHEDULE 3: AUTHORITY CONTRACTS AND ASSIGNED CONTRACTS

Part A: Authority Contracts

1. Memorandum of Understanding, dated as of April 2, 2008, by and between the City of New Haven and the Tweed New-Haven Airport Authority.
2. Other Transaction Agreement, dated as of June 1, 2020, by and between Credentialing, Screening & Intelligence Analysis and the Tweed New-Haven Airport Authority.
3. Standard Order Form, dated as of January 17, 2022, by and between DTN LLC and the Tweed New-Haven Airport Authority.
4. Letter Agreement, dated as of April 1, 2015, by and between East Haven Fire Department and the Tweed New-Haven Airport Authority.
5. Letter Agreement by and between FAA Contract Tower and the Tweed New-Haven Airport Authority.
6. Ethernet Virtual Private Line Dedicated Internet Access, dated as of May 21, 2019, by and between Frontier Communications of America, Inc. and the Tweed New-Haven Airport Authority.
7. Equipment Purchase, Installation, Maintenance Schedule, dated as of May 21, 2019, by and between Frontier Communications of America, Inc. and the Tweed New-Haven Airport Authority.
8. Dedicated Internet Access, dated as of June 22, 2021, by and between Frontier Communications of America, Inc. and the Tweed New-Haven Airport Authority.
9. General Services Administration Public Buildings Services Lease by and between General Services Administration Public and the Tweed New-Haven Airport Authority.
10. Tweed - 2020-2021 Security Software Agreement, dated as of October 22, 2020, by and between ITG Larson, Inc. and the Tweed New-Haven Airport Authority.
11. Letter of Agreement, dated as of May 15, 2005, by and between Midwest Air Traffic Control Services, Inc. and the Tweed New-Haven Airport Authority regarding air evacuation, hijack, and hazardous cargo incident handling.
12. Letter of Agreement, dated as of May 15, 2005, by and between Midwest Air Traffic Control Services, Inc. and the Tweed New-Haven Airport Authority regarding airport lighting procedures.
13. Letter of Agreement, dated as of May 15, 2005, by and between Midwest Air Traffic Control Services, Inc. and the Tweed New-Haven Airport Authority regarding snow removal operations.
14. Letter of Agreement, dated as of April 1, 2015, by and among Midwest Air Traffic Control Services, Inc., New Haven Air Traffic Control Tower, City of New Haven Fire Department, City of New Haven Police Department, Town of East Haven Fire Department, Town of East Haven Police Department and the Tweed New-Haven Airport Authority.
15. Letter of Agreement, dated as of October 12, 2016, by and between New Haven Airport Traffic Control Tower and the Tweed New-Haven Airport Authority.
16. Letter of Agreement, dated as of April 8, 2021, by and between New Haven Airport Traffic Control Tower and the Tweed New-Haven Airport Authority.

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17. Letter of Agreement, dated as of June 17, 2010, by and between New Haven FAA Contract Tower and the Tweed New-Haven Airport Authority.
18. Letter of Agreement, dated as of October 5, 2015, by and between New Haven FAA Contract Tower and the Tweed New-Haven Airport Authority.
19. Letter of Agreement, dated as of December 7, 2015, by and among New Haven FAA Contract Tower, the Tweed New-Haven Airport Authority, FAA Technical Operations Maintenance, Robinson Aviation, and USDA Wildlife Services.
20. Letter of Agreement, dated as of April 1, 2015, by and between East Haven Fire Department and the Tweed New-Haven Airport Authority.
21. Agreement, dated as of April 30, 2021, by and between Solakian & Company LLC and the Tweed New-Haven Airport Authority.
22. Agreement, dated as of July 29, 2021, by and between TM Byxbee Company, P.C. and the Tweed New-Haven Airport Authority.
23. MOU On Use of Facilities by DHS TSA by and between Transportation Security Administration and the Tweed New-Haven Airport Authority.
24. VEOCI, dated as of August 4, 2017, by and between Grey Wall Software, LLC and the Tweed New-Haven Airport Authority.
25. Master Sales & Services Agreement, dated as of February 3, 2021, by and between Canon Solutions America, Inc. and the Tweed New-Haven Airport Authority.
26. Letter of Agreement, dated as of February 15, 2013, by and between New Haven FAA Contract Tower and the Tweed New-Haven Airport Authority.
27. Cooperative Service Agreement, dated as of July 8, 2021, by and between the United States Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), Wildlife Services (WS) and the Tweed New-Haven Airport Authority.
28. Lease, dated as of by and between the United States of America and the Tweed New-Haven Airport Authority.
29. Lease Schedule by and between Tweed-New Haven Airport Authority and Canon Solutions America, Inc. dated as of June 3, 2022.
30. Memorandum of Agreement, Agreement Number DTFANE-06-A-00021 by the Tweed New-Haven Airport Authority and the Federal Aviation Administration effective November 22, 2006.

Part B: Assigned Contracts

1. Amended and Restated Lease Agreement by and between the Tweed New-Haven Airport Authority and K.R. Robinson Associated Limited Partnership effective on October 1, 1999, as amended by the Amendment to Lease Agreement by and between Tweed-New Haven Airport Authority and K.R. Robinson Associated Limited Partnership effective November 12, 2008, and as further amended by the Second Amendment to Lease Agreement by and between Tweed-New Haven Airport Authority and K.R. Robinson Associated Limited Partnership effective October 1, 2013.
2. License Agreement To Operate On-Airport Vehicle Rental Service At Tweed-New Haven Airport by and between Tweed-New Haven Airport Authority and Avis Rent A Car System, LLC dated November

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- 1, 2014, as most recently amended by Amendment No. 5 to the License Agreement dated November 1, 2021.
3. Snow Removal Services Agreement by and between Tweed-New Haven Airport Authority and B&W Paving Landscaping LLC dated December 28, 2021.
4. License Agreement To Operate On-Airport Vehicle Rental Service At Tweed-New Haven Airport by and between Tweed-New Haven Airport Authority and Budget Rent A Car System, LLC dated November 1, 2014, as most recently amended by Amendment No. 5 to the License Agreement dated November 1, 2021.
5. License Agreement To Operate On-Airport Vehicle Rental Service At Tweed-New Haven Airport by and between Tweed-New Haven Airport Authority and ELRAC, LLC dated November 1, 2014, as most recently amended by Amendment No. 5 to the License Agreement dated November 1, 2021.
6. Food and Beverage Concession Agreement by and between Tweed New-Haven Airport Authority and G-Café Bakery Tweed LLC dated December 17, 2021.
7. Transportation Network Company Operating Agreement by and between Tweed New-Haven Airport Authority and Lyft, Inc. dated November 8, 2021.
8. Memorandum of Agreement by and between Tweed New-Haven Airport Authority and Robinson Aviation dated September 15, 2013.
9. License Agreement by and between Tweed New-Haven Airport Authority and Transportation General Inc. dated November 3, 2021.
10. Tweed-New Haven Airport Ingress/Egress Agreement by and between Tweed-New Haven Airport Authority and Northeast Ramp, LLC dated November 29, 1999.
11. Validation Parking Agreement by and between Tweed-New Haven Airport Authority and Park New Haven dated June 29, 2022.

SCHEDULE 4: ASSIGNED ASSETS

Asset Name	Asset Number	Location of Tag	Description	Manufacturer	Type/Model	Serial No.	Location	Responsible Department	Asset Type
Key Board	30058	Exterior on Top	Keyboard	Prekey Tec	-	-	Parking desk	Admin	Electronics (Office)
Monitor	30057	Exterior on Base	Monitor	NEC Accysync AS171	-	-	Parking Desk	Admin	Electronics (Office)
Pay Station	30056	Exterior Upper Right / Interior Door	Pay Station	Datapark	-	-	Baggage Claim	Admin	Electronics (Office)
Ticket Fee Machine	30059	Exterior Front	Ticket Fee Machine	Datapark	DP5800 R4	131016	Parking Desk	Admin	-
Receipt Machine	30060	Exterior Front	Epson Receipt Box	Epson	-	-	Parking Desk	Admin	-

SCHEDULE 5

REQUIRED FEDERAL PROVISIONS

The following provisions apply to this Agreement and Lessee shall insert in any subcontracts the clauses set forth in this Schedule 5 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. Lessee must also incorporate the applicable requirements of these provisions by reference for work done under any purchase orders, rental agreements, and other agreements for supplies or services. Lessee shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth this Schedule 5.

In each instance where Lessee issues a solicitation for bid under this Agreement or a subcontractor of Lessee issues a solicitation for bid under this Agreement, it must incorporate any applicable solicitation notice language mandated by the FAA in the document titled Required Contract Provisions for AIP and Obligated Sponsors, as amended from time to time, which may be found at:

https://www.faa.gov/airports/aip/procurement/federal_contract_provisions.

In each instance where Lessee enters into a subcontract or other agreement to which these requirements apply, the subcontractor or service provider name must be substituted for Lessee.

A. Compliance with Nondiscrimination Provisions. During the performance of this Agreement, Lessee for itself, its assignees, and successors in interest, agrees with the Authority as follows:

1. **Compliance with Regulations:** Lessee will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. **Non-discrimination:** Lessee, with regard to the work performed by it during the term of this Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of contractors, including procurements of materials and leases of equipment. Lessee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Agreements, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential contractor or supplier will be notified by Lessee of Lessee's obligations under this Agreement and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

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4. **Information and Reports:** Lessee 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 Lessee is in the exclusive possession of another who fails or refuses to furnish the information, Lessee will so certify to Authority 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 Lessee's noncompliance with the Non-discrimination provisions of this contract, Authority will impose such sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to cancelling, terminating, or suspending the Agreement, in whole or in part.
6. **Incorporation of Provisions:** Lessee will include the provisions of paragraphs one through six of this Schedule 5, Section (A) in every contract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Lessee will take action with respect to any contract or procurement as Authority or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Lessee becomes involved in, or is threatened with litigation by a contractor, or supplier because of such direction, Lessee may request Authority to enter into any litigation to protect the interests of Authority. In addition, Lessee may request the United States to enter into the litigation to protect the interests of the United States.

B. Real Property Acquired or Improved Under the Airport Improvement Program. Lessee for itself, its heirs, personal representatives, 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 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, Lessee will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination 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.

C. Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program. Lessee for itself, its heirs, personal representatives, 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

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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, and (3) that Lessee will furnish its services in compliance with all other requirements imposed by or pursuant to the List of Nondiscrimination Acts And Authorities.

D. Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this Agreement, Lessee, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- ii. 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);
- iii. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- iv. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- v. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- vi. 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);
- vii. 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);
- viii. 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 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
- ix. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

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- x. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination 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;
- xi. 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); and
- xii. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

E. General Civil Rights Provision. Lessee agrees to comply with pertinent 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 Lessee transfers its obligation to another, the transferee is obligated in the same manner as Lessee. This provision obligates Lessee for the period during which the property is owned, used or possessed by Lessee 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.

F. Right of Re-entry. In the event of breach of any of the above Nondiscrimination covenants, Authority will have the right to terminate the Agreement and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Agreement had never been made or issued.

G. Subcontracts. Lessee agrees that it shall insert the above six provisions (Section (A) through Section (F)) in any agreement by which Lessee grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public under this Agreement.

H. Required Federal Provisions for Applicable Construction Projects. Should Lessee engage in construction on the Airport, or otherwise engage in construction in its role as Lessee under the Agreement, that is funded in any part with grant funds from the Federal Airport Improvement Program or otherwise subject to FAA regulatory requirements, Lessee shall comply with all provisions of the Required Federal Provisions for Applicable Construction Projects, attached to the Agreement as Schedule 5A, and, to the extent applicable, include the Required Federal Provisions for Applicable Construction Projects, without alteration or limitation, in all of its subcontracts pertaining to such construction.

SCHEDULE 5A

**REQUIRED FEDERAL PROVISIONS FOR APPLICABLE CONSTRUCTION
PROJECTS**

The following provisions apply to this Agreement and any construction project that is funded in any part with grant funds from the Federal Airport Improvement Program or otherwise subject to FAA regulatory requirements, including but not limited to 49 CFR Part 26 (“Applicable Construction Projects”). Lessee shall insert in any subcontracts for Applicable Construction Projects the clauses set forth in this Schedule 5A and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The subcontractor or lower tier subcontracts to which these provisions shall be incorporated include not only those with construction contractors, but also with construction planners, engineers and consultants for the Applicable Construction Project. Lessee must also incorporate the applicable requirements of these provisions by reference for work done under any purchase orders, rental agreements, and other agreements for supplies or services for Applicable Construction Projects. Lessee shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth this Schedule 5A.

In each instance where Lessee issues a solicitation for bid under for an Applicable Construction Project or a subcontractor of Lessee issues a solicitation for bid for an Applicable Construction Project, it must incorporate any applicable solicitation notice language mandated by the FAA in the document titled Required Contract Provisions for AIP and Obligated Sponsors, as amended from time to time, which may be found at: https://www.faa.gov/airports/aip/procurement/federal_contract_provisions.

In each instance where Lessee enters into a subcontract or other agreement to which these requirements apply, the subcontractor or service provider name must be substituted for Lessee.

A. Compliance with Nondiscrimination Requirements. During the performance of this Agreement, Lessee for itself, its assignees, and successors in interest, agrees with the Authority as follows:

1. **Compliance with Regulations:** Lessee will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. **Non-discrimination:** Lessee, with regard to the work performed by it during the term of this Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of contractors, including procurements of materials and leases of equipment. Lessee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

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3. **Solicitations for Agreements, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential contractor or supplier will be notified by Lessee of Lessee's obligations under this Agreement and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** Lessee 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 Lessee is in the exclusive possession of another who fails or refuses to furnish the information, Lessee will so certify to Authority 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 Lessee's noncompliance with the Non-discrimination provisions of this Agreement, Authority will impose such sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to (a) withholding payments to Lessee under the Agreement until Lessee complies, or (b) cancelling, terminating, or suspending the Agreement, in whole or in part.
6. **Incorporation of Provisions:** Lessee will include the provisions of paragraphs one through six of this Schedule 5A, Section (A) in every contract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Lessee will take action with respect to any contract or procurement as Authority or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Lessee becomes involved in, or is threatened with litigation by a contractor, or supplier because of such direction, Lessee may request Authority to enter into any litigation to protect the interests of Authority. In addition, Lessee may request the United States to enter into the litigation to protect the interests of the United States.

B. Real Property Acquired or Improved Under the Airport Improvement Program. Lessee for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that 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, Lessee will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded

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from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

C. Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program. Lessee for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree 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, and (3) that Lessee will furnish its services in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.

D. Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this Agreement, Lessee, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- ii. 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);
- iii. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- iv. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- v. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- vi. 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);
- vii. 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);

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- viii. 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 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
- ix. The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- x. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination 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;
- xi. 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); and
- xii. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

E. General Civil Rights Provision. Lessee agrees to comply with pertinent 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. This provision binds Lessee and its subcontractors from the bid solicitation period through the completion of this Agreement. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

F. Right of Re-entry. In the event of breach of any of the above Nondiscrimination covenants, Authority will have the right to terminate the Agreement and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Agreement had never been made or issued.

G. Subcontracts. Lessee agrees that it shall insert the above six provisions (Section (A) through Section (F)) in any agreement by which Lessee grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public under this Agreement.

H. Fair Labor Standards Act. This Agreement incorporates by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers. Lessee has full responsibility to monitor its own

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and its subcontractors' compliance with the referenced statute or regulation. Lessee must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

I. Occupational Safety and Health Act. This Agreement incorporates by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Lessee and its subcontractors must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Lessee retains full responsibility to monitor its compliance and any subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Lessee must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

J. Access to Records and Reports. Lessee must maintain an acceptable cost accounting system. Lessee agrees to provide Authority, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of Lessee which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. Lessee agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

K. Clean Air and Water Pollution Control. Lessee agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC §§ 740-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). Lessee agrees to report any violation to Authority immediately upon discovery. Authority assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration. Lessee must include this requirement in all subcontracts that exceeds \$150,000.

L. Contract Workhours and Safety Standards Act Requirements.

i. No contractor or subcontractor contracting for any part of Services which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

ii. In the event of any violation of the clause set forth in paragraph (a) of this Section (L), Lessee and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Lessee and its subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (i) of this Section (L), in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (i) of this Section(L).

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iii. FAA or Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Lessee or its subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (ii) of this Section (L).

iv. Lessee and its subcontractors shall insert in any subcontracts the clauses set forth in paragraphs (a) through (d) of this Section (L) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. Lessee shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (i) through (iv) of this Section (L).

M. Debarment and Suspension. Lessee, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, must verify each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. Lessee will accomplish this by:

i. Checking the System for Award Management at the following website:
<http://www.sam.gov>.

ii. Collecting a certification statement similar to the Certification of Offerer /Bidder Regarding Debarment, above.

iii. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

N. Texting When Driving. In accordance with Executive Order 13513, “Federal Leadership on Reducing Text Messaging While Driving”, (10/1/2009) and DOT Order 3902.10, “Text Messaging While Driving”, (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant. In support of this initiative, Authority encourages Lessee to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with this Agreement. Lessee must include the substance of this clause in all sub-tier contracts exceeding \$3,500 that involve driving a motor vehicle in performance of work activities associated with this Agreement.

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O. Energy Conservation Requirements. Lessee agrees to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201, *et seq.*).

P. Equal Opportunity Clause.

During the performance of this Agreement, Lessee agrees as follows:

i. Lessee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Lessee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

ii. Lessee will, in all solicitations or advertisements for employees placed by or on behalf of Lessee, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

iii. Lessee will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of Lessee's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

iv. Lessee will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

v. Lessee will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

vi. In the event of Lessee's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and Lessee may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

vii. Lessee will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (vii) in every subcontract or purchase

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order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Lessee will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency Lessee may request the United States to enter into such litigation to protect the interests of the United States.

Q. Equal Employment Opportunity Specifications.

i. As used in these specifications:

1. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

2. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;

3. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;

4. "Minority" includes:

(A) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(B) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);

(C) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(D) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

ii. Whenever the Lessee, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

iii. If the Lessee is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually

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or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Guidelines for Contract Provisions for Obligated Sponsors and Airport Improvement Program Projects contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

iv. The Lessee shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Lessee should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Lessee is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

v. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the Lessee has a collective bargaining agreement to refer either minorities or women shall excuse the Lessee's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

vi. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the Lessee during the training period and the Lessee shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.

vii. The Lessee shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Lessee's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Lessee shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

1. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Lessee's employees are assigned to work. The Lessee, where possible, will assign two or more women to each construction project. The Lessee shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Lessee's obligation

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to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

2. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Lessee or its unions have employment opportunities available, and maintain a record of the organizations' responses.

3. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Lessee by the union or, if referred, not employed by the Lessee, this shall be documented in the file with the reason therefore along with whatever additional actions the Lessee may have taken.

4. Provide immediate written notification to the Director when the union or unions with which the Lessee has a collective bargaining agreement has not referred to the Lessee a minority person or female sent by the Lessee, or when the Lessee has other information that the union referral process has impeded the Lessee's efforts to meet its obligations.

5. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Lessee's employment needs, especially those programs funded or approved by the Department of Labor. The Lessee shall provide notice of these programs to the sources compiled under 7b above.

6. Disseminate the Lessee's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Lessee in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

7. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions, including specific review of these items, with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

8. Disseminate the Lessee's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media,

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and providing written notification to and discussing the Lessee's EEO policy with other contractors and subcontractors with whom the Lessee does or anticipates doing business.

9. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the Lessee's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Lessee shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

10. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.

11. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

12. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

13. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Lessee's obligations under these specifications are being carried out.

14. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

15. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

16. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Lessee's EEO policies and affirmative action obligations.

viii. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations. The efforts of a contractor association, joint contractor union, contractor community, or other similar groups of which the Lessee is a member and participant may be asserted as fulfilling any one or more of its obligations under (vii)(1) through (vii)(16) of these specifications provided that the Lessee actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the

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program are reflected in the Lessee's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Lessee. The obligation to comply, however, is the Lessee's and failure of such a group to fulfill an obligation shall not be a defense for the Lessee's noncompliance.

ix. A single goal for minorities and a separate single goal for women have been established. The Lessee, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the Lessee has achieved its goals for women generally), the Lessee may be in violation of the Executive Order if a specific minority group of women is underutilized.

x. The Lessee shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

xi. The Lessee shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

xii. The Lessee shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

xiii. The Lessee, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Lessee fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.

xiv. The Lessee shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

xv. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application

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of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

R. Disadvantaged Business Enterprises.

i. **Contract Assurance (§ 26.13)** - Lessee or its subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Lessee shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-assisted contracts. Failure by Lessee to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as Authority deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the Lessee from future bidding as non-responsible.

ii. **Prompt Payment (§26.29)** - Lessee agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than 30 days from the receipt of each payment Lessee receives from Authority. Lessee agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of Authority. This clause applies to both DBE and non-DBE subcontractors.

S. Trade Restriction Certification. By submission of an offer and entering into this Agreement, Lessee certifies that with respect to this solicitation and the resultant Agreement, Lessee –

i. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);

ii. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and

iii. has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

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This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC Section 1001.

Lessee must provide immediate written notice to Authority if Lessee learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. Lessee must require subcontractors to provide immediate written notice to Lessee if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to Lessee or any subcontractor:

- i. who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or
- ii. whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
- iii. who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Lessee agrees that it will incorporate this provision for certification without modification in all lower tier subcontracts. Lessee may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless Lessee has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that Lessee or its subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Authority cancellation of this Agreement for default at no cost to Authority or the FAA.

T. Certification Regarding Lobbying.

Lessee certifies, to the best of his or her knowledge and belief, that:

- i. No Federal appropriated funds have been paid or will be paid, by or on behalf of Lessee, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and

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the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

ii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, Lessee shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

iii. Lessee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

U. Veteran's Preference. In the employment of labor (excluding executive, administrative, and supervisory positions), Lessee and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC § 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

V. Buy American Preference Statement. The Lessee agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

W. Davis-Bacon Requirements.

i. Minimum Wages.

1. All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any

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contractual relationship which may be alleged to exist between the Lessee and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Lessee and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

2. The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(A) The work to be performed by the classification requested is not performed by a classification in the wage determination;

(B) The classification is utilized in the area by the construction industry; and

(C) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

3. If the Lessee and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

4. In the event the Lessee, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the

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proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

5. The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (i)(3) or (4) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

6. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

7. If the Lessee does not make payments to a trustee or other third person, the Lessee may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program: Provided that the Secretary of Labor has found, upon the written request of the Lessee, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Lessee to set aside in a separate account assets for the meeting of obligations under the plan or program.

ii. Withholding. The Federal Aviation Administration or the sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Lessee under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Lessee or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the Lessee, Sponsor, Applicant, or Authority, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

iii. Payrolls and Basic Records

1. Payrolls and basic records relating thereto shall be maintained by the Lessee during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described

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in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Lessee shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and that show the costs anticipated or the actual costs incurred in providing such benefits. Lessees employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

2. The Lessee shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Lessee will submit the payrolls to the applicant, Sponsor, or Authority, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at www.dol.gov/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Lessees and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Lessee will submit them to the applicant, sponsor, or Authority, as the case may be, for transmission to the Federal Aviation Administration, the Lessee, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Authority).

3. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Lessee or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(A) The payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

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(B) Each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;

(C) Each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

4. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (iii)(3) of this section.

5. The falsification of any of the above certifications may subject the Lessee or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

6. The Lessee or subcontractor shall make the records required under paragraph (iii)(1) of this section available for inspection, copying, or transcription by authorized representatives of the sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Lessee or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Lessee, Sponsor, applicant, or Authority, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

iv. Apprentices and Trainees

1. Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable

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wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Lessee's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Lessee will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

2. Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Lessee will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

3. Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

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v. Compliance with Copeland Act Requirements. The Lessee shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

vi. Subcontracts. The Lessee or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR Part 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

vii. Contract Termination: Debarment. A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

viii. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

ix. Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Lessee (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

x. Certification of Eligibility.

1. By entering into this contract, the Lessee certifies that neither it (nor he or she) nor any person or firm who has an interest in the Lessee's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

2. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

3. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001.

X. Copeland "Anti-Kickback" Act. Lessee must comply with the requirements of the Copeland "Anti-Kickback" Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Lessee and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Lessee and each Subcontractor must submit to the Authority, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Authority must report any violations of the Act to the Federal Aviation Administration.

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Y. Prohibition of Segregated Facilities.

i. The Lessee agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Lessee agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.

ii. “Segregated facilities,” as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

iii. The Lessee shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.

Z. Right to Inventions. Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Authority in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within 37 CFR §401.14. Lessee must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

AA. Seismic Safety. The Lessee agrees to ensure that all work performed under this contract, including work performed by subcontractors, conforms to a building code standard that provides a level of seismic safety substantially equivalent to standards established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety.

BB. Procurement of Recovered Materials. Lessee and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Lessee and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever: (1) the contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or (2) the contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

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Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is: (1) not reasonably available within a timeframe providing for compliance with the contract performance schedule; (2) fails to meet reasonable contract performance requirements; or (3) is only available at an unreasonable price.

CC. Tax Delinquency and Felony Convictions. The Lessee represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. The Lessee further represents that it is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

DD. Breach of Contract Terms. Any violation or breach of terms of this contract on the part of the Lessee or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. Authority will provide Lessee written notice that describes the nature of the breach and corrective actions the Lessee must undertake in order to avoid termination of the contract. Authority reserves the right to withhold payments to Lessee until such time the Lessee corrects the breach or the Authority elects to terminate the contract. The Authority's notice will identify a specific date by which the Lessee must correct the breach. Authority may proceed with termination of the contract if the Lessee fails to correct the breach by the deadline indicated in the Authority's notice. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

SCHEDULE 6: SINGLE PURPOSE COVENANTS

1. AFFIRMATIVE UNDERTAKINGS

Lessee will, at all times during the Term:

- 1.1 be formed and organized solely for the purpose of providing the Terminal Facilities Services and using, maintaining, and operating the Terminal Facilities and Assets and collecting Terminal Facilities Fees and carrying out the Terminal Facilities Services and other activities permitted pursuant to this Agreement (and any activities reasonably incidental thereto);
- 1.2 observe all corporate, limited partnership or limited liability company, as applicable, formalities and do all things necessary to preserve its existence;
- 1.3 except as appropriate for Tax reporting purposes, maintain its own separate books and records and its own accounts, in each case that are separate and apart from the books and records of any other Person; provided that Lessee's assets may be included in a consolidated financial statement of a direct or indirect shareholder or other owner of a beneficial interest of Lessee if inclusion on such consolidated financial statement is required to comply with the requirement of generally accepted accounting principles of the relevant jurisdiction, but only if:
 - a. such consolidated financial statement are appropriately footnoted to the effect that Lessee's assets are owned by Lessee and that they are being included on the consolidated financial statement of such shareholder or other owner of a beneficial interest only to comply with the requirements of generally accepted accounting principles of the relevant jurisdiction; and
 - b. such assets are listed on Lessee's own separate balance sheet;
- 1.4 except as noted in clause 1.3 above, maintain separate financial statements and file its own Tax returns (to the extent required by applicable Law);
- 1.5 hold itself out as being a Person, separate and apart from any other Person (and correct any known misunderstanding regarding its separate identity), conduct its own business in its own name, independently and through its own authorized officers and agents;
- 1.6 pay its own debts and liabilities when they become due out of its own funds;
- 1.7 have sufficient officers and personnel to run its business operations and to supervise its Subcontractors;
- 1.8 pay the salaries of its own employees, if any, and maintain a sufficient number of employees in light of its contemplated business operations;
- 1.9 maintain adequate capital in light of its contemplated business operations;
- 1.10 observe all customary organizational and operational formalities, including taking and maintaining of corporate minutes of all member, manager, shareholder, board or similar meetings;
- 1.11 maintain an arm's length relationship with its Affiliates and enter into transactions with Affiliates only on a commercially reasonable basis and pursuant to enforceable agreements;
- 1.12 have organizational documents which do not conflict with the requirements set forth in this Schedule 6.

2. NEGATIVE UNDERTAKINGS

Lessee will not, at all times during the Term, without the Authority's prior approval:

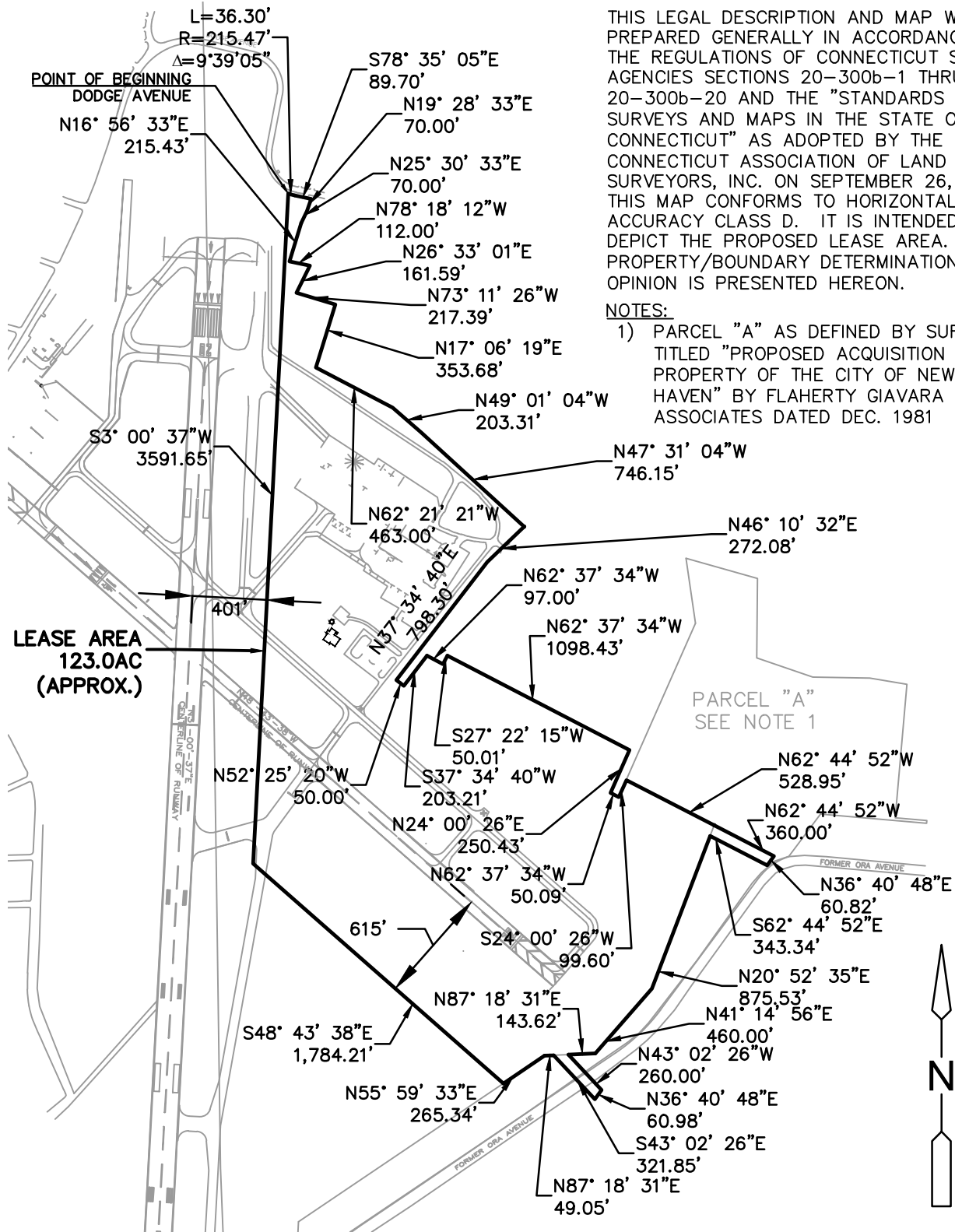
- 2.1 engage in (or permit any other Person to engage in) any business unrelated to clause 1.1;

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- 2.2** have any assets or liabilities other than those related to its activities in accordance with clauses 1.1 and 2.1;
- 2.3** guarantee or otherwise obligate itself with respect to the debts of any other Person, or hold out its credit as being available to satisfy the debts or obligations of any other Person, except in connection with a securitization by Lessee of its assets, in whole or in part;
- 2.4** except as expressly permitted hereby or by any Mortgage, or in connection in the ordinary course of business of the Terminal Facilities and Assets, pledge its assets for the benefit of any other Person or make any loans or advances to any other Person;
- 2.5** commingle its funds or assets with those of any other Person; or
- 2.6** acquire obligations of or securities issued by its shareholders, partners or members, as applicable, other than loans by such entities to Lessee, except in connection with a securitization by Lessee of its assets, in whole or in part.

Exhibit A
Leased Property

FILE PATH: H:\Projects\21084 - AvPorts HVN Lease Area Survey\AutoCAD\IS\airport boundary check.dwg PLOT DATE: 3/4/2022 PLOT TIME: 10:49:10 AM



THIS LEGAL DESCRIPTION AND MAP WERE PREPARED GENERALLY IN ACCORDANCE WITH THE REGULATIONS OF CONNECTICUT STATE AGENCIES SECTIONS 20-300b-1 THRU 20-300b-20 AND THE "STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT" AS ADOPTED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. ON SEPTEMBER 26, 1996. THIS MAP CONFORMS TO HORIZONTAL ACCURACY CLASS D. IT IS INTENDED TO DEPICT THE PROPOSED LEASE AREA. NO PROPERTY/BOUNDARY DETERMINATION OPINION IS PRESENTED HEREON.

NOTES:

- 1) PARCEL "A" AS DEFINED BY SURVEY TITLED "PROPOSED ACQUISITION PROPERTY OF THE CITY OF NEW HAVEN" BY FLAHERTY GIAVARA ASSOCIATES DATED DEC. 1981

Project Owner:	Sheet Name: AvPorts Tweed New Haven Airport Lease Area			
	Description: Lease Area Exhibit			
Prepared By:	Project Name: Tweed New Haven Airport		Revised Dwg: SK-1	
	Project Address: East Haven, CT		Sheet Name:	
Scale:	Date:	Drawn By:	Checked By:	
1"=800'	3/1/22	FW	JT	

Description of Lease Area
Tweed New Haven Airport
East Haven, CT

Being that a certain area of land on the property owned by the City of New Haven and leased to the Tweed New Haven Airport Authority containing 123.0 acres, more or less, situated in the Town of East Haven, State of Connecticut and being shown on a map entitled: “AvPorts Tweed New Haven Airport Lease Area”, prepared by ZUVIC Inc. and dated March 1, 2022. The bearings provided below are based on the map entitled “Exhibit A – Property Map, Tweed New Haven Regional Airport, Airport Layout Plan”, prepared by Greiner Surveying & Mapping, dated November 1989, and updated April 21, 2021.

Said lease area is more particularly bounded and described as follows:

Beginning at a point on the southerly right-of-way line of Dodge Avenue, said point being the northwesterly corner of the herein described lease area, said point located at the intersection of a 401 foot offset of the centerline of Runway 2-20 and the southerly right-of-way line of Dodge Avenue;

Thence running along a line parallel to and offset 401 feet east of the Runway centerline of Runway 2-20, said line bearing south 3° 00' 37" west 3,591.65 feet to a point;

Thence running along a line parallel to and offset 615 feet south of the centerline of Runway 14-42, said line bearing south 48° 43' 38" east 1,784.21 feet to a point on the westerly line of Parcel A, as described in the map entitled “East Haven Industrial Park, Proposed Acquisition Property of the City of New Haven”, prepared by Flaherty Giavana Associates dated December 1981;

Thence running along the westerly line of Parcel A the following courses:
north 55° 59' 33" east 265.34 feet;
north 87° 18' 31" east 49.05 feet to a point, said point being the westerly corner of the south 60 foot right-of-way (more or less) as defined by the drawing entitled “Height Restrictions and Clear Zone, East Haven Industrial Park” prepared by Leonard Smith dated December 8, 1986;

Thence running along the right-of-way the following courses:
south 43° 02' 26" east 321.85 feet,
north 36° 40' 48" east 60.98 feet,
north 43° 02' 26" west 260.00 feet to a point on the westerly line of Parcel A;

Thence running along the westerly line of Parcel A the following courses:
north 87° 18' 31" east 143.62 feet;
north 41° 14' 56" east 460.00 feet;

north 20° 52' 35" east 875.53 feet to a point, said point being the westerly corner of the north 60 foot right-of-way (more or less) as defined by the drawing entitled "Height Restrictions and Clear Zone, East Haven Industrial Park" prepared by Leonard Smith dated December 8, 1986;

Thence running along the right-of-way the following courses:
south 62° 44' 52" east 343.34 feet,
north 36° 40' 48" east 60.82 feet,
north 62° 44' 52" west 360.00 feet to a point on the westerly line of Parcel A;

Thence running north 62° 44' 52" west 528.95 feet to a point;

Thence running south 24° 00' 26" west 99.60 feet to a point;

Thence running north 62° 37' 34" west 50.09 feet to a point;

Thence running north 24° 00' 26" east 250.43 feet to a point;

Thence running north 62° 37' 34" west 1,098.43 feet to a point;

Thence running south 27° 22' 15" west 50.01 feet to a point;

Thence running north 62° 37' 34" west 97.00 feet to a point;

Thence running south 37° 34' 40" west 203.21 feet to a point;

Thence running north 52° 25' 20" west 50.00 feet to a point;

Thence running north 37° 34' 40" east 798.30 feet to a point;

Thence running north 46° 10' 32" east 272.08 feet to a point;

Thence running north 47° 31' 04" west 746.15 feet to a point;

Thence running north 49° 01' 04" west 203.31 feet to a point;

Thence running north 62° 21' 21" west 463.00 feet to a point;

Thence running north 17° 06' 19" east 353.68 feet to a point;

Thence running north 73° 11' 26" west 217.39 feet to a point;

Thence running north 26° 33' 01" east 161.59 feet to a point;

Thence running north 78° 18' 12" west 112.00 feet to a point;

Thence running north 16° 56' 33" east 215.43 feet to a point;

Thence running north 25° 30' 33" east 70.00 feet to a point;

Thence running north 19° 28' 33" east 70.00 feet to a point on the southerly right-of way of Dodge Avenue;

Thence running westerly along the southerly right of way of Dodge Avenue 126 feet, more or less, to the point of beginning.

Exhibit B
Terminal Footprint

DRAWING HISTORY

NO.	DATE	DESCRIPTION
1	12/17/2021	ENVIRONMENT ASSESSMENT
2	02/10/2022	TERMINAL FOOTPRINT UPDATE
4	04/10/2022	TERMINAL FOOTPRINT UPDATE



NEW TERMINAL FOOTPRINT
LOCATION IS APPROXIMATE AND FOR ILLUSTRATIVE PURPOSES ONLY

All depictions, other than New Terminal footprint, are for illustrative purposes only

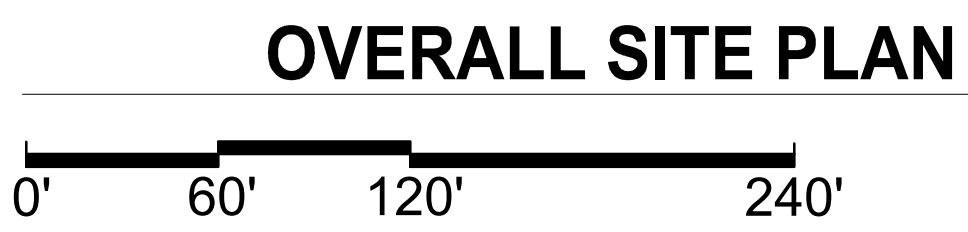
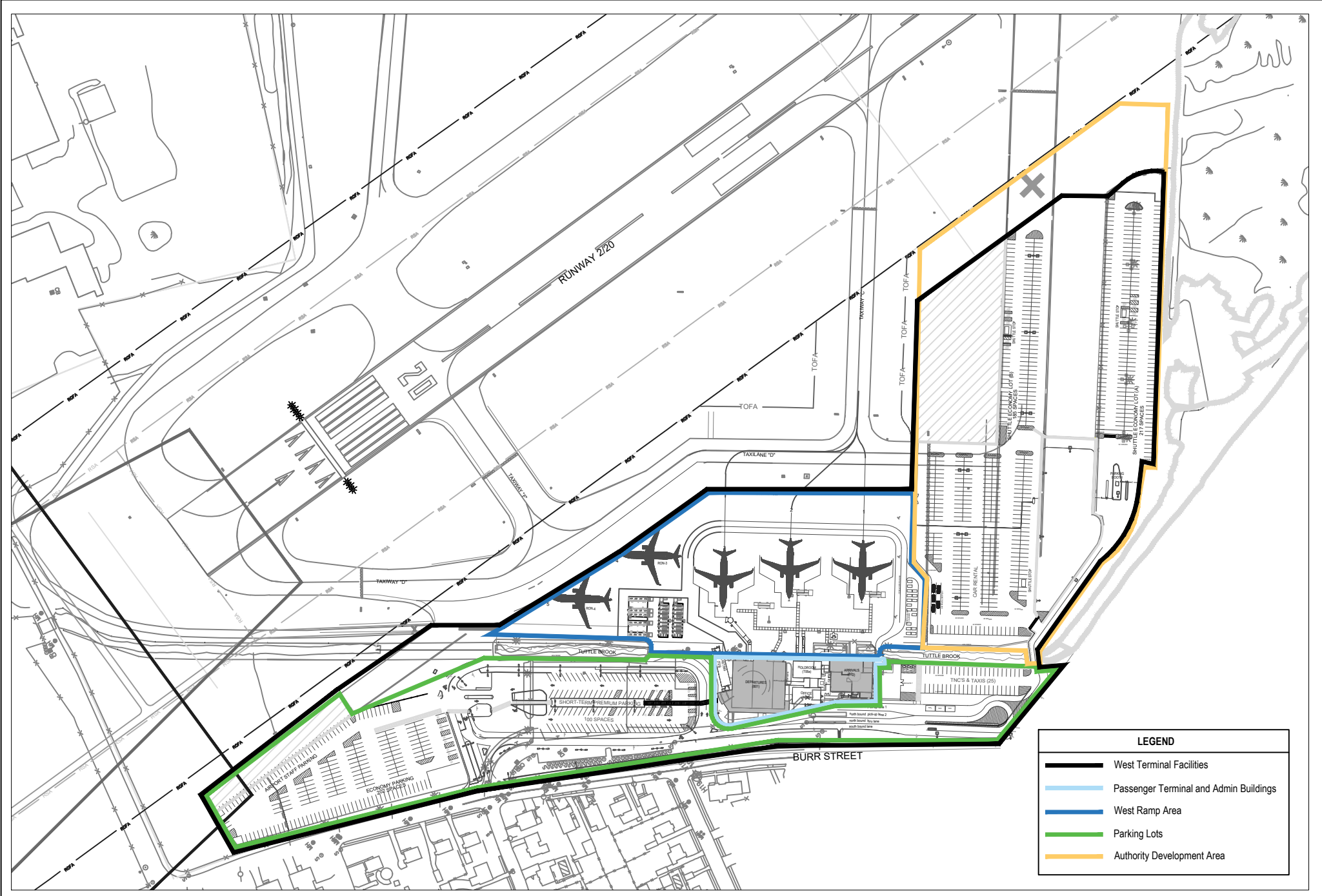







Exhibit C
Form of Airfield Operating Budget

AVPORTS EXPENSES	AIRFIELD
52000 AVPORTS PERSONNEL	
52001 Airport Administration Salaries	\$ 217,077.21
52002 Maintenance Salaries	\$ 214,729.54
52003 Airport Operations Salaries	\$ 654,251.42
52004 Overtime	\$ 108,685.47
52005 401K	\$ 21,582.13
52006 Medical Insurance Premiums & HSA	\$ 161,817.80
52007 Dental Insurance	\$ 8,278.20
52008 Life Insurance / AD&D / ST,LT Disability	\$ 4,716.60
52009 Workers Compensation	\$ 17,043.60
52010 Employee Benefit Contributions	\$ (30,802.82)
52011 Payroll Taxes	\$ 100,081.40
52012 Payroll Processing Fees	\$ 3,759.07
52013 Employee Drug Testing	\$ 3,402.39
Total 52000 AVPORTS PERSONNEL	\$ 1,484,622.01
53000 FACILITY EXPENSES	
53001 Utilities - Electric	\$ 105,962.47
53002 Utilities - Other	\$ 58,110.55
53003 Fuel - Gasoline, Diesel, Heating Oil	\$ 54,485.10
53004 Building Maintenance	\$ 45,000.00
53005 Service / Maintenance Agreements	\$ -
53006 Outside Support Services	\$ 145,000.00
53007 Environmental Safety, Glycol Testing, USDA	\$ 53,514.00
53008 Glycol System / Tide Gate Maintenance	\$ 20,679.00
53009 Security Systems Maintenance	\$ 55,243.00
53010 Concessions / Vending Supplies	
Total 53000 FACILITY EXPENSES	\$ 537,994.12
54000 AIRPORT MAINTENANCE	
54001 Airfield & General Maintenance	\$ 276,023.14
54002 Vehicle & Equipment Maintenance	\$ 82,748.91
Total 54000 AIRPORT MAINTENANCE	\$ 358,772.05
59000 AIRSIDE ADMINISTRATION	
59001 Travel & Transportation	\$ 10,500.00
59002 Training & Workshops	\$ 26,291.36
59003 Airport Ops Contracts, Supplies & Equip	\$ 137,900.00
59004 Uniforms	\$ 24,299.43
59005 Equipment Rental / Leases	\$ -
59006 Delivery Services	\$ -
59007 Office Equipment / Supplies	\$ 6,138.05
59008 Dues / Subscriptions / Licences / Permits	\$ 11,489.87
59009 Operating Standards Reporting	\$ -
59010 Miscellaneous Supplies & Expenses	\$ 13,563.54
59011-14 Insurance	\$ 187,993.30
59016 Management Fee	\$ 140,000.00
59017 ASD Fees	\$ -
59018 Avports Engineering Fees	\$ -
Total 59000 AIRSIDE ADMINISTRATION	\$ 558,175.55
TOTAL COST (EXCL. CONTINGENCY)	\$ 2,939,563.72
CONTINENCY	\$ 139,978.19
TOTAL COST	\$ 3,079,541.91

Exhibit D
West Terminal Facilities



LEGEND	
	West Terminal Facilities
	Passenger Terminal and Admin Buildings
	West Ramp Area
	Parking Lots
	Authority Development Area

WEST TERMINAL FACILITIES

TWEED-NEW HAVEN REGIONAL AIRPORT

AVPORTS
 AIRPORT ENGINEERING & TECHNICAL SERVICES DEPT.
 1032 1st Street,
 New Windsor, NY 12553
 Tel: (703) 288-8595

Designed by:
 Rasmus Agerskov
 Drawn By:
 Johnson Chang-Fong

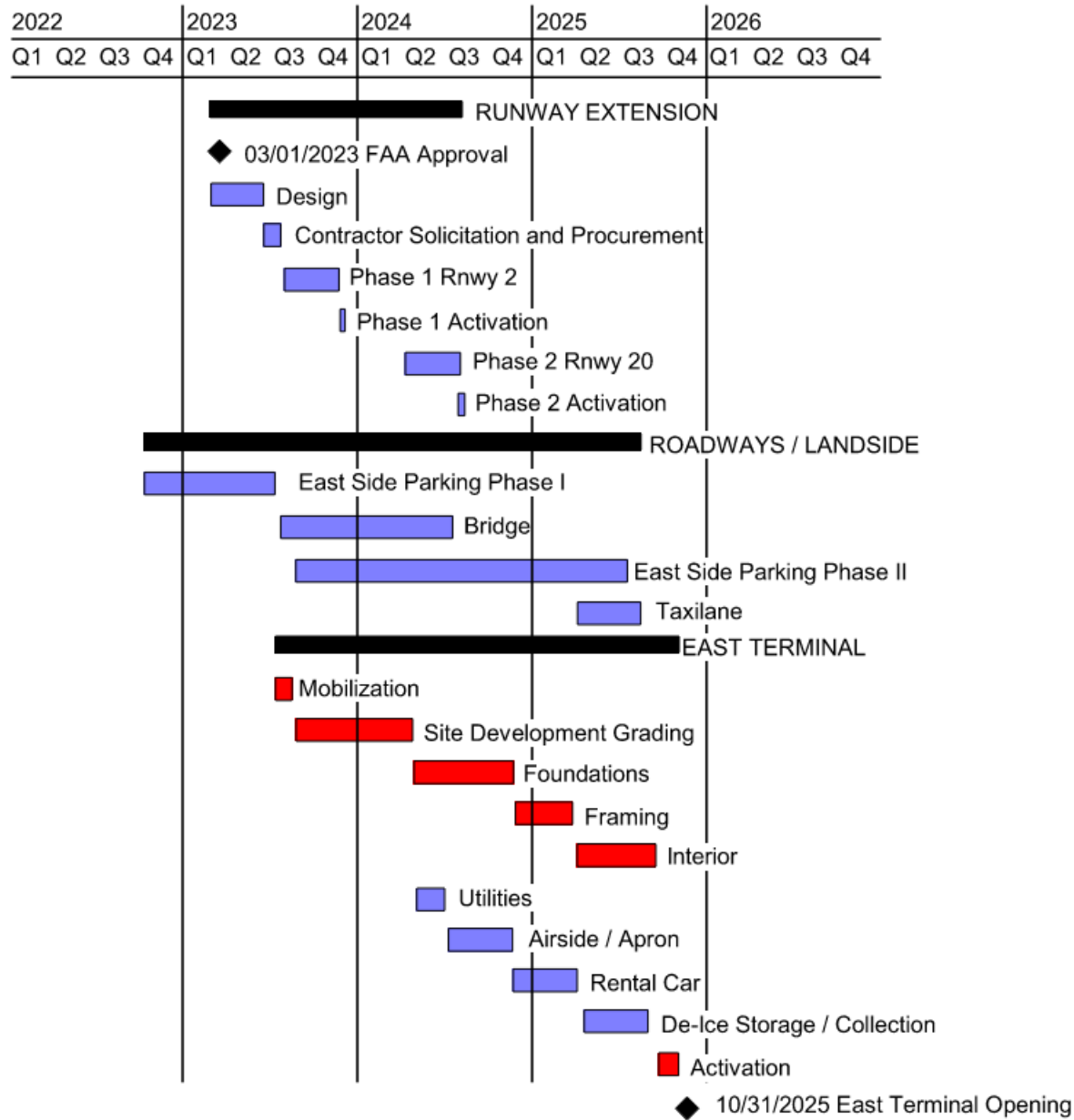
Date:
 August 11, 2022
 Scale:
 Do Not Scale

Sheet No:
A1

Exhibit E
Overflow Lot Area

Exhibit F
Projects Schedule

EXHIBIT F PROJECT SCHEDULE



INTERIM DESIGN

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8/5/2022 11:01:28 AM

FP1

HVN EAST TERMINAL
PROJECT SCHEDULE

08/05/22

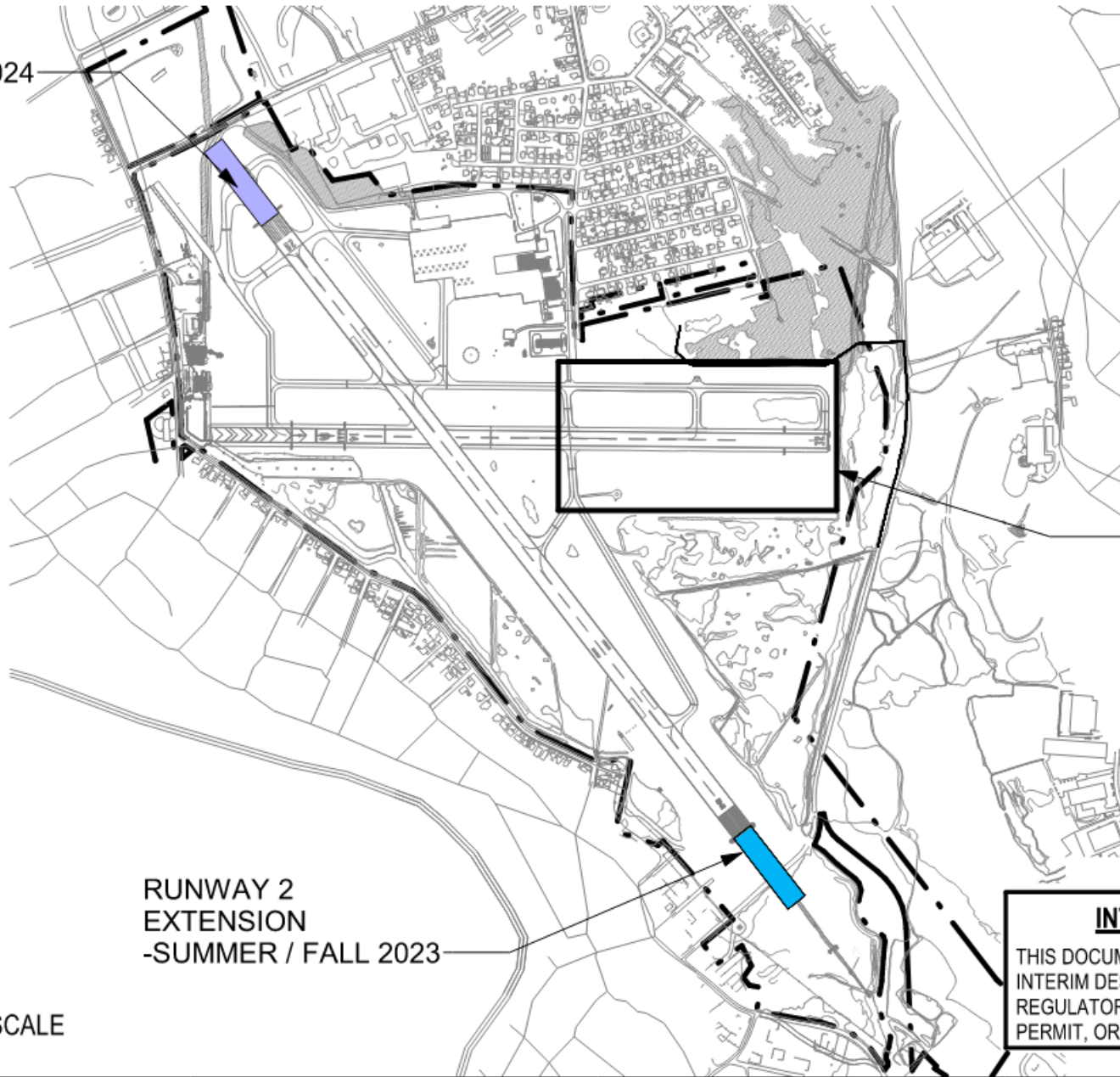


TWEED
NEW HAVEN
AIRPORT



EXHIBIT F PROJECT SCHEDULE

RUNWAY 20
EXTENSION
-SPRING / FALL 2024



RUNWAY 2
EXTENSION
-SUMMER / FALL 2023

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PLAN
NORTH



NOT TO SCALE

FP2

HVN EAST TERMINAL
OVERALL PHASING PLAN

08/05/22

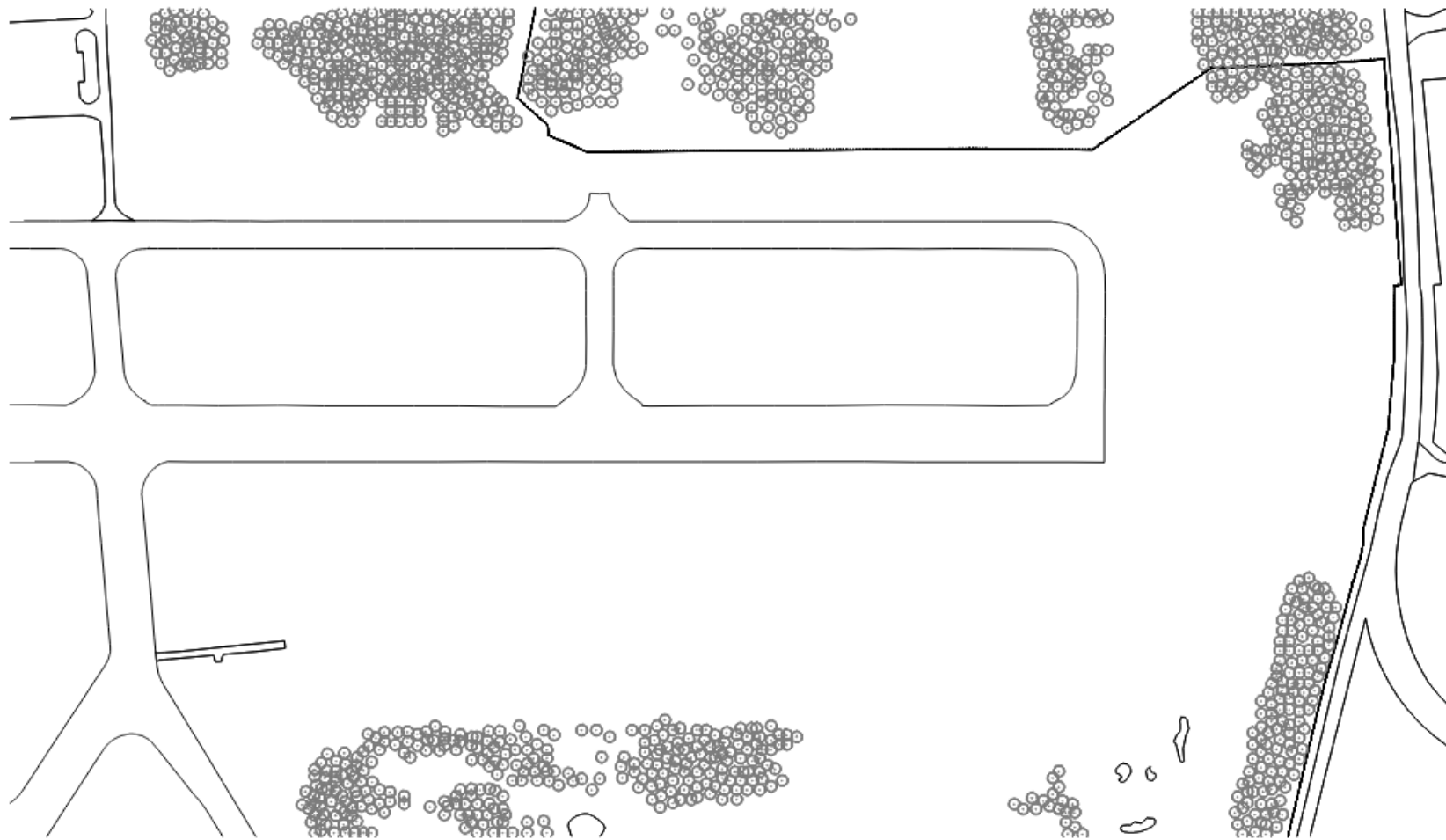


TWEED
NEW HAVEN
AIRPORT

AVP ARTS



EXHIBIT F PROJECT SCHEDULE



8/5/2022 11:01:40 AM

PLAN
NORTH



0 300'-0" 600'-0"

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FP3

HVN EAST TERMINAL- EXISTING
PHASING PLAN

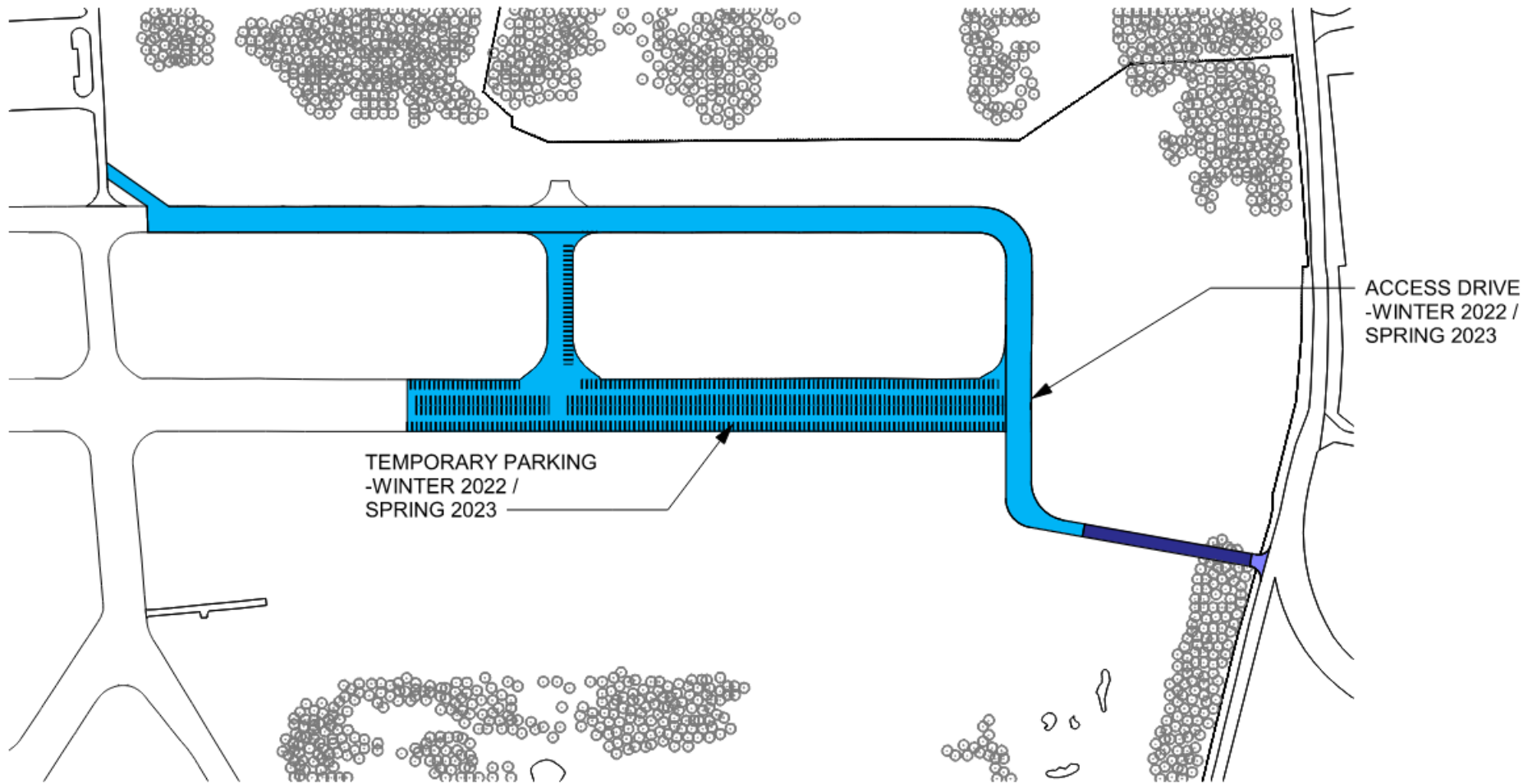
08/05/22



TWEED
NEW HAVEN
AIRPORT



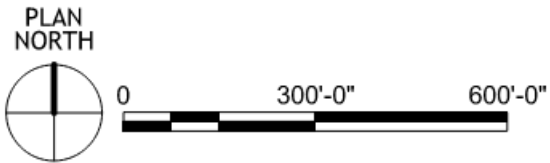
EXHIBIT F PROJECT SCHEDULE



TOTAL PARKING COUNT: 500 SPACES

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8/5/2022 11:02:53 AM



FP4

HVN EAST TERMINAL- PARKING PHASE I
PHASING PLAN

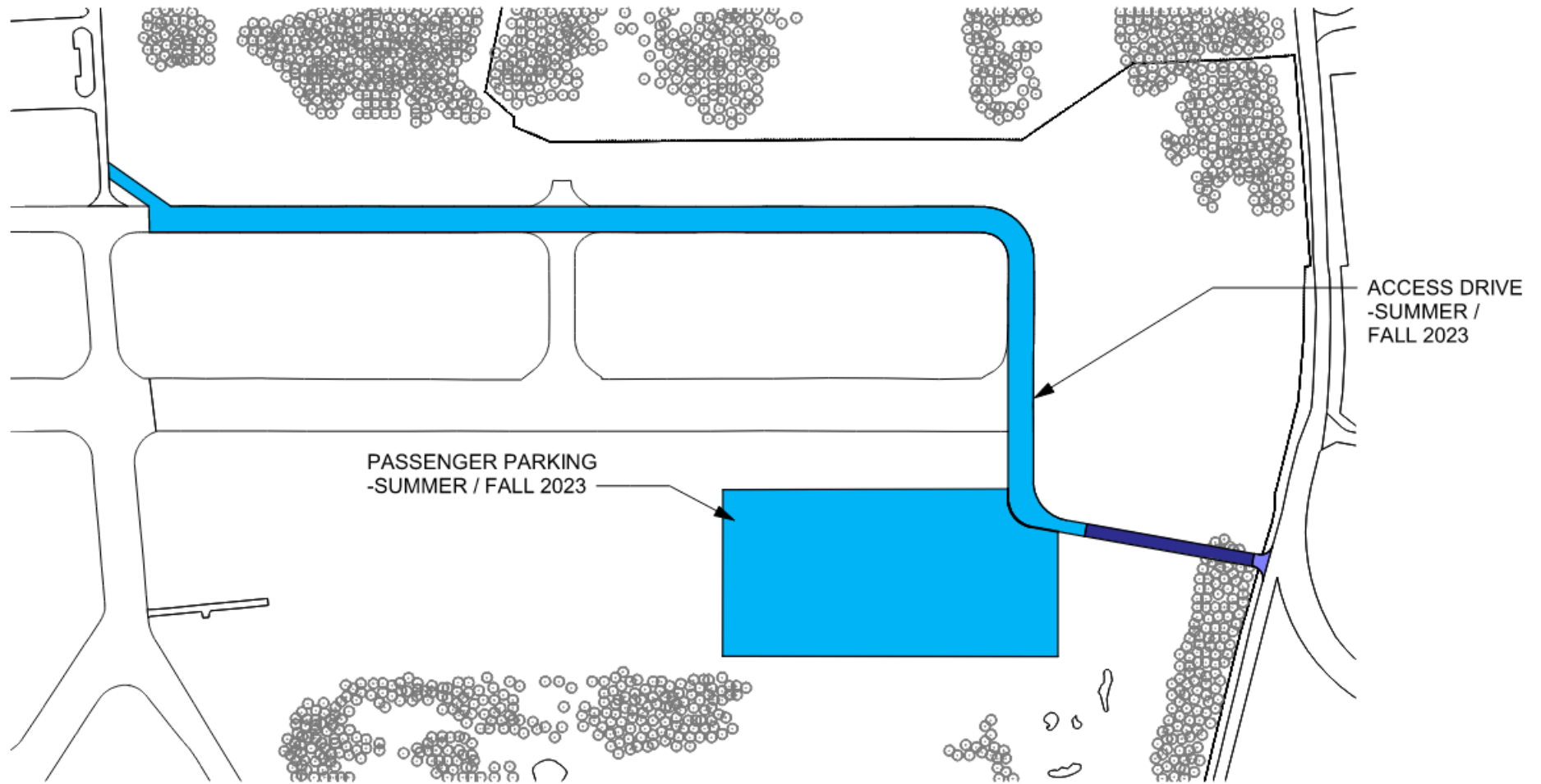
08/05/22



TWEED
NEW HAVEN
AIRPORT



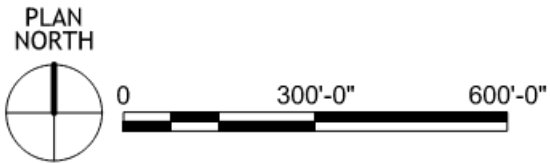
EXHIBIT F PROJECT SCHEDULE



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8/5/2022 11:03:02 AM



FP5

HVN EAST TERMINAL- PARKING PHASE II
PHASING PLAN

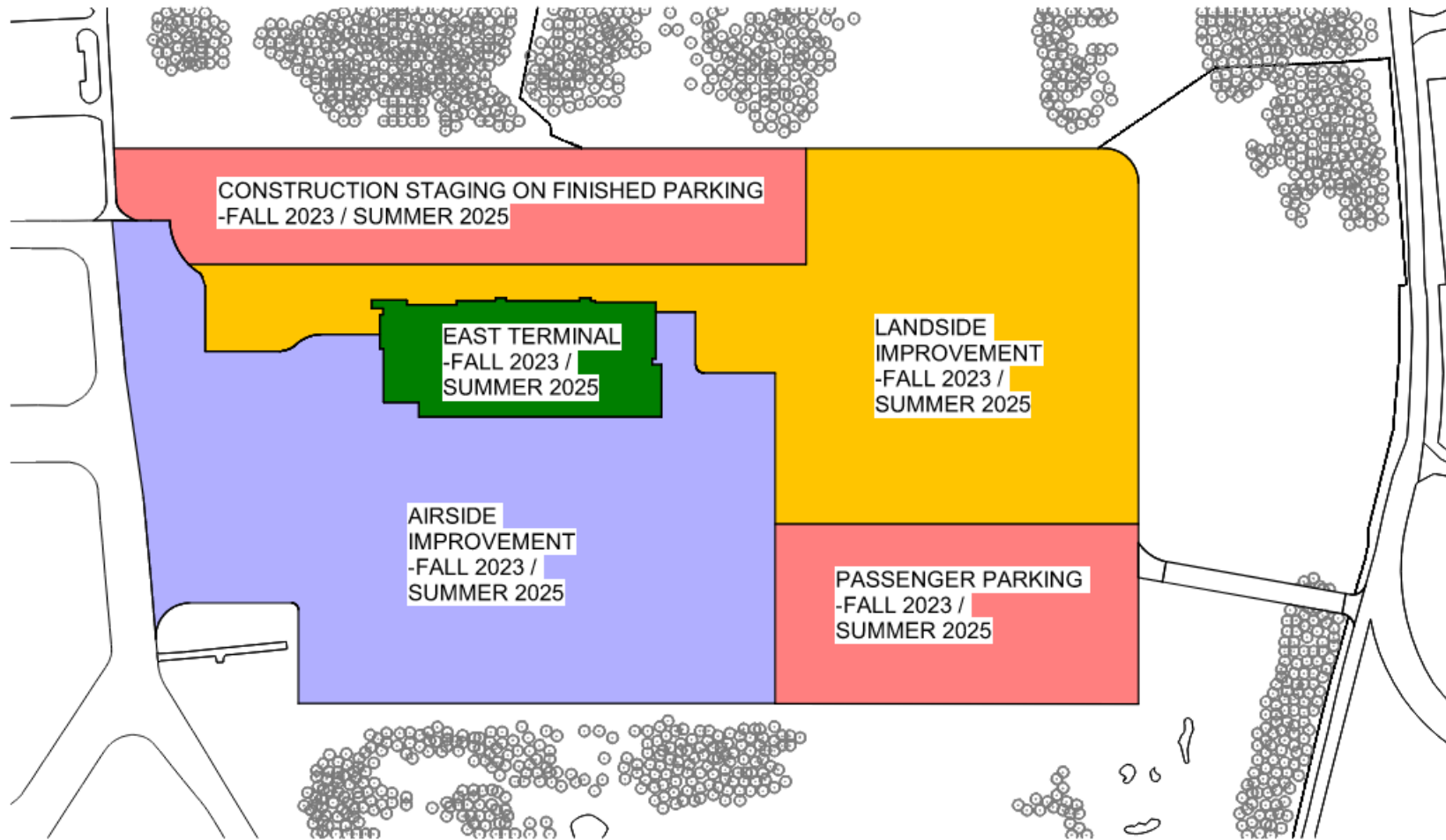
08/05/22



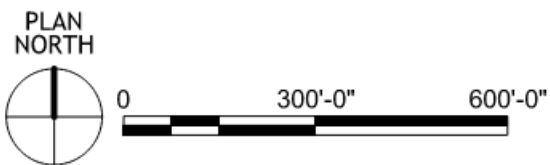
TWEED
NEW HAVEN
AIRPORT



EXHIBIT F PROJECT SCHEDULE



8/5/2022 11:41:48 AM



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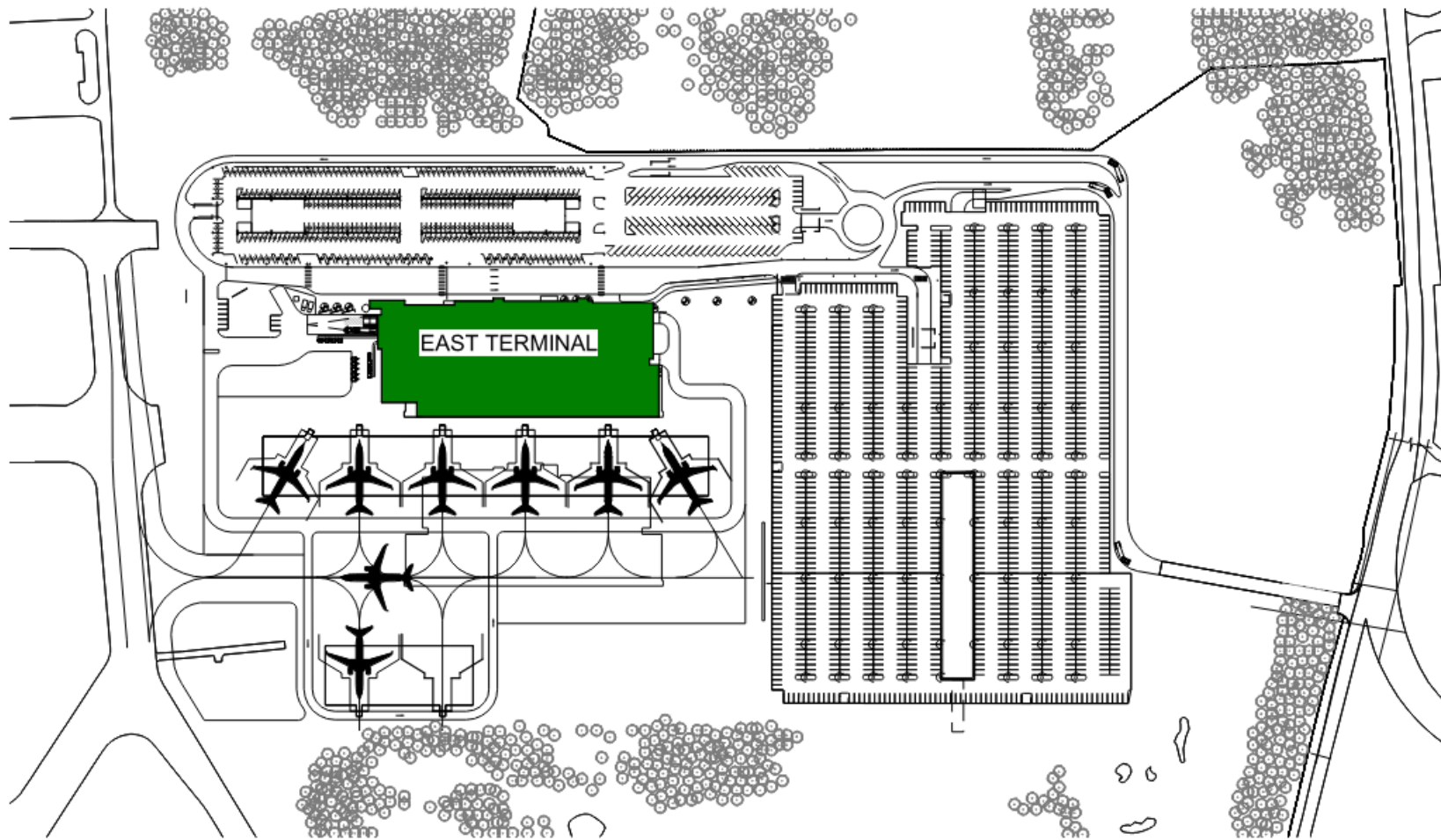
FP6
 HVN EAST TERMINAL
 PHASING PLAN
 08/05/22



TWEED
 NEW HAVEN
 AIRPORT



EXHIBIT F PROJECT SCHEDULE



8/5/2022 11:03:22 AM

PLAN
NORTH



0 300'-0" 600'-0"

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FP7

HVN EAST TERMINAL

08/05/22



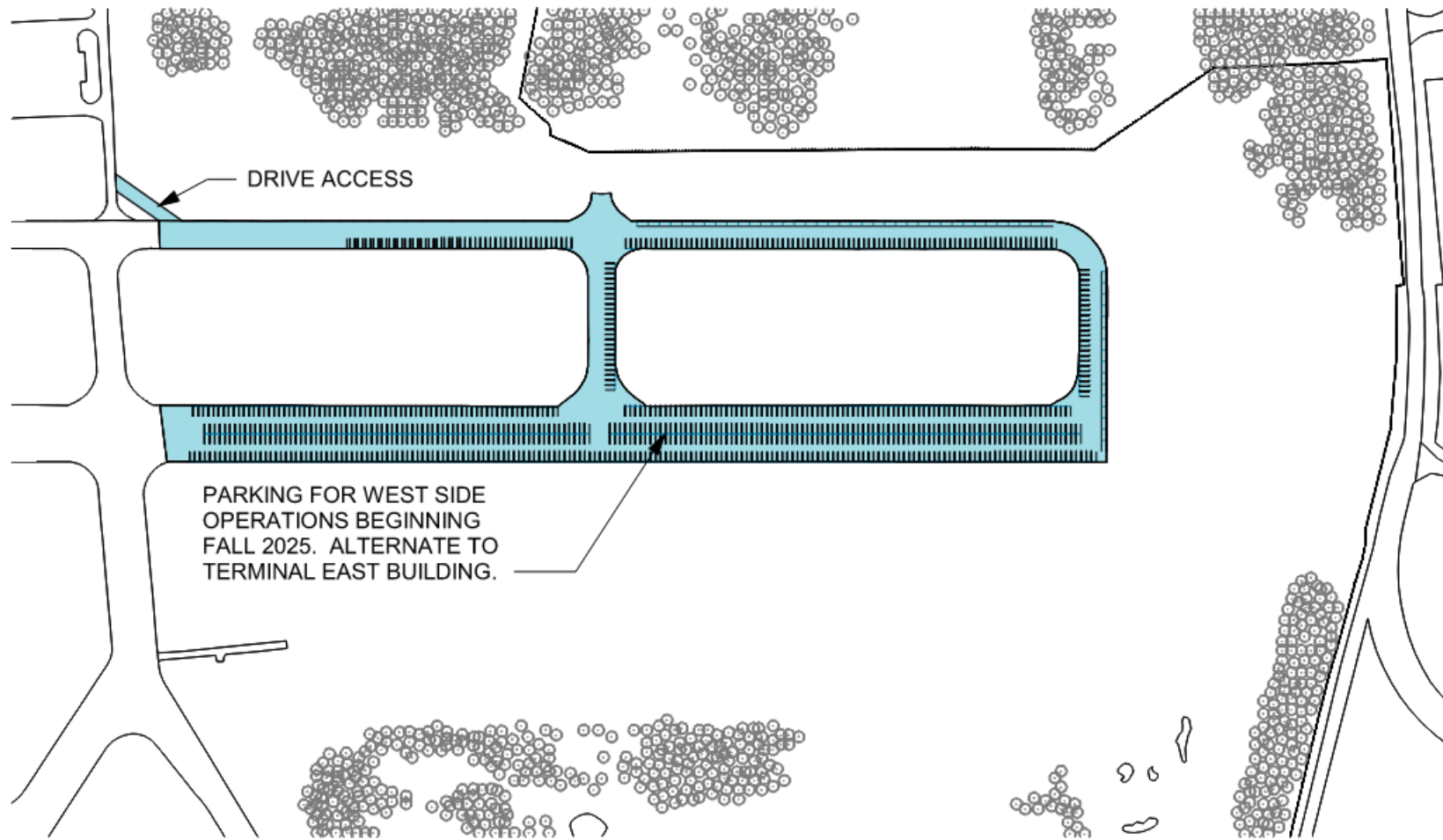
TWEED
NEW HAVEN
AIRPORT

AVP ARTS



Exhibit G
Alternative East Side Parking Schedule

EXHIBIT G ALTERNATIVE EAST SIDE PARKING SCHEDULE



TOTAL PARKING COUNT: 1,000 SPACES

8/5/2022 10:58:33 AM

PLAN NORTH



INTERIM DESIGN

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GP1

HVN EAST TERMINAL
ALTERNATE PARKING PLAN

08/05/22



TWEED
NEW HAVEN
AIRPORT



Exhibit H
Form of City Side Letter



August __, 2022

City of New Haven
Mayor's Office
165 Church Street
New Haven, CT
06510

City of New Haven
Corporation Counsel
165 Church Street
New Haven, CT
06510

Re: Letter Agreement by and between the City of New Haven, a municipal corporation, duly organized and validly existing under the laws of the State of Connecticut (the "City") to Tweed-New Haven Airport Authority, a political subdivision of the State of Connecticut, duly organized and validly existing under the laws of the State of Connecticut (the "Authority")

Dear Mayor Elicker,

The City and the Authority are finalizing their review of the Amended and Restated Lease and Operating Agreement (the "Lease") between them that was approved last fall by the Board of Alders.

Two issues need clarification. The first is the process by which the Authority may apply to the City or the Town of East Haven for various land use and building permits, all in a manner consistent with the Lease. The City's development permit application forms require the Owner of property that is the subject of an application to sign on the appropriate line of the application. In discussion about the form, it is conceivable that some may feel that the signing would convey the intent that the City is directly involved with the application and elevates the signature on the Owner line to a significance level that is not contemplated. This letter is aimed at eliminating any such concern by allowing the Authority to sign as Owner on such applications for projects proposed for improvement of the Tweed-New Haven Airport.

There is a basis for this request given that Conn. General Statutes Sec. 15-120j provides that the Authority "shall maintain and improve Tweed New Haven Airport...." It also provides the Authority with broad powers to "manage, maintain, supervise and operate" the Airport and to "contract for the construction, reconstruction, enlargement or alteration of airport projects." This state statutory mandate does not require the City's approval of applications filed by the Authority with the City, but it does require that such applications not be blocked on a preliminary technical requirement concerning the signing of an application.

Therefore, in light of the statutory powers and the Lease itself, it is understood and agreed that for purposes of applications to the City or the Town of East Haven for land use and building permits related to airport projects proposed by the Authority, the Authority may sign said applications as Owner of the property to which the application applies, except such applications primarily related to Cargo and Freight Operations, and the City or the Town of East Haven shall retain its authority under the law to take the action on said applications as it deems appropriate.

The second issue is the reconciliation of a survey of the leased premises, as defined in the Amended and Restated Lease and Operating Agreement. The City and Authority anticipate that

sublessees may desire to complete survey and survey-related work with respect to all or a portion of the leased premises, in order to determine the exact legal description of the subleased property with a certified ALTA survey (a “Sublessee Survey”). In the event a Sublessee Survey identifies an inconsistency in the boundaries of the leased premises, the City and Authority agree to work in good faith to determine the description of the leased premises and amend the lease to reconcile the leased premises to the extent that the City owns the underlying land in fee or owns any easements or appurtenant rights.

Thank you for your time and consideration of these vital issues. Please sign below to indicate the City’s acceptance of the foregoing. Your prompt attention to this matter is appreciated.

Sincerely,

John Picard, Chairman
Tweed-New Haven Airport Authority

Concurrence Page to Letter Agreement with the City of New Haven and Tweed-New Haven Airport Authority

WITNESSES

City of New Haven, a municipal corporation

Name: _____

Justin Elicker, Mayor

Name: _____

Approved as to Form and Correctness:

Michael J. Pinto, Assistant Corporation Counsel