
**AMENDED AND RESTATED
SIGNATORY CARGO CARRIER
OPERATING AGREEMENT**

BETWEEN

THE PORT OF PORTLAND

AND

FEDERAL EXPRESS CORPORATION

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EXHIBITS

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AMENDED AND RESTATED SIGNATORY CARGO CARRIER OPERATING AGREEMENT

This AMENDED AND RESTATED SIGNATORY CARGO CARRIER OPERATING AGREEMENT ("Agreement") effective July 1, 2015 ("Effective Date") is between **THE PORT OF PORTLAND** ("Port"), a port district of the State of Oregon, and **FEDERAL EXPRESS CORPORATION**, a corporation organized under the laws of the State of Delaware ("Carrier").

RECITALS

A. The Port is the owner and operator of the Portland International Airport ("Airport"), located in Portland, Oregon.

B. The Carrier desires to acquire the right to use certain Airport facilities from the Port.

C. The Port and Carrier entered into that certain Signatory Cargo Carrier Operating Agreement effective from the later of the date of execution or July 1, 2010, through June 30, 2015 ("2010 Agreement"). Pursuant to Section 19.1.2 of the Agreement, the Signatory Airlines approved an amendment to the Agreement to be memorialized in an amended and restated agreement, which would extend the term of the Agreement for an additional ten (10) year period through June 30, 2025 and extend Revenue Sharing in accordance with the parameters established in the 2010 Agreement. All other provisions of the 2010 Agreement would remain unchanged.

THEREFORE, the parties, intending to be legally bound by the terms and conditions contained in this Agreement and in consideration of the mutual covenants contained in this Agreement, hereby agree to the following terms and conditions.

1. DEFINITIONS

For the purposes of this Agreement, the following definitions shall apply.

"2010 Agreement" means that certain Signatory Cargo Carrier Operating Agreement, effective July 1, 2010 through June 30, 2015.

"2015 Agreement" means the Amended and Restated Signatory Cargo Carrier Operating Agreement, effective July 1, 2015.

"Affiliate" means (a) any Air Carrier flying in or out of the Airport solely for the benefit of another Air Carrier(s), under the livery of that Air Carrier, and under contract to that Air Carrier(s); or, if flying under its own livery, is not carrying property or selling seats in its own name and all property or passengers are being transported in the name of the Air Carrier that the Affiliate is under contract to; or (b) a wholly owned subsidiary of Air Carrier or a subsidiary of the same corporate parent of the Air Carrier. For the purposes of this Agreement, the Air Carrier that contracts with the Affiliate is referred to as the Contracting Carrier. An Affiliate shall be considered an agent of the Contracting Carrier for which it flies. Any Air Carrier(s) that flies under its own livery and sells seats or transport services in its own name shall not be classified as an Affiliate. The Contracting Carrier utilizing an Affiliate will be fully liable for all actions, activities, reports, and Rents of the Affiliate as though the Affiliate was the Contracting Carrier.

"Agreement" means this particular *Signatory Cargo Carrier Operating Agreement*, as the same may be amended or supplemented from time to time. References to **"Signatory Agreement"** herein means the *Signatory Cargo Carrier Operating Agreement*.

"Air Carrier" means a business engaged in scheduled or non-scheduled commercial air transportation of persons, property and/or mail. For purposes of this Cargo Carrier Agreement, an Air Carrier may own and operate its own aircraft or it may contract with another Air Carrier certified by the Secretary of Treasury under 49 USC § 41102 for the use of its aircraft and personnel.

"Aircraft Apron" means that part of the ramp area immediately adjacent to the Terminal that is used for the loading and unloading of passengers and cargo from aircraft, servicing aircraft, and maneuvering aircraft to and from active taxiways.

"Airfield" means areas and facilities provided for the landing, takeoff, and taxiing of aircraft, including all runways, taxiways, ramps and aprons; aircraft parking areas; areas required for approach and clear zones; Airfield access and related roadways; aviation easements and other related support facilities (i.e., lighting, navigational aids, etc.).

"Airfield Cost Center" means the Cost Center to which Revenues and expenses associated with the Landing Area, excluding the Aircraft Apron, are allocated. The "Airfield Cost Center" shall include a portion of Indirect Cost Centers, as specified in **Exhibit A**.

"Airport and Airline Affairs Committee" or **"AAAC"** means a committee composed of one representative of each Signatory Passenger Airline and each Signatory Cargo Airline, which representative shall be empowered to speak on behalf of the represented Signatory Carrier on matters brought before the committee and the Director of Aviation and his or her staff.

"Airport and Airline Affairs Committee Chair" or **"AAAC Chair"** means the individual designated by the Airline members of the AAAC as the lead committee member; however, the AAAC Chair shall have no greater authority than any other airline in the AAAC.

"Airline Cost Centers" or **"Airline Supported Areas"** means the Airfield Cost Center and the Terminal Cost Center.

"Airport" means the Portland International Airport, owned and operated by the Port, and all additions, expansions and improvements thereto, the boundaries of which are more particularly depicted on **Exhibit B**, attached hereto, as the same may be changed by the Port from time to time.

"Airport Certification Manual" or **"ACM"** means the document prepared and maintained by the Airport operator outlining measures intended to comply with requirements of CFR 14 Part 139, "Certification and Operations: Land Airports Serving Air Carriers." The ACM contains operating procedures, facilities and equipment, responsibility assignments, and any other information needed by personnel concerned with operating the Airport in order to comply with applicable provisions of FAR Part 139.

"Airport Fund" means that fund so defined in Ordinance No. 155, as amended, and as may be amended, from time to time.

"Airport General Account" means that account designated as the **"General Account"** in Section 13 of Ordinance No. 155, as amended, and as it may be amended from time to time.

"Airport Layout Plan" means the FAA required scaled drawing of existing and proposed land and facilities necessary for the operation and development of the Airport.

"Airport Security Program" or **"ASP"** means the confidential Airport security program required by 49 CFR 1542 and approved by the TSA, that describes the security requirements that must be implemented at the Airport. The current ASP is provided to Carrier's representative, and is also on file in the Airport's Security Department and Legal offices.

"Apron Fees" means the Revenues earned from use of the Aircraft Aprons.

"Baggage Claim Areas" means those areas of the Terminal designated for delivery of in-bound baggage to arriving passengers and also those areas of the enclosed baggage road designated for delivery of baggage from the aircraft into the Terminal.

"Baggage Consortium" means a consortium formed by airlines that will be responsible for the ongoing operation of the baggage handling system for the use of any Air Carrier serving the Airport.

"Baggage Make-up Areas" means those areas of the Terminal and those devices used to sort out-bound baggage for delivery to departing aircraft.

"Baggage Make-up Overflow Areas" means those Baggage Make-up Areas made available by the Port to Signatory Passenger Airlines to accommodate seasonal and peak period baggage volume increases.

"Best Management Practices" means those environmental or operational standards: (a) implemented by a business or industry group pertinent to Carrier operations as a matter of common and accepted practice; or (b) developed by Carrier for use in Carrier's operations.

"Business Day" means Monday through Friday and shall exclude Saturday, Sunday and Legal Holidays.

"Capital Expenditure" means an expenditure made to acquire, purchase or construct a single capital item (**"Capital Improvement"**) for the purpose(s) of operating, improving, maintaining or developing the Airport. For the purposes of this Agreement, a Capital Improvement shall have a gross cost in excess of FIVE THOUSAND DOLLARS AND NO CENTS (\$5,000.00), and an economic life greater than one (1) year.

"Capital Improvement" is defined within the definition of Capital Expenditure.

"Capital Improvement Program" or **"CIP"** means the Port's Capital Improvement Program for capital projects opened between July 1, 2010, and June 30, 2025, funded through the Airline Cost Centers and the airline allocated portions of the shared Cost Centers.

"Carrier" means the Cargo Carrier identified in the first sentence of this Agreement, above, who is also a Signatory Airline by virtue of signing this Agreement.

"Cargo Carrier" means an Air Carrier in the business of transporting property by air, but not passengers, which company has signed a *Signatory Cargo Carrier Operating Agreement* with the Port.

"Charter Cargo Carrier" means a Cargo Carrier who is not scheduled to serve the Airport and lands at the Airport less than a total of fourteen (14) calendar days throughout any given calendar year. Charters are not required to sign a Signatory Agreement.

"Commencement Date" means July 1, 2010, and is the date upon which this Signatory Agreement and the *Signatory Passenger Airline Lease and Operating Agreement* went into effect for all Signatory Airlines serving the Airport on that date.

"Common Use Equipment" means equipment, seating, electronics, hardware and software that the Port reserves for the flexible and temporary use of any Air Carrier serving the Airport.

"Common Use Gates" means any Port controlled gates, excepting gates associated with Non-Preferential Ground Load Holdrooms, not assigned by the Port as Preferential Space to any Air Carrier, and which the Port reserves for the flexible and temporary use of any Air Carrier serving the Airport. Common Use Gates include all equipment and utilities necessary to operate from the gates, including loading bridges, ground power units, and potable water supply.

"Concessionaire" means any business entity other than Air Carriers permitted by the Port to sell goods and/or provide services at the Airport, primarily to support the air transportation of passengers, guests and employees based at the Airport in accordance with Port Ordinances, and the PDX Rules as they may be supplemented or amended from time to time. Concessions businesses include without limitation, retail sales, food and beverage sales, passenger services, and rental car services.

"Contracting Carrier" means an Air Carrier that contracts with another Air Carrier to carry its property. A Contracting Carrier who contracts with an Affiliate must sign an operating agreement with the Port. A Contracting Carrier who does not operate its own aircraft, and who contracts with an Air Carrier who has entered into an operating agreement with the Port is not required to enter into an additional operating agreement with the Port.

"Cost Center" means an accounting center used to collect Revenues and expenses (including O&M Expenses and debt service), as more particularly described on **Exhibit A**.

"Coverage Ratio" or **"Debt Service Coverage Ratio"** means the multiple derived by dividing the annual debt service requirements under Ordinance No. 155, by available annual Net Revenues.

"Debt Service Coverage" means the coverage component of the rate covenant requirement of Ordinance No. 155, as amended, and as may be amended from time to time, currently equal to thirty percent (30%) of the sum of Direct and Indirect Debt Service attributable to Airport revenue bonds issued to acquire Capital Improvements at the Airport for a particular Cost Center, or such other similar amounts that may be required for any debt financing.

"Direct Cost Centers" means those Cost Centers allocated completely to either the Signatory Airlines or the Port, as more particularly described on **Exhibit A**. Direct Cost Centers allocated to the Signatory Airlines are the Airfield Cost Center and the Terminal Cost Center. Direct Cost Centers allocated to the Port Cost Center are the Ground Transportation Cost Center, the Air Cargo Cost Center, the Other Aviation Cost Center, and the Non-Aviation Cost Center.

"Direct Debt Service" means the principal and interest payments on debt attributable to a Direct Cost Center.

"Direct O&M Expenses" means O&M Expenses which are attributable to each Direct Cost Center.

"Director of Aviation" means the person in charge of overall Airport management for the Port.

"Effective Date" means the date shown on the first page of this Agreement, and the date upon which this Agreement becomes legally binding upon the Carrier signing this Agreement.

"Enplaned Passengers" means embarking revenue passengers at the Terminal who are: (a) originating their air travel; (b) transferring between airplanes of the same Passenger Carrier; or (c) transferring between airplanes of different Passenger Carriers.

"Environmental Laws" means any and all federal, state of Oregon and local laws, regulations, rules, permit terms, administrative orders issued pursuant to federal and state laws, Best Management Practices, codes and ordinances now or hereafter in effect, as the same may be amended from time to time, which govern Hazardous Substances, regulated wastes, emissions, pollutants, animals or plants, noise, or products and relate to the protection of health, natural resources, safety or the environment.

"Environmental Management System" means part of an organization's management system used to develop and implement its environmental policy and manage its activities or products or services that can interact with the environment.

"Executive Director" means the chief executive officer of the Port or his or her delegates including without limitation, the Director of Aviation.

"Expiration Date" means June 30, 2025, the date on which the Signatory Agreement with the Signatory Airlines expires.

"Federal Aviation Administration" or **"FAA"** means the federal agency within the U.S. Department of Transportation that is responsible for the safety and efficiency of aviation operations.

"Fiscal Year" means the annual accounting period of the Port for its general accounting purposes, which is currently the period of twelve (12) consecutive calendar months commencing July 1 and ending June 30.

"Ground Run-up Enclosure" or **"GRE"** means that facility identified on the Airfield as the place where all aircraft engine run-ups must be conducted, unless specifically exempted by the Port.

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

"Hazardous Substance Release" means the spilling, discharge, deposit, injection, dumping, emitting, releasing, leaking, migrating, leaching, placing, or seeping of any Hazardous Substances into the environment, including air, land, sediment, water, groundwater, and storm water, in violation of any applicable Environmental Law, except as specifically authorized by a valid permit issued under applicable Environmental Laws.

"International Arrival Facility" or **"IAF"** means the U.S. Customs and Border Protection clearing facility through which international passengers must pass.

"IAF Rate" means the rate charged to an Air Carrier for IAF use.

"Indirect Cost Centers" means those Cost Centers shared by the Signatory Airlines and the Port, and include Maintenance, Aviation Security and Public Safety, Airport Rescue and Fire Fighting, Operations, Systems and Services, Administration, and Environmental, as more particularly described and defined on **Exhibit A**.

"Indirect Debt Service" means the principal and interest payments on debt attributable to the particular Indirect Cost Center.

"Indirect O&M Expenses" means O&M Expenses which are attributable to Indirect Cost Centers.

"Interest Rate Swaps" means a contractual agreement wherein two (2) parties agree to exchange ("**Swap**") certain cash flows for a defined period of time and is an approved financing device that the Port is authorized by this Agreement to utilize, in its discretion, in order to manage Airport debt.

"Landing Area" means those portions of the Airport provided for the landing, take-off and taxiing of aircraft, including without limitation, approach and turning zones, aviation or other easements, runways, taxiways, runway and taxiway lights, and other appurtenances in connection therewith.

"Landing Fees" means those fees charged for landing an aircraft, as more particularly described in Section 14.2.

"Legal Holiday" means any holiday observed by the Federal Government.

"Majority In Interest" or "**MII**" means the mechanism used by the Signatory Airlines to disapprove a Capital Expenditure or approve an amendment to this Agreement, as the case may be.

"Maximum Gross Landed Weight" means the maximum gross certificated landing weight in one thousand (1,000) pound units for which each aircraft operated by Carrier is certified by the FAA, or any successor agency thereto.

"Net Requirement" means the annual sum of all expenses and fees, including Debt Service Coverage allocated to a particular Cost Center, minus all Offsetting Revenues.

"Net Revenues" means that amount so defined in Section 2(r) of Ordinance No. 155, as amended, and as may be amended from time to time.

"Non-Airline Revenues" means other revenues associated with the Airfield and Terminal Cost Centers, which are not paid by Signatory and Non-Signatory Airlines (e.g., revenue from aircraft parking other than Terminal Apron Fees, military use fees, all Terminal concessions, and Terminal Rents from non-airline tenants).

"Non-Preferential Ground Load Holdroom" means any ground load holdroom not assigned by the Port as Preferential Space to Passenger Carriers, and which the Port reserves for the flexible use by any Air Carrier serving the Airport. The Port may, without adversely impacting existing ground load operations, change these locations from time to time during the Term of the Agreement, if other Non-Preferential Ground Load Holdrooms aren't available.

"Non-Revenue Landings" means any aircraft landing by Carrier at Airport for which Carrier receives no revenue, and shall include (a) ferry, test, training, courtesy, inspection or other similar flights; (b) any landing of an aircraft which, after having taken off from the Airport and without making a landing at any other airport, returns to land at Airport because of meteorological conditions, mechanical or operating causes, or any other reason of emergency or precaution; or (c) any landing entirely associated with a government operation.

"Non-Signatory Airline" means any Cargo Carrier or Passenger Carrier that has not signed this Agreement or a *Signatory Passenger Airline Lease and Operating Agreement*. Non-Signatory Airlines do not have all of the same rights and privileges afforded to a Signatory Airline and are charged materially higher rates and fees.

"Offsetting Revenues" means: (a) with respect to the Airfield Cost Center, including, but not limited to, all Revenues other than the Landing Fees of Signatory Airlines; and (b) with respect to the Terminal Cost Center, including, but not limited to, all Revenues other than the Signatory Airline Terminal Rents.

"Operating and Maintenance Expenses" or **"O&M Expenses"** means those expenses designated as "Costs of Operation and Maintenance" in Section 13 of Ordinance No. 155.

"Ordinance" means collectively Ordinance No. 155 and Ordinance No. 323, as amended, modified and/or restated, as provided below, and any successor or replacement of such ordinance(s).

"Ordinance No. 155" means the Ordinance enacted by the Port of Portland on November 10, 1971, as amended and restated pursuant to Port Ordinance No. 368B, enacted October 13, 1993; Port Ordinance No. 375B, enacted August 10, 1994; and Port Ordinance No. 393B, enacted February 10, 1999, as it may be further amended, modified, or supplemented from time to time.

"Ordinance No. 323" means the Ordinance enacted by the Port of Portland on October 9, 1985, as amended, modified, and supplemented by Port Ordinance No. 337A, enacted October 14, 1987; Port Ordinance No. 323A, enacted August 10, 1988; Port Ordinance No. 368B, enacted October 13, 1993; and Port Ordinance No. 375B, enacted August 10, 1994, as it may be further amended, modified, or supplemented from time to time.

"Passenger Carrier" means an Air Carrier in the business of transporting persons and property by air.

"PDX Rules" means the *Portland International Airport Rules* that are enacted by the Director of Aviation, pertaining to the use of the Airport, as they may be amended from time to time, by which all Air Carriers, Concessionaires, and others utilizing the Airport must abide. The PDX Rules can be found at the following link: http://www.portofportland.com/PDFPOP/PDX_Rules_Regulations.pdf.

"Port Cost Center" or **"Port Supported Area"** means the Cost Center to which Revenues and expenses associated with the Ground Transportation Cost Center, the Air Cargo Cost Center, the Other Aviation Cost Center, and the Non-Aviation Cost Center, all as described and defined on **Exhibit A**, are allocated. The Port Cost Center shall include a portion of the Indirect Cost Centers, as specified on **Exhibit A**.

"Port of Portland" or **"Port"** means a port district of the State of Oregon that owns and operates the Airport pursuant to ORS 778.005 through ORS 778.990.

"Preferential Space" means the portion of the Airport leased to a Passenger Carrier, and to which that Passenger Carrier shall have a higher and continuous priority of use over all other Air Carriers and Concessionaires. Said space may also include aircraft loading bridges and/or other aircraft support equipment.

"Public Area" means those areas used by the public within the Airport Terminal and concourse areas, including: (a) all concourse corridors and connectors; (b) concession areas; (c) ticket lobby; and (d) non-rentable areas.

"Rent" shall include all Landing Fees, other rents, charges, fees, fines, costs, reimbursements, penalties, taxes, late charges, liquidated damages, and interest of all types and of all nature that Carrier is required to pay to the Port under this Agreement.

"Revenue Landed Weight" means the sum of the products of the Maximum Gross Landed Weight of each type of Carrier's aircraft, by the number of Revenue Landings of each said aircraft at the Airport.

"Revenue Landings" means an aircraft landing at the Airport in conjunction with a flight which is published in the "Official Airline Guide," or for which an Air Carrier makes a charge, or for which revenue is derived, for the transportation by air of persons, property or mail. Revenue Landings shall not include Non-Revenue Landings.

"Revenues" has the meaning given to that term in Section 2(w) of Ordinance No. 155, as amended, and as may be amended from time to time.

"Revenue Sharing" means that program by which the Port has agreed to share a certain amount of Port Cost Center Revenues with the Signatory Airlines, subject to meeting certain minimum Net Revenue requirements, in exchange for the Signatory Airlines' approval of the terms of the Signatory Agreement.

"Risk Mitigation Program" means a program utilized to attract certain targeted new air service to the Airport.

"Scheduled Service" means any flight of an Air Carrier scheduled in the Official Airline Guide for the Airport. Scheduled Service for Cargo Carriers who are not scheduled in the Official Airline Guide for the Airport means a Signatory Cargo Airline that has operated at the Airport within the ninety (90) calendar days immediately prior to the date of the MII ballot and has not otherwise terminated its Signatory Agreement with the Port.

"Security Deposit" means a cash deposit or letter of credit paid by an Air Carrier to the Port to secure the performance of the *Signatory Passenger Airline Lease and Operating Agreement*, and the *Signatory Cargo Carrier Operating Agreement*.

"Security Screening Areas" means those areas of the Terminal used for the screening of passengers and baggage before allowing passengers to enter onto the secured concourses, or allowing baggage to be loaded onto an aircraft.

"Self Service Kiosks" or **"Kiosks"** means machines that assist passengers with services including without limitation, check-in, rebooking, pre-boarding purchase of goods or services to be consumed in-flight, and baggage location information, but which excludes all other sales.

"Shared Space" means those leased areas of the Terminal whose usage is shared by more than one (1) Passenger Carrier, excluding Baggage Claim Areas and Non-Preferential Ground Load Holdrooms and associated Aircraft Aprons.

"Signatory Airline" means an Air Carrier which has signed a *Signatory Passenger Airline Lease and Operating Agreement* or a *Signatory Cargo Carrier Operating Agreement* with the Port which creates certain rights and obligations in the parties pertaining to the use of the Airport.

"Signatory Cargo Airline" means a Signatory Airline which is in the business of air transportation of property, but not revenue passengers.

"Signatory Cargo Carrier Operating Agreement" means the operating agreement between the Port and Signatory Cargo Airlines. This Agreement is a Cargo Carrier Operating Agreement. The *Signatory Cargo Carrier Operating Agreement* is referred to herein as the **"Signatory Agreement."** This particular *Signatory Cargo Carrier Operating Agreement* is referred to herein as this **"Agreement."**

"Signatory Passenger Airline" means a Signatory Airline which is in the business of air transportation of passengers and property.

"Signatory Passenger Airline Lease and Operating Agreement" means the lease and operating agreement between the Port and Signatory Passenger Airlines that carry passengers and lease space at the Airport.

"Terminal" means: (a) the passenger Terminal building and concourse areas (including the areas below the concourses); (b) the enplaning, deplaning, and commercial access roadways immediately adjacent to the Terminal (and sidewalks associated therewith); (c) the Public Area; (d) the Aircraft Apron; and (e) the Security Screening Areas, all as generally shown on **Exhibit B**.

"Terminal Cost Center" means the Cost Center to which Revenues and expenses associated with the Terminal, including the Aircraft Apron, are allocated. The "Terminal Cost Center" shall include a portion of Indirect Cost Centers, as defined in **Exhibit A**. With respect to access roadways which are a part of the Terminal Cost Center: (a) the Terminal Cost Center shall pay one hundred percent (100%) of the capital costs of said roadways; (b) the Port Cost Center shall pay one hundred percent (100%) of the O&M Expenses; and, (c) the Port Cost Center shall receive one hundred percent (100%) of the concession revenues.

"Terminal Rents" means all Rents charged by the Port for Signatory Passenger Airlines' use of the Terminal.

"Transportation Security Administration" or **"TSA"** means the United States Transportation Security Administration with jurisdiction over Airport security.

"Uncured Event of Default" means those Events of Default that are not timely remedied as more specifically described in Section 25.2.

"United States Customs and Border Protection" or **"CBP"** means that federal agency within the U.S. Department of Homeland Security that has jurisdiction over immigration and the IAF at the Airport.

"Wireless Communication Services" means the use of regulated or unregulated wireless signals between multiple electric devices or objects. This includes, but is not limited to, the wireless technologies used by Wireless Fidelity (WiFi), WiMax, Zigbee, cellular phone service for data or voice communications, 800MHz radio systems, and Radio Frequency Identification Devices or objects.

Additional words and phrases used in this Agreement, but not defined above, or elsewhere in this Agreement, or in the Ordinances referenced above, shall have their usual and customary meaning.

2. TERM

2.1 Agreement Term

The 2010 Agreement commenced on July 1, 2010 ("Commencement Date") for a period of five (5) years, ending on June 30, 2015. Prior to the expiration of the 2010 Agreement, the Signatory Airlines approved an amendment to the Agreement to extend the term of the Agreement for an additional ten (10) year period, to be memorialized in an amended and restated agreement ("2015 Agreement"). The 2015 Agreement shall be binding upon execution and effective July 1, 2015 and thereafter, unless earlier terminated under its terms, until June 30, 2025 ("Expiration Date").

2.2 No Early Termination of Agreement

There will be no right to terminate this Agreement early, except by the Port due to an Event of Default by Carrier (as defined in Section 25.1), or as required by law.

3. COMPLIANCE WITH LAW

3.1 General Laws

At all times, Carrier shall, with respect to its operations at the Airport, comply with all applicable federal, state and local laws, rules, regulations and ordinances, including PDX Rules, Port Ground Run-Up Facility Guidelines, Port ordinances, and the Airport Certification Manual, as they may be amended from time to time, administrative orders, and environmental permits, including, but not limited to, deicing permits, and including without implied limitation, those relating to: (a) health and safety; (b) fire codes; (c) the environment; and (d) disabled access, including the Americans with Disabilities Act, 42 USC 12101 et seq.

3.2 PDX Rules

The use by the Carrier of the Airfield and all other areas of the Airport shall be subject to compliance with the PDX Rules as they may be amended or newly adopted by the Port, provided that the PDX Rules do not conflict with applicable provisions of state or federal law or the express provisions of the Signatory Agreement. Except in the case of emergency, the Port shall give the Carrier's corporate property representative and any person designated by the Carrier to receive notice, written notice and opportunity to comment on any amendments or additions to the PDX Rules that would impact the Carrier's operations at the Airport before such proposed PDX Rules are adopted by the Port. Within twenty (20) Business Days after receipt of the Port's notice of such proposed changes or additions to the PDX Rules, each designated representative may submit to the Director of Aviation, in writing, objections or comments to the proposed changes or additions to the PDX Rules on behalf of the Carrier. If there are no objections to the proposed Rules, they will be implemented following expiration of twenty (20) Business Days.

The Director of Aviation shall consider any comments and objections received and will, within forty (40) Business Days following the Port's initial notice of proposed changes, notify the Carrier of his or her determination regarding implementation of the proposed changes or additions to the PDX Rules. If the Carrier disagrees with the determination, the Carrier may, within ten (10) Business Days of receipt of the written decision of the Director of Aviation's determination, by mail, fax, or acknowledged e-mail, appeal the determination to the Executive Director, whose decision shall be final. No further appeal shall be available to the Carrier.

4. USE OF AIRPORT FACILITIES

4.1 Carrier General Use Rights and Privileges

In addition to all specific rights granted elsewhere in this Agreement, Carrier shall have the general rights to use areas of the Airport, as designated in this Agreement, for the following purposes:

- (a) the operation of its air transportation system for the transportation of property, including all activities necessary or incidental to such operations;
- (b) the landing, taking off, flying over, taxiing, and towing of aircraft of the Carrier; and, in accordance with the provisions of this Agreement, including, but not limited to, Sections 8 and 9, the conditioning, servicing, parking, storage or maintenance of the Carrier's aircraft;
- (c) the sale, disposition or exchange of the Carrier's aircraft, engines, parts and other equipment, or supplies, and the sale of lubricants or deicing fluid, but only to: (i) a wholly owned subsidiary company or parent company; (ii) for use in aircraft of others which are being used solely in the operations of the Carrier; or (iii) another Air Carrier at the Airport during emergencies or snow events;
- (d) the purchasing at the Airport of fuels, lubricants, and any other goods or services, but only from a person or company operating on the Airport with a current and valid permit or operating agreement with the Port to conduct such sales or delivery of said goods or services at the Airport;
- (e) the use of the Public Area by the Carrier, in common with the Port, other lessees, licensees and the general public;
- (f) the loading and unloading by the Carrier of property by truck motor or carrier or other means of conveyance, as the Carrier may desire or require in the operation of its air transportation system, at locations generally designated by the Port;
- (g) the installation, maintenance, and operation of such communication, computer, meteorological and aerial navigation equipment, as may be necessary or convenient in the Carrier's discretion, for operation of its air transportation system areas occupied by Carrier, and provided such equipment shall not interfere with Airport navigational aids, Port communication systems, or with similar rights granted to other tenants or governmental agencies. In the event of such interference, the Port may require removal, relocation, or modification, at the sole cost of the Carrier, to eliminate such interference; provided, however, that the Port will provide the Carrier with a reasonable amount of time to accomplish such removal; and

- (h) such rights-of-way as may reasonably be required for any Carrier-owned communication, computer and power or other transmission lines in and between the Terminal

and areas occupied by Carrier in support of its operations to other areas of the Airport but only in locations designated in advance and in writing, by the Port which locations specifically exclude Common Use facilities.

4.2 Right of Ingress and Egress

In order to exercise the rights and privileges granted to the Carrier by this Agreement, and subject to the Port's reasonable PDX Rules and the Airport Security Program ("ASP"), the Carrier shall have ingress and egress rights over the roads and walkways of the Airport to and from the Airfield.

4.3 Restrictions Upon Carrier General Use Rights and Privileges

The rights of Carrier under this Agreement are subject to any specific rights, obligations and restrictions which are granted or reserved elsewhere in this Agreement, including, but not limited to, Section 3. The rights granted to Carrier by this Agreement shall not be exercised in such a way as to interfere with, or adversely affect the use, operation, maintenance or development of the Airport. The Port grants to Carrier no rights or privileges other than those specified in this Agreement or in the PDX Rules.

4.4 Installation of Wireless Communication Devices

Except as restricted elsewhere in this Agreement and subject to applicable provisions of the Federal Communications Act and implementing regulations of the Federal Communications Commission, the Port shall have the sole right to determine the specifications for acceptable Wireless Communication Services to be used or installed at the Airport. This includes, but is not limited to, the location, configuration, and installation of, wireless voice and data equipment, Zigbee, WiFi, WiMax or other equipment that communicates through regulated or unregulated wireless signals at the Airport. It is not the Port's intent to restrict or prohibit Carrier's ability to deliver wireless services onboard Carrier's aircraft. However, the Carrier shall not install any wireless communication equipment on the Airport without the prior written authorization of the Port, which consent will not be unreasonably withheld, in order to avoid interference or security issues related to the installation and operation of such devices at the Airport. Subject to applicable provisions of the Federal Communications Act and implementing regulations of the Federal Communications Commission, Carrier may be required to immediately remove or reconfigure any wireless communication equipment or services that interferes, in the sole discretion of the Port, with the Port's wireless coverage or that of other tenants' equipment that has been approved by the Port for operation at the Airport. The Port may expand its wireless communication infrastructure to make it available to Air Carriers for their operations at the Airport. When available, the Carrier will not be required to use the Port's wireless communication infrastructure, but is encouraged to utilize the system to meet their operational needs at the Airport. The Port will accept Carrier's use of the Port's wireless communication infrastructure in its sole discretion upon Port confirmation that Carrier's proposed use meets service level, security and operational requirements.

4.5 Installation of Communications Equipment; Use of Port Network Room

The Port has installed a system of communication pathways, telecommunication facilities, communication cables and fiber optics, otherwise known as the communication infrastructure which is owned and operated by the Port. Except as restricted elsewhere in this Agreement and subject to applicable provisions of the Federal Communications Act and

implementing regulations of the Federal Communications Commission, the Air Carriers may utilize the Port-installed system. The Port reserves the right to approve the technical specifications, location, configuration, and installation of Carrier's communication equipment. Subject to applicable provisions of the Federal Communications Act and implementing regulations of the Federal Communications Commission, the Carrier may be required to immediately remove or reconfigure any communication equipment or services that interfere, in the sole discretion of the Port, with the Port's communication infrastructure to eliminate interference. The Carrier will not be required to use the Port's communication infrastructure, but is encouraged to utilize the system to meet their operational needs at the Airport. The Port will accept Carrier's use of the Port's wireless communication infrastructure, in its sole discretion, upon Port confirmation that this use meets service level, security and operational requirements.

4.6 Rights Limited to Air Transportation Activities

In the exercise of its rights and privileges under this Agreement, Carrier shall only perform such functions as are required for the operation of its air transportation system, including those rights set out in Section 4. Carrier shall not have the right to conduct any other business on the Airport without first entering into a separate agreement with the Port to conduct such business, which agreement may provide for the payment of an additional fee to the Port.

4.7 Landing Area Weight Limitations

The Port may prohibit the use of the Landing Area by any aircraft operated or controlled by Carrier which exceeds the design strength or capability of the Landing Area, as described in the current Airport Layout Plan, as approved by the FAA, or other engineering evaluations performed subsequent to said Airport Layout Plan.

4.8 Interference with Airport Systems

Carrier shall not do, nor permit to be done, anything that may interfere with the effectiveness or accessibility of the drainage, sewerage, water, communications, or fire protection systems, or any other part of the utility, electrical, wireless, or other systems installed or located, from time to time, at the Airport. If any such interference should occur which causes any loss to the Port, Carrier shall be liable to the Port for any such loss.

4.9 Limitations on Distribution of Food and Beverages at Airport

Carrier shall not provide for the sale or distribution of food and/or beverages at the Airport, or on any Airport property, either to its employees, passengers, or to the public unless pursuant to a separate lease or operating agreement with the Port.

4.10 Limitations on Ground Transportation Services

The Carrier shall not operate, provide, or contract with another person or company to operate or provide any form of ground transportation service for the transportation of persons to, from, or at the Airport, unless said service provider has first obtained a Port Ground Transportation Permit and has entered into an operating agreement with the Port. Notwithstanding the foregoing, Carrier may contract with a ground transportation company, or may operate its own ground transportation services, in order to bring crews or customers to its own leased facilities at the Airport, as long as there is no pick up of passengers on Terminal roadways.

4.11 Goods, Services and Subcontracting

Carrier shall not enter into any agreement with any Concessionaire, vendor, or other provider(s) of goods and services ("Subcontractor") that does not have a current permit or operating agreement with the Port to deliver such goods and services at the Airport. Notwithstanding the foregoing, nothing contained in this Section, or in Section 4.1 (d), shall be construed to disallow any business that provides goods or services to Carrier on only a rare occasion basis, to do so without a permit or operating agreement with the Port, provided said provider abides by all PDX Rules established by the Port. If Carrier elects to contract out any services on the Airport with another Air Carrier, Affiliate, or other service provider, it shall not do so without entering into a contract with said service provider and without said service provider entering into an operating agreement with the Port before beginning any such services on behalf of Carrier.

5. OPERATIONS SPACE

Carrier must arrange for, at its sole expense, sufficient space and facilities for Carrier's and Subcontractor's operations, without impeding adjacent Airport or Air Carrier operations.

6. SERVICING OF AIRCRAFT

Subject to the limitation and requirements of Section 8, Carrier may perform reasonable and customary fueling, servicing, and routine maintenance of its aircraft and those of its Affiliate(s), (excluding engine run-ups), while the aircraft is parked at a Port designated aircraft parking area, provided such activities do not interfere with Airport operations or the movement of passengers, cargo, or other aircraft. If, during such fueling, servicing, or routine maintenance, the Port requires access to the aircraft parking area due to an emergency or for temporary access by another Air Carrier, Carrier must remove its aircraft from the affected location within forty-five (45) minutes of notification by the Port. Failure to remove the aircraft within this timeframe, unless beyond the reasonable control of Carrier, shall be an Event of Default. If, upon notification, Carrier fails or elects not to remove an aircraft, the Port may remove the aircraft pursuant to the provisions of Section 9. All engine run-ups must be performed in the Ground Run-up Enclosure (GRE). In the event Carrier needs to perform Major Alterations or Repairs as defined in 14 CFR Part 43, Appendix A, Carrier shall move the impacted aircraft to a Port-designated maintenance area to perform this work.

7. GROUND RUN-UP ENCLOSURE

Carrier hereby acknowledges that certain risks and dangers, inherent or otherwise, may occur during use of the GRE by Carrier and agrees that all of its users of the GRE facility will read and be familiar with the GRE Operating Guidelines, which Carrier acknowledges having received a copy of, before using the GRE. Carrier hereby assumes all risk of liability associated with engine damage caused by use of the GRE, and will hold the Port harmless from any and all liability, actions, damages, judgments, executions, costs, loss of services, expenses, compensation, and any and all claims of damages which it may have against the Port, relating to such engine damage. Carrier hereby fully waives any liability claims by Carrier against the Port and assumes all risk on behalf of Carrier, its successors and assigns, for any and all known and unknown risks of engine damage associated with the use of the GRE.

8. PARKING/STORAGE OF AIRCRAFT; GROUND SUPPORT EQUIPMENT; LIMITATIONS

Parking or storage of aircraft or ground support equipment at an Aircraft Apron that in any way interferes with Airport operations, including the movement of passengers, cargo, or other aircraft, is prohibited. The Carrier must remove aircraft or ground support equipment within forty-five (45) minutes of notification by the Port if: (a) an emergency exists requiring removal of said aircraft or ground support equipment; (b) said aircraft or ground support equipment is interfering with Airport operations or the movement of passengers, cargo, or other aircraft; or (c) the Aircraft Apron is required for temporary access by another Air Carrier, provided that the Port has first determined that other suitable Aircraft Aprons on the same concourse are not available. Carrier may park and store ground support equipment owned by the Carrier, its Affiliate(s) and/or vendor, or subcontractor which holds a valid operating permit with the Port and with whom the Carrier contracts to provide relevant services. Carrier acknowledges the need for vehicular access to the Terminal. Tenants of Terminal space shall have the non-exclusive right to park vehicles immediately adjacent to their leased premises on Preferential Aircraft Apron space so long as they do not impact aircraft uses.

9. REMOVAL OF AIRCRAFT

As soon as allowed by the appropriate authorities, Carrier shall remove any disabled aircraft from any parts of the Airport, including, without limitation, runways, taxiways, aprons, and shall place any such disabled aircraft only in such storage areas as may be designated by the Port, in accordance with the Port's terms and conditions for storage. In the event Carrier fails to move any aircraft, as required in Sections 6, 8 or 9, the Port may, but shall not be obligated to, cause the removal of such disabled aircraft after first informing Carrier's station manager of the Port's intent to remove such aircraft. Carrier hereby agrees to reimburse the Port for all of the Port's costs of such removal and releases the Port and any Port contractor from any and all claims for damage to the aircraft or otherwise arising from, or in any way connected with, such removal, except for the Port's or the Port's contractor's willful misconduct. Failure to promptly remove the aircraft, unless beyond the reasonable control of Carrier, shall be an Event of Default.

10. ALTERATIONS AND IMPROVEMENTS BY CARRIER

10.1 Liens

Carrier shall keep the Airport free and clear of any liens and encumbrances arising or growing out of Carrier's use or activities at the Airport. Carrier agrees to fully indemnify and defend the Port in connection with any such liens filed against the Airport. Carrier agrees to pay, when due, all sums for labor, services, materials, supplies, utilities, furnishings, machinery, or equipment which have been provided to Carrier at the Airport that could cause any liens to be placed against the Airport. Carrier shall not suffer or permit any liens to attach to the interest of Carrier in all or any part of the Airport by reason of any work, labor, services, or materials done for, or supplied to, or claimed to have been done for or supplied to, Carrier or anyone occupying or holding an interest of Carrier in all or any part of the improvements on the Airport through or under Carrier. If any lien is filed against the Airport, Carrier shall cause the lien to be discharged of record within thirty (30) calendar days after the date of filing of the same, by payment, deposit, or bond. In the event that Carrier fails to remove or bond off the lien within thirty (30) calendar days, then, in addition to all other remedies set forth in Section 25, the Port shall automatically have the right, but not the obligation, to pay the lien off, after giving notice of its

intent to do so to Carrier, and Carrier shall immediately reimburse the Port for any sums so paid to remove any such lien, together with the Delinquency Charge, described in Section 14.7 due thereon, calculated from the date Port funds were expended thereon. At the Port's request, Carrier shall furnish the Port with written proof of payment of any item that would or might constitute the basis for such a lien on the Airport if not paid. Carrier shall have the right to contest, in good faith and with reasonable diligence, the validity of any lien or claimed lien, so long as Carrier shall give to the Port such security as may be reasonably satisfactory to the Port to assure payment thereof and any interest thereon and to prevent any foreclosure of the lien by reason of nonpayment thereof; provided further, however, that on final determination of the lien or claim for lien, Carrier shall immediately pay any judgment rendered with all proper costs and charges and shall have the lien released and any judgment satisfied.

10.2 Signs

10.2.1 Carrier Signage

Unless otherwise provided under another written agreement with the Port, Carrier may not install any signage on the Airport.

10.2.2 Port Signage

The Port may erect and maintain signage at the Airport as the Port deems appropriate.

11. MAINTENANCE AND OPERATION OF AIRPORT

11.1 Port Obligations

The Port will develop and operate the Airport in a prudent manner, consistent with standards, rules, and regulations established by the FAA, TSA, or other federal agencies with jurisdiction over the Airport.

11.2 Carrier Obligations

11.2.1 Waste Disposal, Recycling, including Food Waste

Carrier shall, at its own expense, remove all waste, garbage and rubbish generated by its operation (including activities of any subcontractors, agents, and Affiliates), to a location designated by the Port as a trash disposal and recycling area. Carrier will not deposit waste, garbage and rubbish on any other part of the Airport. Carrier agrees to participate in the Port's recycling program to minimize waste, and agrees to participate in the recycling efforts of the Port, city, state and federal entities to the extent applicable to Carrier operations. Carrier agrees, with respect to the Airport, to comply with the City of Portland's mandatory recycling requirements, pursuant to City Code Chapter 17.102, as it may be amended from time to time. Carrier may maintain a Carrier recycling program so long as that program meets the minimum requirements of the PDX Rules and the City of Portland recycling program requirements.

11.2.2 Aircraft Apron

Carrier shall keep the portion of the aircraft parking positions used by Carrier, or its Affiliates, free of fuel, oil, other fluids, debris, and non-operational equipment at all times, at its sole cost and expense. If Carrier, or its agents, employees, or contractors should, in any manner, discharge fuel, oil, any petroleum products, or any Hazardous Substance upon the aircraft parking position and Airfield, Carrier shall cause the prompt removal of such products, in

accordance with the provisions of Section 23.6, and shall hold the Port harmless from any loss or liability resulting therefrom provided, however, nothing in this Section shall be construed to make Carrier responsible for a Hazardous Substance Release caused by Port or any other tenant at the Airport. Carrier's environmental obligations are set forth in more detail in Section 23.

11.3 Maintenance Responsibilities for Leased Equipment

If Carrier leases Port-owned equipment, Carrier's responsibilities for maintenance and cleaning for such equipment shall be as set forth in a separate agreement between Carrier and the Port.

12. EMPLOYEE PARKING

The Port shall designate employee parking areas to be available to Carrier, in common with other Airport tenants, as parking facilities for Carrier personnel employed at the Airport.

13. RISK MITIGATION PROGRAM

In order to attract non-stop international service and unserved domestic service to Portland, the Port shall have the right to offer alternative fee waiver packages to any Air Carrier meeting the minimum requirements set forth in this Section and in each incentive package (collectively, "Risk Mitigation Program"). In addition, the Port may provide a reasonable level of marketing support to promote the new service subject to the terms of a separate reimbursement agreement between that Air Carrier and the Port. If the Port wishes to offer any enhancements, additions, or extensions to the Risk Mitigation Program described in this Agreement, it shall submit the revised program to the airlines and the revised elements of the Risk Mitigation Program shall be subject to the MII disapproval process, based on Airfield Cost Center, as set forth in this Section.

13.1 Risk Mitigation Program Eligibility

This Risk Mitigation Program is available to any Air Carrier without discrimination that provides a new scheduled non-stop passenger or cargo service from Portland, Oregon, to a new strategic domestic or international destination. For the purposes of this Risk Mitigation Program, "strategic destination" means those unserved domestic or international markets in the United States, Europe, Asia, Mexico and Canada as identified from time to time by the Port, and as presented to the Air Carriers at the first AAAC meeting of each year. The Program may be available for Air Carriers that provide cargo service at least weekly. Landing fee waivers may be made available for cargo service for each additional frequency between Portland and an existing international market, up to seven (7) frequencies per week. Each incentive package will be available to all eligible Air Carriers until the Port's new strategic service requirement is met or that package is officially withdrawn by the Port by written notice to all airlines. The Port shall provide the airlines with at least thirty (30) calendar days advance written notice of any such withdrawal.

13.2 Duration of Risk Mitigation Program Offer

Each incentive program will be offered until an eligible Air Carrier commences service to the strategic destination. The Port will notify the airlines of program availability with respect to a particular strategic destination, and when the program is no longer available with respect to such strategic destination.

13.3 Term of Fee Waivers

No fee waiver will remain in effect for more than one (1) year based on current FAA approval. If the FAA grants additional time, the program may be extended, subject to the Signatory Airline MII disapproval process. Should an Air Carrier receiving fee waivers for eligible service discontinue the new service at any time during the program period, this Risk Mitigation Program will immediately cease to apply to that service.

13.4 Reimbursement for Waived Fees

13.4.1 Except for those programs that provide only Landing Fee waivers paid pursuant to Section 13.4.2, all fees waived during the one (1) year fee waiver period shall be initially charged to the Port Cost Center. At the end of the one (1) year fee waiver period, the Port shall adjust the Net Requirement for the Airfield Cost Center in order to recover, on a monthly basis, to the Port Cost Center one twenty-fourth (1/24) of the total fees waived until all waived fees have been recovered, or until the Air Carrier which received the Risk Mitigation Program ceases to provide the new service, whichever comes first.

13.4.2 The Airline Cost Center will absorb the cost of Operational Credit Programs (as defined in Section 13.5). After expiration of a particular Operational Credit Program, the Carrier will pay all fees in accordance with the terms of this Agreement. If the eligible service is discontinued before the expiration of the Program, Carrier will reimburse the Airline Cost Center for the value of the Operational Credit Program within thirty (30) days following the date on which the service is discontinued.

13.5 Fee Waiver Program Options

The Port may offer a fee waiver program consisting only of Landing Activity Fee (as defined in Section 13.5.1) waivers for new service to unserved domestic markets and for new seasonal international service ("Operational Credit Programs"). For all other new service, the Port may offer a program that may include some or all of the following fee waivers for a period of one (1) year to Air Carriers for eligible service:

13.5.1 "Landing Activity Fees" (includes Landing Fees and aircraft parking fees) for the new service, measured one (1) year from the date of the Air Carrier's first flight of the new air service to Portland, or; for eligible seasonal service, during either one (1) season or a twelve (12) month program period measured one (1) year from the date of the Air Carrier's first flight of the new service.

14. RENTS

14.1 Carrier's Financial Responsibility

This Agreement is residual to the extent the Signatory Airlines are obligated to: (a) discharge all claims, obligations and indebtedness payable from the Airport Revenues; and (b) produce Net Revenues in each Fiscal Year sufficient to comply with the minimum rate covenant of Ordinance No. 155 and Ordinance No. 323, and for any additional bonds applicable to the Airfield Cost Center and Terminal Cost Center. Rent as noted below is subject to adjustment as provided in Section 15 in order to meet the requirements of this Section.

14.2 Landing Fees

14.2.1 Amount of Landing Fees

Carrier's Landing Fees shall be that amount that is equal to the product of the then current Landing Fees rate by the Carrier's Revenue Landed Weight. The current Landing Fees rate shall be calculated as follows: The Airfield Net Requirement shall be allocated between Signatory and Non-Signatory Airlines based on landed weight, with the Non-Signatory landed weight being increased by twenty-five percent (25%). The allocated Signatory Net Requirement shall be reduced by Revenue Sharing allocated to the Airfield. The Signatory Landing Fee rate shall be the reduced allocated Signatory Net Requirement divided by Signatory landed weight. Signatory Landing Fees are subject to adjustment as provided in Section 15.3. The Non-Signatory Landing Fee rate shall be the allocated Non-Signatory Net Requirement divided by Non-Signatory landed weight.

14.2.2 Reporting of Landing Fees

Carrier shall report payment for Landing Fees on the form described in Section 14.10 and shall include a report of monthly Revenue Landed Weight which supports the calculation of the Landing Fees. The Port, however, reserves the right to use other reasonable and accurate systems or procedures to determine usage to generate invoices for Carrier Landing Fees. If the Port invoices Carrier based on an alternative source, Carrier shall have the right to review and provide additional information to the Port justifying the Carrier's position.

14.3 Aircraft Parking Fees

The Port shall set rates for aircraft parking and may adjust those rates from time to time. Air Carriers who elect to park aircraft will self-report all usage on their monthly landing and gate use report. The Port, however, reserves the right to use other reasonable and accurate systems or procedures to determine usage and to bill the Carrier for their use of aircraft parking areas. If the Port invoices the Carrier based on an alternative information source, the Carrier shall have the right to review and provide additional information to the Port justifying the Carrier's position.

14.4 Other Charges

14.4.1 Cargo Facilities Charges

This Agreement should not be construed to prevent the Port from imposing such a cargo facilities charge on consignors or consignees, to the extent allowed by law. To the extent allowed by law, the proceeds of any cargo facility charge shall not be considered Revenues for the purpose of calculating Carrier's Rents. The proceeds shall be utilized only for the Port's aviation system purposes for the same type of projects which were or are eligible for: (a) federal grants in aid under Federal legislation, including, but not limited to, the "Federal Airport Improvement Program" ("AIP"); (b) any other purpose for which federal aviation grants or aviation loans may be received, or (c) as may otherwise mutually be agreed by the Port and a Majority in Interest. No cargo facility charge proceeds shall be used for that portion of projects for which the Port has received AIP grants.

14.4.2 Taxes

The Carrier agrees to pay when due all taxes, assessments, user fees, and other charges, however named, which after the Effective Date and before the termination of this Agreement may become a lien, or which may be levied by the state, county, city, district or any

other body upon the Airport or upon any interest of the Carrier acquired pursuant to this Agreement, as well as all taxes, assessments, user fees or other charges on all property, real or personal, owned by the Carrier at the Airport (collectively, "Taxes"), together with any other charge levied wholly or partly in lieu thereof. If available by law, rule or order of the taxing authority, the Carrier may, but only with the Port's prior written consent, which consent shall not be unreasonably withheld, make payments in installments, as allowed by Multnomah County. To the extent that the Carrier qualifies for tax-exempt status, the Carrier may apply for such exemption; however, unless an exemption is obtained, the Carrier shall pay all Taxes due under this Section. The Carrier may contest the validity of an assessment so long as the Carrier deposits with an escrow agent approved by the Port, with irrevocable instructions to pay such funds to the taxing authority upon written instruction from the Port, sufficient funds to satisfy any amount determined to be owing at the conclusion of the proceeding to contest the assessment. In the event that the Carrier fails to pay Taxes on or before their due date, then, in addition to all other remedies set forth in Section 25, the Port shall automatically have the right, but not the obligation, to pay the Taxes and any interest and penalties due thereon, with notice to the Carrier, and the Carrier shall promptly reimburse the Port for any sums so paid. In the event that the Term of this Agreement ends after the end of any tax year, the Carrier, unless exempt, may be held responsible for payment of property taxes for the entire tax year without proration, or, in the event of any change in property tax law, for any taxes due under such law (currently, the Multnomah County tax year runs from July 1 to June 30), and such taxes shall be paid, in full by Carrier, on or before termination of this Agreement. Real property taxes due with respect to real property leased under a separate agreement with the Port are governed by that agreement.

14.4.3 Other Taxes, Assessments, and Licenses

The Carrier shall, at its own expense, obtain all permits, licenses, approvals and certificates and pay all Taxes, assessments, fees and charges owed by the Carrier, as required by any regulation, or any law of the City of Portland, County of Multnomah, State of Oregon, the United States, or other governmental body with regard to the business to be conducted by the Carrier on the Airport, pursuant to the terms of this Agreement. The Carrier may, however, at its own risk, cost, and expense, and at no cost to the Port, contest by appropriate judicial or administrative proceedings, the applicability or amounts of any such Taxes, assessments, fees and charges.

14.4.4 Miscellaneous Charges to Carrier

The Port may assess reasonable and non-discriminatory charges for miscellaneous facilities, activities, items or services provided to, or performed for Carrier by the Port, but only if such charges, facilities, activities, items or services are either: (a) not specifically addressed in this Agreement and are accepted by the Carrier; or (b) mandated by a governmental body or agency other than the Port.

14.5 Payment Due Dates

For ease of payment and administration, Carrier and the Port have agreed to the payment schedule set forth in this Section, with the express understanding that in the event of a bankruptcy filing, Rent is due each day and Rent for each and every day following the date of the bankruptcy filing is agreed to be a post petition obligation of Carrier. The Carrier shall pay its charges for Landing Fees within thirty (30) calendar days following the last day of each calendar month, without demand or invoice. A Carrier's employee parking fees, if any, and all other

charges permitted under this Agreement, if any, shall be due within thirty (30) calendar days of the Port's invoice. In the event the Effective Date or the Expiration Date or earlier termination date with respect to any facilities, rights, licenses, services or privileges as herein provided falls on any date other than the first or last day, respectively, of a calendar month, the applicable Rent for that month shall be paid for said month on a pro rata basis according to the number of days during which said particular facilities, rights, licenses, services or privileges were enjoyed during that month. Payment of Rent and other amounts due under this Agreement shall be made without offset, abatement or deduction, to the Port at the address set forth in Section 14.6, or such other place as the Port may designate.

14.6 Place of Payment

All payments required of Carrier by any Section of this Agreement shall be made to the following address:

Port of Portland
P.O. Box 5095
Portland, Oregon 97208-5095

or to such other address as the Port may substitute therefore, in accordance with the requirements of Section 29.25.

14.7 Delinquency Charge

All Rent and other amounts not paid when due shall bear a delinquency charge of eighteen percent (18%) per annum ("Delinquency Charge"), or the maximum rate of interest allowed by law, whichever is less, from the date such Rent or other amount is due until paid in full. The Delinquency Charge is subject to periodic change by the Port. No change shall occur, however, without at least thirty (30) calendar days prior written notice to the Carrier. Imposition of a Delinquency Charge shall not constitute a waiver of any other remedies available to the Port for Carrier's failure to timely pay Rent or any other amounts.

14.8 Returned Checks

If the Carrier's check for payment of Rent, or any other amount due under this Agreement, is returned to the Port for any reason, the payment shall be considered not to have been made and shall be delinquent. In addition to the Delinquency Charge, the Port may charge the Carrier a returned check fee of FIFTY DOLLARS AND NO CENTS (\$50.00) per returned check, which the Carrier agrees is a reasonable fee for the additional administrative time and expense incurred by the Port in having to deal with the returned check. The Delinquency Charge shall continue to accrue until the returned check fee is paid, the check can be cashed, and the Port receives all funds due.

14.9 Transition Payment

If, for any reason, execution of this Agreement follows the Effective Date, the Port shall invoice Carrier, and Carrier shall pay within thirty (30) calendar days following receipt of said invoice, a one (1) time billing adjustment for the period between the Effective Date and the execution date of this Agreement. Such invoice shall be based upon the activity of Carrier during said period, and the fees and charges established in this Agreement.

14.10 Reports to be Supplied by Carrier

Not later than five (5) Business Days after the end of each month, Carrier shall file with the Port separate reports, on form(s) provided by the Port or forms approved and accepted by the Port: (a) for activity conducted by Carrier during said month at the Airport; (b) for any aircraft flights, scheduled or non-scheduled, handled by Carrier for other aircraft operators not having an agreement with the Port; and (c) for activity conducted by any Affiliate(s) during said month at the Airport (collectively, "Monthly Reports"). The Port prefers that the Air Carriers submit reports electronically, but will accept timely filed hard copy reports. The Port reserves the right to collect and use information for the calculation of Rent from other reasonable and accurate sources. If the Port uses information from other sources for the calculation of Rent, the Carrier has the right to review and provide additional information justifying the Carrier's position. Notwithstanding the foregoing, if Carrier is no longer serving Airport, Carrier is released of the monthly reporting obligation until Carrier resumes service to Airport.

14.11 Information to be Supplied by the Port

Not later than the twentieth (20th) day of each month, the Port shall post a composite statistical report for the preceding month on the Port of Portland website, http://www.portofportland.com/Aviation_Stat.aspx.

14.12 Invoices Upon Carrier Failure to Supply Required Information

In the event the Carrier fails to submit the Monthly Report required by Section 14.10 when due, the Port shall base its invoice for Rent upon the most recent data transmitted by the Carrier to the Port, with such charges to be adjusted as necessary on the next succeeding payment date. If statistical data to be submitted by the Carrier continues to be unavailable in the next succeeding month, the Port may consider such conduct to be an Event of Default (as defined in Section 25) and/or the Port may develop estimates as to the Carrier's monthly activity at one hundred twenty percent (120%) of the Carrier's highest monthly activity level during the preceding six (6) months for use in the calculation of Rent until such time as actual data is available, at which time the Carrier shall pay any additional amount due within thirty (30) calendar days of the date of the Port's issuance of its billing. In the event said actual data establishes that the Carrier has been overcharged as a result of the estimate, then the Carrier shall be entitled to an offsetting credit for any future amounts due for the same Rent.

14.13 Acceptance of Payment Is No Waiver

The acceptance by the Port of any Carrier payment shall not preclude the Port from verifying the accuracy of the Monthly Reports on which Rent is based, and shall not be construed as a waiver of any balance which may be due from the Carrier. In the event any such balance is found to be due from the Carrier as the result of an audit pursuant to Section 14.15, interest shall accrue thereon from the date the payment was originally due, at the Delinquency Charge.

14.14 Late Monthly Reports

The parties acknowledge that the Port incurs additional administrative expense if Carrier's Monthly Reports, as described in Section 14.10, are not completed and received by the due date of each Report. To compensate the Port for this administrative expense, Carrier agrees to pay the Port TWO HUNDRED FIFTY DOLLARS AND NO CENTS (\$250.00) per month, as

a reasonable fee to compensate the Port for its additional administrative costs, for each Monthly Report which is not complete and received by its due date. Said TWO HUNDRED FIFTY DOLLARS AND NO CENTS (\$250.00) payment shall be paid within thirty (30) calendar days of the Port's invoice.

14.15 Audit of Carrier Records

The Carrier shall at all times maintain, for a period of at least six (6) years, following expiration of the Agreement, its books, records, ledgers, accounts or other records ("Records") containing entries as are relevant to the determination and verification of any Rents, fees or charges under this Agreement. All such Records shall be kept in accordance with generally accepted accounting principles, consistently applied, showing in detail all business done or transacted in, on, about or from or pertaining to the Airport, and shall be sufficient to permit the Port to calculate and verify the fees and charges due under this Agreement. The Port shall have the right, upon reasonable notice, during reasonable business hours, and in a manner that is not unduly disruptive to the Carrier, to conduct an audit, examination, or inspection of the Carrier's original Records and computerized systems relating to the Carrier's operations in order to determine the accuracy of the fees and charges paid by the Carrier to the Port. The Carrier agrees to reasonably accommodate the Port's representatives by providing adequate workspace (including electrical outlets and phone access), allowing photocopying of any records and documents, allowing access to fax machines and other needed office equipment, and allowing the interviewing of such employees as the representatives deem necessary to conduct and support their audit. The Carrier shall, if requested, freely lend assistance in making such audit, examination or inspection; and, if such Records are maintained in electronic and other machine readable format, shall provide the Port and/or its representatives such assistance as may be required to allow complete access to such Records within fifteen (15) Business Days from the original request. If the Carrier does not make the Records available within fifteen (15) Business Days, a charge of ONE HUNDRED DOLLARS AND NO CENTS (\$100.00) per day, which the parties hereby agree is a reasonable amount to cover the Port's administrative expenses of enforcing compliance with this Section, for each day the Records are late, will accrue and be due and payable to the Port. In those situations where the Carrier's Records have been generated from computerized data, the Carrier agrees to provide the Port's representative with extracts of data files in a computer readable format on data disks, e-mail with attached files or suitable alternative computer data exchange formats. If such Records are maintained outside the City of Portland, Oregon, the Carrier shall make provisions to transfer the documents to Portland, but if the Carrier fails to provide all required documentation to a location within Portland, Oregon, the Carrier agrees, subject to the limitation below, to reimburse the Port for expenses incurred in sending representatives to wherever such Records are maintained. Such expense will include transportation, lodging, food and other out of pocket expenses resulting from the necessity to leave Portland, Oregon. If the result of any audit reveals an underpayment by the Carrier of more than three percent (3%) of fees and charges due pursuant to this Agreement: (a) Carrier shall, within thirty (30) calendar days following issuance of the Port's invoices therefore, pay the balance owed, plus interest thereon at the rate specified in Section 14.7, from the date originally due; and (b) all costs and expenses of the audit incurred by the Port hereunder shall be paid by the Carrier and credited by the Port to the appropriate Cost Center of the Airline Supported Area. If the result of any audit reveals an overpayment by the Carrier of more than three percent (3%) of Rents due pursuant to this Agreement, the Port shall, within thirty (30) calendar days following the discovery of the Carrier's overpayment, pay the Carrier the overpaid amount. The

Port's right to inspect and audit Carrier's Records shall survive the expiration or early termination of this Agreement.

15. ADJUSTMENTS TO RENT

15.1 Annual and Periodic Rent Adjustments

Rent rates shall be reviewed annually, in conjunction with the Port's budgeting process, and may be adjusted effective on July 1 of each Fiscal Year. In addition, the Port may adjust Rent rates in order to remain in compliance with Ordinance No. 155 and Ordinance No. 323, with respect to the Airfield Cost Center and the Terminal Cost Center. Such adjustments may be made at any time that un-audited monthly Airport financial data indicates that total Rent payable pursuant to the then current rate schedule is estimated and anticipated by the Port to produce higher or lower Revenues than would be received if rates for Rent were based upon more current information. The Port shall provide an adjusted rate schedule to the Carrier at each adjustment.

15.2 Annual Operating Budget Process

Prior to the inception of a new Fiscal Year, the Port shall provide the Carrier with electronic access to, or a hard copy of the Port's proposed schedule of Rent rates for the ensuing Fiscal Year. Within thirty (30) calendar days after the forwarding of the proposed schedule for Rent, the Port and the AAAC shall meet, at a mutually convenient place and time, to engage in meaningful discussions regarding the proposed budget and proposed Rent rates. In advance of said meeting, the Port agrees to make available any reasonably requested additional information related to the determination of Rent rates. The Port desires the input of the members of the AAAC regarding the schedule of Rent for the ensuing Fiscal Year. Following this meeting, the Port shall finalize the budget and determine Rent. The Port shall thereafter notify the Carrier of Rent rates established for the ensuing period. The Port shall, upon request, provide the Carrier a copy of the finalized operating budget.

15.3 Final Adjustment of Rates after Annual Audit of Port Records

Within one hundred twenty (120) calendar days following the close of each Fiscal Year, or as soon as audited financial data for said Fiscal Year is available, rates for Rent for the preceding Fiscal Year shall be recalculated using audited financial data and the methods set forth in Section 14. Any difference(s) between the Rent that would have been paid by Signatory Airlines using said recalculated rates shall be applied as year end adjustments to the Airport accounts. Said adjustments shall be applied to the particular Rent for which a difference(s) in rates resulted in overpayment or underpayment of Rent. Any underpayment shall be invoiced by the Port and paid by the Carrier within thirty (30) calendar days following the issuance of said invoice. Subject to the provisions of Section 15.7, any overpayment shall be refunded to the Carrier within thirty (30) calendar days of its determination.

15.3.1 Time Limit on Reconciliation

The Port shall not invoice the Carrier, and the Carrier shall not seek a reconciliation reimbursement from the Port for any error in Terminal Rents discovered more than six (6) months after the final adjustment of Terminal Rents is issued as provided in Section 15.3. This time limit on reconciliation adjustments will not apply to a significant error identified through audit findings per Section 14.15 or Section 15.8.

15.4 Adjustments for Additional Bonds

For any Capital Improvement in the Airline Supported Area allowed under the provisions of Section 18, if the Port intends to finance the Capital Improvement(s) through revenue bonds, the Port may adjust Rent to the extent necessary to comply with any earnings test(s) of Section 4 of Ordinance No. 155 and Section 10 of Ordinance No. 323, for the issuance of additional revenue bonds. Prior to adjusting said Rent in the Airline Supported Area as provided in Section 15.1, the Port shall ascertain which Cost Centers would benefit from the Capital Improvement(s). Rent for those Cost Centers shall then be adjusted to generate the necessary Debt Service Coverage required by Ordinance No. 155 and Ordinance No. 323. If the bonds are not issued, or if the additional Revenues are no longer required to comply with Ordinance No. 155 and Ordinance No. 323 after issuance of the additional bonds, Rent paid by the Carrier under this Section shall be considered an overpayment by the Carrier and shall be credited to the Carrier in a like manner to that provided for in Section 15.3.

15.5 No Formal Amendment

Adjustments to Rent pursuant to Section 15 shall apply without the necessity of formal amendment of this Agreement. The Port will notify Carrier of any changes, in writing. This updated notification will show the calculation of Rent rates for the Fiscal Year and shall be deemed part of this Agreement.

15.6 Continuation of Unadjusted Rates

If adjustment of Rent is not completed by the Port on or prior to the end of any Fiscal Year, Rent then in existence shall continue to be paid by the Carrier until adjustment is concluded. At the time such adjustment is concluded, appropriate payments by the Carrier, or credits to the Carrier, shall be made to adjust Rent paid to date in said Fiscal Year to the amounts that would have been paid had the new Rent rates been effective at the beginning of said Fiscal Year.

15.7 Refunds and Payments to the Carrier

15.7.1 Source of Funds

Any cash payment of any amounts due to the Carrier pursuant to this Agreement, except for Revenue Sharing, shall be payable only from funds in or available for deposit in, the Airport General Account. Revenue Sharing shall be paid from the Port Cost Center.

15.7.2 Offset for Amount Owed to Port

Any refund or payment to the Carrier pursuant to this Agreement to the extent payable under the provisions of Section 16, shall be retained by the Port for offset if Carrier is not current on payment of all Rent due under this Agreement to the Port. The set-off amounts shall be applied as determined by the Port in its sole discretion and may be applied to pay any amounts, including amounts that became due prior to the commencement of bankruptcy by Carrier. To the greatest extent allowed by law, if the Carrier is in bankruptcy, all refunds and all payments due under this Agreement will be retained by the Port for offset until: (a) the Signatory Agreement has been assumed by the Carrier and all Rent due under this Agreement has been paid in full; (b) the Signatory Agreement has been rejected by the Carrier and all Rent and any rejection damages suffered by the Port have been paid in full; or (c) the Signatory Agreement expires and all Rent has been paid in full.

15.8 Port Accounting Covenants

15.8.1 Maintenance of Books and Records

The Port shall maintain and keep proper books of account, and observe sound business principles for effective and prudent control of operation, maintenance, and administration expenses. Except as restricted by law, Carrier shall have the right to reasonably inspect the Port's books of account during regular business hours. The Port shall at all times maintain and, for a period of at least six (6) years, keep books, records, ledgers, accounts or other records ("Port Records") containing entries as are relevant to the determination and verification of any Rent, fees or charges under this Agreement. All Port Records shall be kept in accordance with generally accepted accounting principles, consistently applied, showing in detail all business done or transacted in, on, about or from or pertaining to the Airport, and shall be sufficient to permit the Carrier to calculate and verify the fees and charges due under this Agreement. The Carrier shall have the right, upon reasonable notice, during reasonable business hours, and in a manner that is not unduly disruptive to the Port, to conduct an audit, examination, or inspection of the Port Records and computerized systems relating to the Port's operations in order to determine the accuracy of the fees and charges paid by the Carrier to the Port. The Port agrees to reasonably accommodate Carrier's representatives by providing adequate workspace (including electrical outlets and phone access), allowing photocopying of any records and documents, allowing access to fax machines and other needed office equipment, and allowing the interviewing of such employees as the representatives deem necessary to conduct and support their audit. The Port shall, if requested, freely lend assistance in making such audit, examination or inspection; and, if such Records are maintained in electronic and other machine-readable format, shall provide Carrier and/or its representatives such assistance as may be required to allow complete access to such records within twenty (20) Business Days from the original request.

15.8.2 Calculation Methodology

The Port shall calculate the Carrier's rates for Rent in a manner: (a) that is consistent with this Agreement; (b) which shall not render taxable any federally tax exempt revenue bonds issued to finance Airport construction; and (c) which includes in the calculation Rent rates payable by the Carrier those Revenues, expenses, debt service, Debt Service Coverage and unpaid Revenues due from any user of the Airline Supported Area, all of which must be properly allocable to the Airline Supported Area, together with any payment obligations or costs assessed, or expenditures mandated or required by any governmental agency (other than the Port) if a direct charge is paid, or accrued, by the Port as a result of the governmental action. Rent charged by the Port shall be consistent with federal law or applicable federal policy statements with respect to rates and charges.

16. REVENUE SHARING

The parties acknowledge that the Port is under no obligation to share Port Cost Center Revenues, however, in response to the Signatory Airlines' request, the Port has agreed to share SIXTY MILLION DOLLARS AND NO CENTS (\$60,000,000.00) of Port Cost Center Revenue with the Signatory Passenger and Signatory Cargo Airlines. The Revenue Sharing will be divided into annual installments of SIX MILLION DOLLARS AND NO CENTS (\$6,000,000.00) subject to any adjustments, offsets or reductions, as set forth in Sections 16.2, 16.3, and 17.

16.1 Distribution Formula

Revenue Sharing will be allocated between the Terminal and the Airfield in proportion to the Net Requirements of those Cost Centers before Revenue Sharing.

16.2 Discontinuation of Revenue Sharing

Revenue Sharing will only occur to the extent that the Port Cost Center Coverage Ratio remains above 2.350. If, at any time during the Term of this Agreement, the scheduled Revenue Sharing transfer would cause the Port Cost Center Coverage Ratio to drop below 2.350, then the amount of the scheduled transfer will be reduced to a level that will keep the Port Cost Center Coverage Ratio level from falling below 2.350. This reduction shall be made without liability to the Port and shall not result in any other changes to the terms of this Agreement. If a reduction in Revenue Sharing occurs due to the Port Cost Center Coverage Ratio dropping below 2.350, the Port shall transfer the reduction in the next year of this Agreement if the Port Cost Center Coverage Ratio remains above 2.350 with the shortfall added. This provision shall continue until the Port transfers all shortfalls, or this Agreement expires, whichever shall occur first.

16.3 Additional Revenue Sharing

The Port shall transfer the following percentages of incremental Net Revenues as additional Revenue Sharing if the Airport Coverage Ratio exceeds 1.750 after the transfers of all shortfalls per Section 16.2.

Net Revenues above this Airport Coverage Ratio	Net Revenues up to and including this Airport Coverage Ratio	Percentage of this increment paid as additional Revenue Sharing
1.700	1.800	50%
1.800	1.900	25%
1.900	2.000	15%
2.000		0%

A hypothetical example of additional Revenue Sharing calculation is shown on Exhibit C.

17. OPERATING AND MAINTENANCE EXPENSE REBATE PROGRAM

The Port intends to aggressively manage O&M Expenses. If the Port is able to spend less for O&M Expenses than it did for the prior Fiscal Year, the Signatory Airlines have agreed to reduce Revenue Sharing pursuant to the calculation provided in this Section. The target for each Fiscal Year shall be the prior Fiscal Year's O&M Expenses.

The O&M targets are subject to adjustment upward, based on any change in state or federal law, or federal agency directive, that requires additional O&M expenditures that were required in the prior Fiscal Year. The Port will advise the AAAC of any such adjustments at the next regularly scheduled AAAC meeting. At no time will the amount of a Revenue Sharing reduction exceed the amount contributed to total Revenue Sharing by the Port.

If actual O&M Expenses are less than the target established in any Fiscal Year, Revenue Sharing will be reduced as calculated below.

O&M Expenses Below this Percentage of Target	O&M Expenses Down to and including this Percentage of Target	Revenue Sharing Reduced by this Percentage of the Increment
100%	98%	10%
98%	96%	15%
96%	94%	20%
94%	92%	25%
92%		30%

A hypothetical example of a reduced Revenue Sharing calculation is shown on **Exhibit C**.

18. AIRPORT CAPITAL IMPROVEMENTS

The Port may not commence construction on any Capital Improvement project that received Signatory Airline approval under the MII process if the estimate later exceeds one hundred and ten percent (110%) of initial estimate approved pursuant to Section 18.5. Instead, the Port will submit the project for MII review a second time to obtain approval for the project in light of the new construction cost estimate.

18.1 Airport Capital Improvement Program

The parties hereto recognize that capital development of the Airport will be required during the Term of this Agreement to preserve, protect, enhance, expand, or otherwise improve the Airport, or any part thereof. The Port may, therefore, incur indebtedness and make expenditures for Capital Improvements in the Airport. Except as restricted by Section 18, all costs associated with Capital Improvements in the Airline Supported Area, including finance charges, if any, shall be included in the calculations of Rents. In conjunction with issuing additional bonds to pay for Capital Improvements, the Port agrees to pursue and use grant funding and other funding sources, such as PFCs, Debt Service Coverage, and Interest Rate Swaps, to the extent the Port deems reasonable.

18.1.1 Capital Improvement Projects Subject to MII Disapproval

Prior to implementation of any Capital Expenditure with a total cost in excess of ONE MILLION DOLLARS AND NO CENTS (\$1,000,000.00), the Port will provide the following information to the Signatory Airlines on a Project Fact Sheet ("Project Fact Sheet"): (a) project name; (b) project number; (c) project description; (d) project schedule; and (e) financial information, including total project cost, cash flows, funding plan, the anticipated operating cost, and the anticipated impact on Air Carrier Rents as shown on **Exhibit D**. This information will be presented to the AAAC, and will proceed in accordance with the MII disapproval process outlined in Section 18.5. Not less than twice annually, the Port will report to the AAAC regarding the schedule, budget, and any scope revisions on projects subject to the MII process.

18.1.2 South Runway Pre-Approval

The Port and Carrier acknowledge and agree that the South Runway requires substantial repairs and/or rehabilitation within the next two (2) years and that South Runway construction must begin during the 2011 construction season. The Port and Carrier have agreed that the South Runway construction project will commence on time during the 2011 construction season. The South Runway construction project will be subject to the MII disapproval process for both scope and budget.

18.2 Capital Improvement Projects Not Impacting Carrier Rate Base

The Port and Signatory Airlines agree that the Port will use Debt Service Coverage to fund Capital Improvements in the Port's sole discretion. The Signatory Airlines have no disapproval rights for Capital Improvements funded in a manner that does not directly impact the Carrier rate base.

18.3 Other Capital Improvement Projects Not Subject to the MII Process

The following Capital Improvement projects are also approved and are not subject to MII process, however if the expenditure exceeds ONE MILLION DOLLARS AND NO CENTS (\$1,000,000.00), an AAAC consultation will occur except for those Capital Improvement projects that must be implemented in response to an emergency situation. These projects shall not be subject to the consultation requirement:

18.3.1 Public Safety

Improvements required, pursuant to regulations or laws promulgated by any federal, state, or local government authority having jurisdiction over the Airport, for public safety when directed by any governing authority, including, but not limited to, Department of Homeland Security, FAA, TSA, CBP, and the Federal Bureau of Investigation, the National Transportation Safety Board, U.S. Fish and Wildlife, the Department of Agriculture, or any other federal, state, or local governmental authority having jurisdiction over the Airport, the Carrier's operations, or the safety of the Airport's operations.

18.3.2 Damage Not Covered by Insurance Proceeds

Casualty damage to Airport property which exceeds the proceeds of insurance, or is not covered by insurance, or is below the deductible of the insurance, which property must be rebuilt or replaced in order to satisfy Port obligations or to maintain required Revenues.

18.3.3 Lawful Compliance

Improvements, additions or purchases necessary to insure compliance with lawful orders or requirements of other authorities with jurisdiction over the Airport's operations, or that are required under the terms of federal or state grants to the Port, including without limitation administrative enforcement orders whether or not issued with the Port's consent. When resolving any enforcement matters, the Port shall use its best efforts to seek reasonable, non-discriminatory and cost effective settlement terms to the extent that such terms could impact Carrier's compliance costs, obligations or operations at the Airport.

18.3.4 Settlements

Improvements, additions, purchases or damage payments for the purpose of settling lawsuits, satisfying judgments, or complying with orders against the Port by reason of its

design, ownership, operation, maintenance, or use of the Airport. To the extent the Port is able to recoup all or some of its expenditures from insurance proceeds, such amounts shall be refunded to the appropriate Cost Center.

18.3.5 Emergency/Failure of Essential Equipment

Improvements of an emergency nature which, if not made, or commenced, would substantially impair the operation or safety of the Airport or the Carrier, or which has already caused the closure of, or failure of, an important aspect of Airport or Air Carrier operations.

18.3.6 Hazardous Substance Release

Restoration or clean-up of Airport property due to any Hazardous Substance Release. To the extent the Port is able to recoup all or some of its expenditures from insurance proceeds, such amounts shall be refunded to the appropriate Cost Center. To the extent the Port is able to recoup all or some of its expenditures from insurance proceeds or from parties directly responsible for such Hazardous Substance Release, such amounts shall be refunded to the appropriate Cost Center.

18.3.7 Additional Space for New or Expanding Carrier

Capital Improvements that are required to make available Terminal space or related facilities for the expansion of an Air Carrier, or to make space or facilities available in the Terminal to accommodate a new entrant or expanding Air Carrier, provided before any construction is commenced, such Air Carrier shall enter into a binding commitment to lease that space for at least the remaining Term of the Signatory Agreement, and provided, further, that existing space or facilities are not otherwise available to accommodate the Air Carrier in a competitive, non-disruptive and otherwise satisfactory manner.

18.3.8 Improvements Requested by Passenger Carrier

Should a Passenger Carrier request the Port to finance any Capital Improvement within its Exclusive or Preferential Space, the Port may use Airline Cost Center Revenues to do so, with repayment in full being amortized over a period not to exceed ten (10) years, except for loading bridges, which period shall not exceed fifteen (15) years. The interest rate shall be computed using the all in total interest cost associated with the financing instruments used to pay for the Capital Improvement. Debt Service Coverage will be included in the repayment. Before the Port agrees to finance any such Capital Improvement, the Passenger Carrier will be required to enter into a reimbursement agreement and may also, in the Port's sole discretion, be required to supply a Security Deposit in the form of a letter of credit or cash, in an amount to be determined by the Port. The balance of any Security Deposit provided for this purpose will be applied to the sum reimbursed by Carrier.

18.4 Allocation of Debt Service Coverage

The Port shall allocate one hundred percent (100%) of the Debt Service Coverage generated by Carrier to fund Capital Improvements in the Airline Supported Areas or to fund Carrier's allocated portions of Capital Improvements in the Indirect Cost Centers.

18.5 MII Disapproval Process for Capital Improvements

Except for projects described in this Section 18.5, changes to this Agreement regarding the Risk Mitigation Program pursuant to Section 13, and those exempted projects described in

Section 18.3, any other Capital Improvements which the Port desires to make during the Term of this Agreement will be subject to the MII disapproval of seventy-five percent (75%) of eligible Signatory Airlines, as more particularly described in this Section and in each Section below. If a Signatory Airline has ceased service at the Airport, for whatever reason, at the time of an MII vote, then that Signatory Airline and its Terminal Rents, Landing Fees, and Enplaned Passengers shall not be counted. For purposes of this Section, a Signatory Airline will be deemed to have ceased service if that Signatory Airline has no Scheduled Service as of the date that the ballot is mailed by the Port, or has otherwise terminated its Signatory Agreement with the Port. If an MII disapproval vote is required, ballots will be mailed to all Signatory Airlines entitled to vote, at least thirty (30) calendar days in advance of the deadline to vote. Any ballot not returned by the deadline date specified in such notice will be counted as an approval of the Capital Improvement. The Carrier's ballots may be sent via fax, certified mail, or e-mail to the Notice Address provided in Section 29.25. All ballots shall be deemed effective upon recipient's receipt of a signed hard copy.

18.5.1 MII Disapproval Process for Capital Improvements or Programs Impacting Only the Airfield Cost Center

If the Capital Improvement will impact only the Airfield Cost Center, then both the Signatory Passenger Airlines and the Signatory Cargo Airlines will be notified. The MII will be based on both the number of Signatory Airlines (more than seventy-five percent [75%]), and more than seventy-five percent (75%) of the total Signatory Airline Landing Fees will be counted for the MII vote process set forth in Section 18.5. This measure will be calculated over the immediately preceding twelve (12) month period.

18.5.2 MII Disapproval Process for Capital Improvements or Programs Impacting Both Terminal and Airfield Cost Centers

If the Capital Improvement will or could impact both the Terminal Cost Center and the Airfield Cost Center, then both the Signatory Passenger Airlines and the Signatory Cargo Airlines will be notified and counted, along with their total Landing Fees and Terminal Rents. The MII will be based on both the number of Signatory Airlines (more than seventy-five percent [75%]), and more than seventy-five percent (75%) of the total of Terminal Rents paid for Signatory Passenger Airline Exclusive, Preferential, and Shared Space, Common Use Gates used in association with the IAF, and Signatory Airline Landing Fees for the MII vote process set forth in Section 18.5. This measure will be calculated over the immediately preceding twelve (12) month period.

18.5.3 No MII Disapproval Process for Capital Improvements or Programs Valued Under One Million Dollars

The Signatory Airlines shall not have the right to review or approve any Capital Improvement project that has a total estimated project budget of less than ONE MILLION DOLLARS AND NO CENTS (\$1,000,000.00). The Port shall implement these Capital Improvement projects in its sole discretion. It is understood and expressly agreed that the Port will not separate or break down any Capital Improvement project into distinct component parts for the sole purpose of avoiding a required vote by the Signatory Airlines. Should a project exempt from the MII disapproval process due to the budget threshold exceed the threshold at any time during construction due to a cost increase resulting from a cause within the Port's control, the MII disapproval process shall be utilized. If the project is disapproved, all costs in excess of

the threshold shall be paid with sources that do not impact the Carrier rate base. The Port shall present a semi-annual project report at regularly scheduled AAAC meetings on those Capital Improvement projects valued at under ONE MILLION DOLLARS AND NO CENTS (\$1,000,000.00) commenced during the prior Fiscal Year.

18.6 Disapproval of a Capital Improvement

In the event of an MII disapproval of a Capital Improvement, the Port shall have the option to convene a meeting with the AAAC. Unless the Port extends the time for holding the meeting, it shall be held within sixty (60) calendar days following the date of the disapproval, at a mutually convenient time and place. At said meeting, the Port may respond to questions raised during the meeting, and may ask that the disapproval of a proposed Capital Improvement be withdrawn or that another approval vote be taken. If an MII of impacted Signatory Airlines agree, in writing, at any time during or after the meeting, to withdraw the disapproval, the Port may proceed with the Capital Improvement. Any project disapproved by a second vote cannot be submitted for an additional vote within ninety (90) calendar days from the date of the second vote or any other subsequent votes.

18.6.1 Capital Improvement Not Impacting Airline Supported Area Rents

In the event a Capital Improvement is not approved by the Signatory Airlines, the Port may make Capital Expenditures in the Terminal Cost Center or the Airfield Cost Center for which all costs to construct and operate the Capital Improvement are paid or financed from funds lawfully available to the Port, including, but not limited to, coverage, PFC dollars, grant funds, the Port Cost Center or non-Airport Fund Revenues. Such Capital Improvements are not to be included in the determination of Rents applicable to the Airline Supported Area.

19. MII APPROVAL PROCESS

19.1 Signatory Agreement Amendment Process

Any amendment to the Signatory Agreement shall require an approval MII vote of at least two-thirds (2/3) of all Signatory Airlines if the amendment will have a materially adverse financial impact on any of the Signatory Airlines. For purposes of this Section, a Signatory Airline will be deemed to have ceased service if that Signatory Airline has no Scheduled Service as of the date that the ballot is mailed by the Port. If an MII approval vote is required, ballots will be mailed to all Signatory Airlines entitled to vote, except those Signatory Airlines who ceased service as described above, at least thirty (30) calendar days in advance of the deadline to vote. Any ballot not returned by the deadline date specified in such notice will be counted as an approval of the amendment. The Carrier's ballots may be sent to the Carrier by fax or certified mail to the Notice Address provided in Section 29.25, and may be returned to the Port via fax or certified mail to the Notice Address set forth in Section 29.25. The process for receiving Signatory Airline approval to amend the Signatory Agreement shall be as follows:

19.1.1 MII Approval Process for Amendments Impacting Only the Airfield Cost Center

If the amendment will impact only the Airfield Cost Center, then both the Signatory Passenger Airlines and the Signatory Cargo Airlines will be notified. The MII will be based on approval by more than sixty-six percent (66%) of Signatory Airlines or approval by those Signatory Airlines whose combined landed weights account for more than sixty-six

percent (66%) of the total Signatory Airline landed weight. This measure will be calculated over the immediately preceding twelve (12) month period.

19.1.2 MII Approval Process for Amendments Impacting Both Terminal and Airfield Cost Centers

If the amendment will or could impact both the Terminal Cost Center and the Airfield Cost Center, then both the Signatory Passenger Airlines and the Signatory Cargo Airlines will be notified and counted, along with their total Landing Fees and Terminal Rents. The MII will be based on approval by more than sixty-six percent (66%) of the number of Signatory Airlines or approval by those Signatory Airlines whose combined Terminal Rents paid for Signatory Passenger Airline Exclusive, Preferential, and Shared Space, Common Use Gates used in association with the IAF and Signatory Airline Landing Fees total more than sixty-six percent (66%) of the total Terminal Rents paid for Signatory Passenger Airline Exclusive, Preferential, and Shared Space; Common Use Gates used in association with the IAF; and Signatory Airline Landing Fees. This measure will be calculated over the immediately preceding twelve (12) month period.

19.2 Rejection of Signatory Agreement Amendment

In the event of an MII rejection of a Signatory Agreement amendment, the Port shall have the option to convene a meeting with the AAAC. Unless the Port extends the time for holding the meeting, it shall be held within sixty (60) calendar days following the date of the disapproval, at a mutually convenient time and place. At said meeting, the Port may respond to questions raised during the meeting, and may ask that the disapproval of a proposed amendment be withdrawn or that another approval vote be taken. If an MII agrees, in writing, at any time during or after the meeting, to approve the amendment, and such approval causes such amendment to meet the approval criteria set forth in Section 19.1, the Port may proceed with the amendment.

20. DAMAGE TO AIRPORT FACILITY

20.1 Minor Damage to Airport Property

If any part of the Airport facilities are partially damaged by fire or other casualty so as to directly and substantially impact the Carrier's use of the Airport facilities, Rent will not be abated.

20.2 Decision Not to Reconstruct

The Port shall consult with Carrier on ways to provide Carrier with comparable and adequate replacement space for its operations, and this Agreement shall remain in full force and effect.

20.3 Scope of Port Restoration

The Port's obligations to repair or reconstruct any damaged Airport facilities shall be limited to using due diligence and reasonable efforts to restore the impacted Airport facilities to a useable condition. In the event of inadequate insurance, Airline Cost Center funds will be used to make the repairs, in accordance with Section 18.3.2.

20.4 Damage From Carrier Negligence

Notwithstanding any provisions of Section 20, in the event that the damage to Airport facilities is due to the negligence of the Carrier, its agents, Affiliates, Subcontractors, or employees, or those otherwise under its control, including damage by Hazardous Substance Release, or otherwise, to the extent that the costs of repairs shall exceed the amount of any insurance proceeds payable to the Port by reason of such damage or destruction, the Carrier shall pay the amount of such additional costs to the Port.

21. INDEMNIFICATION AND INSURANCE

21.1 Indemnification

To the full extent permitted by applicable law, and subject to the provision for waiver of subrogation set forth in Section 21.6, the Carrier shall indemnify, defend and hold harmless the Port, its commissioners, directors, officers and employees (collectively, the "Indemnified Parties"), individually or collectively, from and against any and all claims, actions, damages, loss and liability, including environmental claims and costs, together with all reasonable expenses incidental to the investigation and defense thereof claimed by the Port or by any other party by reason of injury or damage to persons or property to the extent arising from an act, omission or any negligence of the Carrier, its officers or employees, subtenants, contractors, subcontractors, or by anyone acting under the Carrier's direct control arising out of this Agreement except to the extent arising from the negligence or willful misconduct of the Indemnified Parties, or except to the extent arising from any action or failure to act by the Carrier pursuant to a specific written direction of the Indemnified Parties. The Carrier shall also indemnify, defend and hold harmless, the Indemnified Parties, individually or collectively, from and against any and all claims, actions, damages, loss and liability, together with all reasonable expenses incidental to the investigation and defense thereof, in any way arising from or based upon the violation of any federal, state, or municipal laws, statutes, ordinances, or regulations, including applicable Environmental Laws, by the Carrier, its officers, employees, subtenants, contractors, subcontractors or by anyone under the Carrier's direct control arising out of this Agreement, except to the extent arising from the negligence or the willful misconduct of the Indemnified Parties, or except to the extent arising from any action or failure to act by the Carrier pursuant to a specific written direction of the Indemnified Parties. The Port shall give the Carrier prompt and reasonable notice of any claims or actions, and the Carrier shall have the right to investigate and compromise said claims or actions. The provisions of this Section shall survive the termination of this Agreement.

21.2 Carrier Insurance

Carrier shall maintain commercial insurance, self-insurance, or a combination thereof as set forth below to cover its operations and indemnity obligations under this Agreement. Insurance types and amounts stated below are minimum requirements only and shall not limit Carrier's liability or indemnity obligations under the Agreement. Carrier shall continuously maintain the following policies of insurance, without interruption, throughout the Term of this Agreement:

21.2.1 Aviation Liability Insurance

Carrier shall maintain liability insurance for the protection of Carrier and the Port, its commissioners, directors, officers, agents, and employees for claims arising out of Carrier's operation in connection with this Agreement. Such insurance shall include coverage for bodily

injury, death, property damage, including loss of use thereof, personal injury, contractual liability, fire legal and products and completed operations.

21.2.1.1 Coverage shall be written on an occurrence form with a single limit in no less than the following amounts:

21.2.1.2 Carriers classified as a "Regional/Commuter Airline" by the FAA shall carry insurance in the amount of ONE HUNDRED MILLION DOLLARS AND NO CENTS (\$100,000,000.00) each occurrence and in the annual aggregate, to the extent an annual aggregate is typical in the market, with respect to personal injury and products and completed operations. Carriers not classified as regional commuters shall carry insurance in the amount of TWO HUNDRED MILLION DOLLARS AND NO CENTS (\$200,000,000.00) each occurrence and in the annual aggregate, to the extent an annual aggregate is typical in the market, with respect to personal injury and products and completed operations.

21.2.1.3 Such insurance shall name the Port, its commissioners, directors, officers, agents and employees as additional insureds to the extent of the Carrier's insurable indemnity obligations hereunder, with the stipulation that this insurance, as to the interest of the Port only, shall not be invalidated by any act or omission by the Carrier. The coverage shall be primary coverage and any other insurance carried by the Port is excess.

21.2.2 Automobile Liability Insurance

The Carrier shall maintain automobile liability insurance in the amount of FIVE MILLION DOLLARS AND NO CENTS (\$5,000,000.00) each occurrence for the protection of the Carrier and the Port, its commissioners, directors, officers, agents, and employees. Such insurance shall include coverage for claims arising out of the Carrier's use of any owned or non-owned automobile in connection with this Agreement.

21.2.2.1 The Carrier may self-insure the automobile liability if the Carrier has been approved as self-insured under Oregon law and complies with all state requirements.

21.2.2.2 If the Carrier violates any aspect of its responsibilities as a self-insurer, the Port reserves the right to, and may, in its sole discretion, immediately rescind acceptance of such self insurance and the Carrier will be required to purchase commercial automobile insurance and provide the Port proof of insurance within thirty (30) calendar days.

21.2.3 Workers' Compensation Insurance

The Carrier shall also maintain in force workers' compensation insurance, to the extent required by Oregon law, and coverage for "Employer's Liability" in the minimum amount of ONE MILLION DOLLARS AND NO CENTS (\$1,000,000.00).

21.2.4 Property Insurance

Where applicable, Carrier shall provide property insurance, or be allowed to self-insure, in an amount adequate to repair or replace its improvements located on the Airport, and other Port facilities used by the Carrier on a temporary basis, and the Carrier's personal property anywhere on the Airport. Any self-insurance shall conform at least to the terms and conditions of standard commercial property "all-risk" insurance.

21.2.5 Review of Insurance Coverage

The aforesaid types and amounts of insurance shall be reviewed from time to time by the Port and may be adjusted by the Port, without formal amendment of this Agreement, if the Port reasonably determines such adjustments are necessary to protect the Port's interests. If such adjustment is necessary, the Port shall, to the extent possible, meet with the AAAC and discuss the proposed adjustments. When an adjustment is made, the Port shall notify the Carrier of the adjusted requirements by mailing the Carrier a copy of the revision in the manner provided in Section 29.25. Unless sixty-six percent (66%) of the Signatory Airlines object within thirty (30) calendar days of the date of said notice, Carrier shall provide a certificate(s) of insurance in compliance with the notice within forty-five (45) calendar days of the date of said notice. The certificate(s) shall comply with the provisions of Section 21.2.6. If the Port receives objections from sixty-six percent (66%) of the Signatory Airlines within said thirty (30) calendar days, the Port shall so notify all Signatory Airlines; in such event, the adjustments shall not be effective, but the Airline Cost Center shall remain responsible to cure any losses due to lack of coverage.

21.2.6 Certificate of Insurance

Carrier shall furnish the Port, no later than thirty (30) calendar days following the execution of this Agreement, or notification of a revision in insurance requirements, a certificate(s) of insurance as evidence that the required amounts and types of such insurance are in force, including a copy of the additional insured requirement as stated in Section 21.2.1. Said policies shall be in a form, content and for a term generally used by Air Carriers similar to Carrier in their routine operations and shall provide for thirty (30) calendar days written notice to the Port prior to the cancellation of, or any material change in, such policies.

21.2.7 Other Forms of Insurance

The Carrier shall also obtain all other forms of insurance required for its particular use of the Airport, or as required by law.

21.2.8 Cancellation or Unauthorized Policy Changes

In the event of cancellation of any required insurance at any time during the Term of this Agreement, or any change not reasonably acceptable to the Port, the Port reserves the right, after consultation with Carrier, to provide additional insurance and charge the cost of any premiums for such coverage to the Carrier.

21.2.9 No Representation of Adequacy

The Port makes no representation that the limits or forms of insurance coverage specified or required under this Agreement are adequate to cover the Carrier's property or the Carrier's liabilities or obligations under this Agreement.

21.2.10 Port's Right to Request Information from Insurance Company

If at any time the Port requests a written statement from the Carrier's insurance company as to any claim or loss, the Carrier shall promptly authorize its insurer to have such statement delivered to the Port. The Carrier authorizes the Port and its insurance consultant or company to confirm with the Carrier's insurance agents, brokers and insurance companies all information furnished the Port, as to the Carrier's compliance with the Port's insurance requirements.

21.2.11 Primary Coverage

All insurance policies shall be endorsed to state that Carrier's policy shall be primary and not contributory with respect to any insurance carried by the Port.

21.2.12 Excess Coverage

To the extent that the Carrier relies on any excess policy of insurance to satisfy any requirement of this Section, any such policy shall be no less broad than the underlying policy, and shall have a term at least equal to the time period covered by the underlying policy and shall at all times meet the minimum coverage requirements, and include a drop-down provision.

21.3 Port Insurance

The Port shall, during the Term of this Agreement, procure and maintain liability, fire, and extended coverage insurance for the Airport, Terminal, and other facilities at the Airport, as required by the Ordinance, as amended, and as may be amended from time to time. War and Terrorism Liability insurance shall be purchased only if the Port determines that it is available for a reasonable premium and provides reasonable coverage in the reasonable discretion of the Port, after consultation with the Carrier.

21.4 Actions that Impact Coverage

The Carrier shall not, within its reasonable control, do, or permit to be done, anything either by act, or failure to act, that shall cause the cancellation or violate the provisions of any policy of insurance for the Airport, or any part thereof, or that shall cause a hazardous condition so as to increase the risks normally attendant upon operations permitted by this Agreement. If such Carrier act, or failure to act, shall cause cancellation of any policy, then the Carrier shall immediately, upon notification by the Port, take such action as is necessary to cause reinstatement of said insurance. If any incident occurs which causes the premium to be increased or insurance cancelled that cannot be attributed to a specific responsible Air Carrier, then the premium difference and the difference in cost between the lost insurance and replacement insurance, if any, shall be paid from the Airline Cost Center.

21.5 Carrier's Risk

Carrier shall be responsible for obtaining any insurance it deems necessary to cover its own risks, including, without limitation: (a) business interruption covering loss of income, extra expenses, and consequential loss or damages of any type or kind; (b) personal property; (c) aircraft hull and machinery coverage; and/or (d) automobile physical damage and/or theft, if applicable. In no event shall the Port be liable for any; (i) business interruption or any other related or consequential loss sustained by Carrier; (ii) damage to, or loss of, Carrier's property; (iii) damage to, or loss of, an aircraft; or (iv) damage to, or loss of an automobile, whether or not such loss is insured, except to the extent caused by the Port's own negligence or willful misconduct.

21.6 Waiver of Subrogation

The Port and the Carrier hereby mutually waive any right of action that each party and/or its insurance carrier(s) may have against the other party for any loss from perils which can be insured against under the standard form commercial property, aircraft hull and machinery, or fire insurance contract with extended perils coverage endorsement generally available in Oregon at

the time the loss occurs, whether or not the party incurring the loss has actually obtained such insurance. If a party's applicable insurance policies do not allow the insured to waive the insurer's rights of recovery prior to a loss, it shall be endorsed to allow the waivers of subrogation required by this Section.

22. SECURITY DEPOSIT

22.1 Security Deposit Exemption

At the request of the Signatory Airlines, the Port has agreed that no Security Deposit will be required from a Signatory Airline who meets all of the following criteria as of the Effective Date: (a) the Signatory Airline is in good standing without any Uncured Event of Default or violation of this Agreement, or the immediately preceding Signatory Agreement, which, with the passage of time could become an Event of Default; (b) who is not in bankruptcy; and (c) has been serving the Airport as of the Commencement Date for a minimum of two (2) years as of the Effective Date. Additionally, no security for payment shall be required of a Signatory Airline if it has not provided regular passenger service or cargo service to and from the Airport for a period of twenty-four (24) months prior to the Effective Date of this Agreement (or the date of any assignment permitted by Section 27.1), but the Signatory Airline provides written certified proof to the Port that: (i) Signatory Airline has provided such service to at least ten (10) other airports in the United States for said twenty-four (24) months; and (ii) Signatory Airline has not been delinquent in payment of Rents at any such other airports for at least twenty-four (24) consecutive months. It is the burden of Carrier to prove to the Port's reasonable satisfaction that it is not required to provide a Security Deposit pursuant to this Section. The Port agreed to this request based only on the clear understanding that if a Signatory Airline who does not have a Security Deposit defaults, all other Signatory Airlines, and NOT the Port, will be responsible to cover or pay any amounts associated with any such Default. The Security Deposit may be used by the Port to pay for any Uncured Event of Default.

22.2 Security Deposit Required

To the greatest extent allowed by law, a Security Deposit will be required under the following circumstances:

22.2.1 New Operations

If Carrier has operated at the Airport for less than two (2) full years of the Commencement Date of this Agreement, and Carrier cannot obtain an exemption as set forth in Section 22.1, then Carrier shall obtain and deliver to the Port, on or before the Effective Date of this Agreement, a Security Deposit, in accordance with Section 22.3, to secure Carrier's full performance of all obligations under this Agreement. If, after procuring and maintaining the Security Deposit required by Section 22.2 for a period of twenty-four (24) consecutive months, during which period Carrier has provided regular cargo service to and from the Airport, Carrier commits no Event of Default under Section 25.1(a), then the Port shall return the Security Deposit to Carrier, and Carrier will be exempt from posting a Security Deposit, unless it commits an Event of Default, as described below.

22.2.2 Events of Default

If, at any time during this Agreement, Carrier shall commit a monetary Event of Default that is not fully cured within ten (10) calendar days of receipt of written notice of the

Event of Default from the Port, the Port shall have the right, by written notice to Carrier, to immediately impose, or reimpose, the Security Deposit requirements of Section 22.2. In such event, Carrier shall provide the Port with the required Security Deposit and shall thereafter maintain such Security Deposit for the remainder of the Term of this Agreement. The Port's rights under this Section shall be in addition to all other rights and remedies provided to the Port under this Agreement, or by law. The Security Deposit must be posted within ten (10) calendar days of receipt of such written notice.

22.3 Acceptable Forms of Security Deposit

When required by Section 22.2 to provide a Security Deposit, Carrier shall comply with any one of the following two (2) options on or before the Effective Date of this Agreement, or the Port's notice pursuant to Section 29.25:

22.3.1 Letter of Credit

Deliver to the Port an irrevocable stand-by letter of credit, in favor of the Port, in a form and with drawing instructions acceptable to the Port, drawn on a bank acceptable to the Port.

22.3.2 Cash

Post with the Port cash in the amount of the Security Deposit. Cash shall not be considered to be held in trust and may be commingled with any other Port accounts. A cash Security Deposit of ONE MILLION DOLLARS AND NO CENTS (\$1,000,000.00) or more will be placed in an interest bearing account, with such interest accruing to the benefit of that account and will be eligible to be paid to the posting Signatory Cargo Airline if that Security Deposit is later refunded, in whole or in part, to that posting Signatory Cargo Airline.

22.4 Amount of Security Deposit

The amount of Security Deposit required by Section 22.2.1 and Section 22.2.2 shall be a minimum of three (3) months average Landing Fees, as reasonably estimated by the Port.

23. ENVIRONMENTAL COVENANTS

23.1 Environmental Compliance

Carrier shall manage and conduct all of its activities on or relating to the Airport, including Airfield operations: (a) in compliance with applicable Environmental Laws and the environmental provisions of this Agreement; (b) in cooperation with the Port in the Port's efforts to comply with applicable Environmental Laws; and (c) in adherence with Best Management Practices applicable to Carrier's use of the Airport.

23.2 Duty to Notify

Carrier shall promptly notify the Port in writing upon becoming aware of: (a) a notice of violation or alleged violation of any applicable Environmental Laws related to Carrier's operations or occupancy of the Airport; and (b) any Hazardous Substance Release by Carrier in, on or from the Airport, except for a de minimis Hazardous Substance Release that is promptly and fully cleaned up.

23.3 Duty to Share Information

Carrier shall maintain copies of any permits, authorizations, approvals and notifications issued under applicable Environmental Laws by any governmental agencies related to Carrier's operations or occupancy of the Airport. Carrier shall promptly provide the Port with copies of any permits, authorizations, approvals and written notifications issued under applicable Environmental Laws by any governmental agencies related to Carrier's operations or occupancy of the Airport. Carrier will also provide the Port with a description of any Environmental Management System (EMS), as applicable, at the Airport.

23.4 Storm Water Management

Carrier is authorized to discharge storm water associated with its operations or occupancy at the Airport into the Port-owned Municipal Separate Storm Sewer System ("System") subject to the following conditions: (a) Carrier must be a co-permittee with the Port on, and comply with, the Port's 1200-COLS National Pollution Discharge Elimination System General Storm Water Discharge Permit for the Airport or its successor permit ("Stormwater Permit"); (b) Carrier must either (i) develop, implement, and provide the Port a copy of a Storm Water Pollution Control Plan ("SWPCP"), which is based on the Port's SWPCP as **Exhibit E**, and which is consistent with the Port's SWPCP, or (ii) Carrier must use the Port's SWPCP after Carrier first demonstrates to the Port's reasonable satisfaction how it will comply with the requirements of the Port's SWPCP applicable to Carrier's operations or occupancy of the Airport, including completing and returning within thirty (30) calendar days the Port's questionnaire detailing Carrier's operations, and if Carrier fails reasonably to satisfy the Port or fails timely to complete and return such questionnaire, then Carrier must develop, implement and provide the Port with a copy of its own SWPCP; (c) Carrier must comply with all applicable Environmental Laws; and (d) Carrier will comply with ordinances or PDX Rules that are now in effect or promulgated in the future related to use of the System. The System does not include the sanitary system. If Carrier undertakes sampling of storm water on the Airport associated with Carrier's operations or occupancy at the Airport, Carrier shall timely provide the Port with reasonable advance notice, copies of the sampling results, chain-of-custody documents, and quality analysis/quality control information. The Port agrees to work in coordination with the Air Carriers and use its best efforts to seek reasonable and cost effective terms and conditions in any relevant Stormwater Permit and in any related Port requirements.

23.5 Deicing and Anti-icing Discharge Management

Carrier may only discharge deicing or anti-icing materials and wastes associated with its operations or occupancy at the Airport subject to the following conditions: (a) Carrier must be a co-permittee on the Port's deicing and anti-icing permit issued by Oregon Department of Environmental Quality, Permit 101647, or its successor permit; and (b) Carrier shall work cooperatively with the Port to develop and implement any required anti-icing and deicing Best Management Practices. The Port will report any permit compliance issues arising under this Section at the next AAAC meeting, following Port notification of any compliance permit issues.

23.6 Hazardous Substance Release

Carrier agrees to be responsible for any Hazardous Substance Release on the Airport, on or into adjacent waterways or groundwater caused by or resulting from Carrier's occupancy or operations thereon, and to promptly and diligently pursue completion of any required

remediation and restoration of such release in accordance with applicable Environmental Laws. The Port may, in its sole discretion, require Carrier to pursue completion of any remediation and restoration of such Hazardous Substance Release under the formal oversight of the Oregon Department of Environmental Quality ("DEQ") under its Voluntary Clean-up Program or its successor program. Should the Carrier fail to promptly and diligently pursue the completion in accordance with applicable Environmental Laws, the Port or its designee, after providing Carrier with written notice, may perform the work and recover associated costs from the Carrier and pursue the remedies set forth at Section 25.2(b); provided, however, that Carrier has not commenced work and diligently pursued completion in accordance with the timeframe for remediation required by applicable Environmental Laws, or in the absence of such timeframe, has not commenced work and diligently pursued completion within thirty (30) calendar days of such written notice.

23.7 Air Quality Improvements

Carrier acknowledges that in order to protect existing Airport operations, to improve air quality in the region, to meet requirements associated with the expansion of the Airport, and to otherwise comply with federal and state air quality laws, the Port will be required to implement certain changes to operating practices to address any newly regulated air pollutant or contaminant in accordance with applicable Environmental Laws, including without limitation those related to climate change and indoor air quality. In addition, the Port may adopt new Best Management Practices that it will request Carrier to voluntarily comply with, such as Carrier's conversion of ground service equipment and support vehicles to alternative fuels and use of 400 Hz power. The Port agrees to consult with Carrier during the development of such Best Management Practices to ensure that such efforts are reasonably achievable and cost effective. Carrier will cooperate with the Airport to identify cost-effective ways to minimize contributions to climate change.

23.8 Noise Mitigation

Carrier acknowledges that aircraft noise is of significant concern to the community, particularly residents located in close proximity to the Airport or under flight paths. Carrier agrees to cooperate with the Port in finding reasonable solutions or alternatives to mitigate noise, whenever reasonably possible, and to the extent allowed by law.

24. DISCRIMINATION

24.1 Federal Nondiscrimination Regulations

Carrier understands and acknowledges that the Port has given to the United States of America, acting by and through the FAA, certain assurances with respect to nondiscrimination, which have been required by Title VI of the Civil Rights Act of 1964 and by 49 CFR Part 21 as a condition precedent to the government making grants in aid to the Port for certain Airport programs and activities, and the Port is required under those regulations to include in every agreement pursuant to which any person, or persons, other than Port, operates, or has the right to operate, any facility on the Airport providing services to the public, the following covenant, to which Carrier agrees. Therefore, Carrier, in its operation at and use of Airport, covenants that: (a) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (b) in the construction of any improvements on, over, or under such land and the

furnishings of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (c) it shall use the Airport in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federal-Assisted Programs of the Department of Transportation Effectuations of Title VI of the Civil Rights Act of 1964, and as that regulation may be amended. Carrier further agrees to promptly provide the Port, upon written request by the Port, such information the Port is required to obtain from Carrier to show compliance with applicable nondiscrimination laws.

24.2 Affirmative Action

Carrier assures that it will undertake an affirmative action program if required by 14 CFR 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, or national origin be excluded from participating in any employment activities covered in 14 CFR 152, Subpart E. Carrier assures that no person shall be excluded on these grounds from participating in, or receiving the services or benefits of, any program or activity covered by this subpart. Carrier further assures that it will require that its covered sub-organizations, if required by 14 CFR 152, Subpart E, make the same required assurances.

24.3 Contractor Compliance

Carrier may contract with a third party to provide services in support of their operation and in accordance with Section 4.1 at the Airport; provided, however, that Carrier shall require any such contractor to enter into an operating agreement or permit acceptable to the Port.

24.4 Default in Compliance

The breach of any of the above nondiscrimination covenants shall constitute an Event of Default by Carrier, and the Port shall have the right to terminate this Agreement, subject to Section 25.1(b), and may repossess the facilities thereon and hold the same as if this Agreement had never been made or issued. The right granted to the Port by the foregoing sentence shall not be effective until applicable procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed, including exercise or expiration of appeal rights.

25. DEFAULT AND TERMINATION

25.1 Events of Default by Carrier

Each of the following events shall constitute an "Event of Default" by Carrier:

(a) Carrier fails to pay any Rent, of whatever form, when due, and such default continues for a period of ten (10) calendar days;

(b) Carrier fails to perform or observe any material term, covenant or condition of this Agreement, other than those set forth in Section 25.1(a);

(c) except to the extent that Carrier is protected by the provisions of the bankruptcy code, Carrier becomes insolvent, takes the benefit of any present or future insolvency statute, makes a general assignment for the benefit of creditors, files a voluntary petition in bankruptcy or a petition seeking a reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States or of any state, or consents to the appointment of a receiver, trustee, or liquidator of all or substantially all of its property;

(d) except to the extent that Carrier is protected by the provisions of the bankruptcy code, an order for relief is entered at the request of Carrier, or any of its creditors, under the federal bankruptcy or reorganization laws, or under any law or statute of the United States, or any state thereof;

(e) except to the extent that Carrier is protected by the provisions of the bankruptcy code, an involuntary petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law or statute is filed against Carrier;

(f) by or pursuant to or under the authority of any legislative act, resolution or rule, or any order or decree of any court or governmental board or agency, an officer, receiver, trustee, or liquidator takes possession or control of all or substantially all of the property of Carrier;

(g) Carrier becomes a corporation in dissolution, or voluntarily or involuntarily forfeits its corporate charter, other than through merger with a successor corporation, as permitted in Section 27.1; and

(h) the rights of Carrier under this Agreement are transferred to, pass to, or devolve upon, by operation of law or otherwise, any other person, firm, corporation, or other entity, as a result of any bankruptcy, insolvency, trusteeship, liquidation, or other proceedings or occurrence described in this Section 25.1 (c) through (g).

25.2 Uncured Events of Default

An Event of Default shall become an Uncured Event of Default as follows:

(a) for any Rent not paid when due, if such Event of Default continues for a period of thirty (30) calendar days from the postmarked date of written notice of the Event of Default sent by the Port;

(b) for any other Event of Default, if not cured within thirty (30) calendar days of the postmarked date of written notice of the Event of Default by the Port, or such failure continues for thirty (30) calendar days after such receipt, or if by its nature such Event of Default by Carrier cannot be cured within such thirty (30) day period, Carrier fails to commence to cure or remove such Event of Default by Carrier within said thirty (30) calendar days and to cure or remove the same as promptly as reasonably possible thereafter, using all reasonable due diligence;

(c) except to the extent that Carrier is protected by the provisions of the bankruptcy code, for any petition in bankruptcy not dismissed within sixty (60) calendar days after the filing date; and

(d) after the occurrence of three (3) or more separate Events of Default specified in Section 25.1 by Carrier during any Fiscal Year, regardless of whether those Events of Default were cured by the Carrier.

25.3 Remedies for Uncured Event of Default by Carrier

Upon the occurrence of an Uncured Event of Default by Carrier, as set forth in Section 25.2, Carrier shall remain liable to the Port for all Rents due hereunder for the Term of this Agreement and for all breach(es) of any covenant or agreement herein contained. In addition to, and not in the alternative to, all rights available at law or in equity for breach of

contract, all of the following remedies shall be available to the Port and shall not be exclusive to one another:

(a) the Port may immediately terminate this Agreement and, to the greatest extent allowed by law, prohibit Carrier from operating at the Airport. In the event of termination based on any Uncured Event of Default contained in this Agreement, all rights, powers and privileges of Carrier under this Agreement shall cease, and Carrier shall immediately vacate any portions of the Airport occupied by it under this Agreement. Carrier shall have no claim of any kind whatsoever against the Port by reason of such termination or by reason of any act by the Port;

(b) the Port may, prior to exercising its other legal remedies, allow Carrier to continue to operate, but collect liquidated damages from Carrier in the amount of ONE THOUSAND DOLLARS AND NO CENTS (\$1,000.00) per month for an Uncured Event of Default. The Carrier hereby agrees that said amount represents a reasonable amount of damages to the Port and to the Airline Cost Center for delaying its right to terminate this Agreement or exercise any other remedies under this Agreement;

(c) the Port may elect to sue for money damages; and/or

(d) the Port may elect to re-enter all or part of the Airport facilities being used by Carrier and may remove all Carrier personnel and property from the Airport. Upon any such removal, Carrier property may be stored in a public warehouse, or elsewhere, at the cost of, and for the account of Carrier.

25.4 Rent Revenues Due and Owing

Carrier shall remain liable and promptly pay all Rents accruing hereunder following termination of this Agreement through the expiration of the Term of this Agreement.

25.5 Payment Under Protest

Notwithstanding anything to the contrary of this Agreement, if a dispute arises between the Port and Carrier with respect to any obligation or alleged obligation of Carrier to make payment(s) to the Port, the payment(s) under protest by Carrier of the amount claimed by the Port to be due shall not waive any of Carrier's rights, and if any court or other body having jurisdiction determines all or any part of the protested payment was not due, then the Port shall, as promptly as allowed by the Ordinance, reimburse Carrier any amount determined as not due, plus interest on such amount at the rate of eighteen percent (18%) per annum. The parties shall also use the mediation process described in Section 29.19 to resolve such dispute.

26. TERMINATION REQUIREMENTS

26.1 Upon Termination of Agreement

Effective upon the termination of this Agreement, as a result of expiration of its term or otherwise, Carrier expressly waives any claim to occupy only locations upon the Airfield or the Airport.

26.2 Removal of Property

Carrier shall have the right at any time during the Term of this Agreement to remove from Airport its aircraft, tools, equipment, and other personal property, title to which shall remain in Carrier, unless otherwise set forth in this Agreement; subject, however, to any valid lien which the Port may have thereon for unpaid Rents or taxes.

26.2.1 Timeframe for Removal

Unless Carrier is entering into a new signatory agreement with the Port, Carrier shall remove all personal property from the Airfield and the Airport upon the Expiration Date of the Signatory Agreement or earlier termination date subject, however, to any valid lien on such personal property which the Port may have thereon for unpaid Rents.

26.3 Abandoned Property

Any and all property not removed by Carrier as of the Expiration Date or other agreement termination date shall be considered to be abandoned, and title to any such items of Carrier's personal property on the Airfield or in the Airport may, at the option of the Port, be automatically taken by the Port. The Port shall have the option, in its sole discretion, of: (a) retaining any or all of such personal property without any requirement to account to Carrier therefore; or (b) removing and disposing of any or all of such personal property and recovering the cost thereof, plus interest from the date of expenditure at the rate of eighteen percent (18%).

26.4 Holding Over

After the Expiration Date, should Carrier use the Airport without an agreement of the Port to extend this Agreement for an additional length of time, Carrier shall be deemed a tenant at sufferance during the period of such use and shall pay the then current Rent payable by Non-Signatory Airlines. In such event, the Port shall have the right to pursue all remedies provided under applicable laws, and reasonable costs, disbursements and attorney fees incurred by the Port in the exercise of the Port's remedies.

27. ASSIGNMENT AND HANDLING AGREEMENTS

27.1 Assignment

27.1.1 Assignment Generally

Carrier shall not, directly or indirectly, assign, sell, pledge, encumber, license the use of, or otherwise transfer any interest of this Agreement, without the prior written approval of the Port, which approval may be granted or denied in the sole discretion of the Port. A Security Deposit may be required, in the sole discretion of the Port, in the event of such assignment or other transfer, subject to the provisions of Section 22.

27.1.2 Assignment by Merger

Notwithstanding the provisions of this Section, the Port shall approve the assignment of this Agreement to any business entity with which Carrier may merge or consolidate or which purchases all or substantially all of Carrier's assets. The Port shall be notified, in writing, as soon as practicable of a pending merger or consolidation or sale of Carrier's business, but in no event less than thirty (30) calendar days before the merger or consolidation is scheduled to occur, provided that such pending merger or consolidation has become public. Said notice shall state the name and address of the successor. As a condition for approval of the assignment, the Port may require, in a form and content satisfactory to the Port, an acknowledgement from the successor that it agrees to assume all obligations of Carrier and will fully honor all the terms and conditions set forth in this Agreement. A Security Deposit may be required, in the sole discretion of the Port, in the event of such assignment by merger, subject to the provisions of Section 22.

27.2 Ground Handling Arrangements

In the event Carrier agrees to ground handle any portion of the operations of another Air Carrier, including, but not limited to, ramp and warehouse ground handling, Carrier shall provide the Port with advance written notice of such proposed activities, including a description of the type and extent of services to be provided. Notwithstanding the provisions of the foregoing sentence, Carrier shall not ground handle another Air Carrier which does not have an agreement with the Port allowing said Air Carrier to operate at the Airport, with the exception of an Air Carrier that uses the Airport on a rare occasional and unscheduled basis.

27.3 Affiliates

27.3.1 General Requirements

All Rent due from the Affiliate and all reports required to be made by an Affiliate for payment of Rent shall be made by the Contracting Carrier. As long as the Contracting Carrier is making the Rent payments and submitting the activity reports for the Affiliate, then that Affiliate activity will count toward the Contracting Carrier's activity and MII weight. The Contracting Carrier will also be liable to the Port to pay all Rent due from the Affiliate, and any such Rent past due will be subtracted from any rebate or reimbursement due to the Contracting Carrier. Any Air Carrier who operates for a Contracting Carrier but also under its own livery and carries any property, or sells any seats in its own name will not be deemed an Affiliate under this Agreement and must enter into its own *Signatory Cargo Carrier Operating Agreement* or *Signatory Passenger Airline Lease and Operating Agreement* with the Port. An Affiliate may work for more than one (1) Signatory Cargo Airline at a time, or from time to time, but any Signatory Cargo Airline for whom the Affiliate is working shall be responsible for reporting and paying for the Affiliate's operations on its behalf. Notwithstanding anything to the contrary, the Air Carrier's status as an Affiliate of a Signatory Cargo Airline at the Airport may be terminated by the Signatory Cargo Airline upon not less than thirty (30) calendar days written notice to the Port. Any Air Carrier who sells any seats in its own name or carries property in its own name will not be considered an Affiliate.

27.3.2 Notification Required by Carrier before Use of Affiliate

Carrier may not use an Affiliate without first notifying the Port that it intends to designate an Affiliate. Carrier will be liable for activities of the Affiliate, including its reporting and payment of its Rent.

28. EARLY TERMINATION OF AGREEMENT BY PORT

This Agreement may be terminated in advance of the Expiration Date in the event that any federal, state or local government or agency or instrumentality thereof shall, by condemnation or deed or conveyance in lieu thereof, take title, possession or the right to possession of the Airport or any substantial portion of the Airport. In such case, the Port may, at its option, terminate this Agreement as of the date of such taking; or in the event that any court having jurisdiction in the matter shall render a decision which has become final and which will permanently or for a substantial period of time prevent the performance by the Port of any of its material obligations under this Agreement, then either party hereto may terminate this Agreement by written notice. This right of termination shall be and remain effective whether or not the Port, by taking affirmative action or by inaction, could have prevented the rendering of the decision or could have caused the decision to be vacated before it became final.

29. GENERAL PROVISIONS

29.1 Advances by Port

If Carrier shall fail to do anything required to be done by it under the terms of this Agreement (except for payments due from Carrier to the Port), after any applicable cure period in Section 25.2, the Port may, at its sole option, do such act or thing on behalf of Carrier, and Carrier shall pay the Port for its entire cost in performing such act or thing, plus the sum of fifteen percent (15%). Said fifteen percent (15%) payment shall be a credit to the appropriate Cost Center of the Airline Supported Area.

29.2 Agent for Service of Process

It is expressly agreed that if Carrier does not have or maintain an agent for service of process within the State of Oregon who is designated in this Agreement, then Carrier agrees that for the purpose of service of process in any action between it and the Port arising out of or based upon this Agreement, Carrier may be personally served with such process by the certified mailing, or hand delivery, of a true copy of such complaint and process to Carrier at the address set forth in Section 29.25, or to the last known headquarters of Carrier. It is further agreed that any such service by certified mail or hand delivery shall constitute valid service upon Carrier as of the date provided for in Section 29.25. Carrier hereby designates the following agent and address for personal service within the State of Oregon:

Carrier does not maintain an agent in the State
of Oregon for service of process, see Section 29.25.

29.3 Airport Security

Carrier and the Port shall comply with all applicable regulations relating to Airport security, including, but not limited to, the Airport Security Program, and shall cooperate with the Port to prevent or deter unauthorized persons from obtaining access to the Airfield. Any penalty or fines imposed upon the Port as a result of a security violation solely caused by Carrier, its employees, agents or contractors, shall be paid by Carrier to the Port within thirty (30) calendar days of the Port's invoice therefore and shall bear interest at the rate of eighteen percent (18%) per annum until paid in full.

29.4 Approvals and Permits from the Port

Whenever this Agreement calls for approval or a permit by the Port, such approval or permit shall be in writing by the Executive Director of the Port, the Director of Aviation of the Port, or the Director's designee, and upon such terms or conditions as the Port deems necessary.

29.5 Attorneys' Fees

If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code), is instituted in connection with any controversy arising out of this Agreement or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover reasonable attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court at trial or on any appeal or review, in addition to all other amounts provided by law. Payment of all such fees shall also apply to any administrative proceeding, trial, and/or any appeal or petition for review. Whenever this Agreement requires

either party to defend the other, it is agreed that such defense shall be by legal counsel reasonably acceptable to the party to whom such defense is owed.

29.6 Aviation Rights

The Port reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Airport for navigation or flight in said airspace for landing on, taking off from, or operating on the Airport, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft now known or hereafter used on or about the Airport.

29.7 Calculation of Time

Unless referred to as Business Days, all periods of time referred to in this Agreement shall include Saturdays, Sundays, and Legal Holidays. However, if the last day of any period falls on a Saturday, Sunday, or Legal Holiday, then the period shall be extended to include the next day which is not a Saturday, Sunday or Legal Holiday. "Legal Holiday" means any holiday observed by the Federal Government. "Business Days" means Monday through Friday and shall exclude Saturday, Sunday and Legal Holidays.

29.8 Capacity to Execute and Thorough Review

The Port and Carrier each warrant and represent to one another that this Agreement constitutes a legal, valid, and binding obligation of that party. The individuals executing this Agreement personally warrant that they have full authority to execute this Agreement on behalf of the entity for whom they purport to be acting. The parties hereto acknowledge that they have thoroughly read this Agreement, including the exhibits or attachments hereto, and have sought and received whatever advice and counsel was necessary for them to form a full and complete understanding of all rights and obligations herein.

29.9 Compliance by Other Tenants

The Port shall employ its best efforts to obtain uniform compliance with its PDX Rules. However, the Port shall not be liable to Carrier for any violation or non observance of such PDX Rules by any other tenant, Air Carrier, or other users of the Airport.

29.10 Entire Agreement

Except as provided in Section 29.26, it is understood and agreed that this instrument contains the entire agreement between the parties hereto with respect to the subject matter of this Agreement. It is further understood and agreed by Carrier that the Port and its agents have made no representations or promises with respect to this Agreement or the making of this Agreement, except as expressly set forth herein, and that no claim or liability or cause for termination shall be asserted by Carrier against the Port for, and the Port shall not be liable by reason of, the breach of any representations or promises not expressly stated in this Agreement. Any oral agreement with the Port is expressly waived by Carrier.

29.11 Gender

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

29.12 Governing Law/Forum Selection

Unless preempted by federal law, this Agreement is to be read and construed in accordance with the laws of the State of Oregon. The parties hereto agree that only a federal or state court sitting in the State of Oregon shall be the proper forum for any legal actions brought hereunder.

29.13 Governmental Compliance

Carrier, its agents and employees, shall observe and comply with all applicable rules, regulations, orders and restrictions which are now in force or which may hereafter be adopted by the Port, as provided in Section 3, and elsewhere, with respect to the operation of the Airport. This Agreement shall also be subject to any and all applicable current and future laws, statutes, rules, regulations or orders of any other governmental authority lawfully exercising authority over the Port, the Airport or Carrier's operations. The Port shall not be liable to Carrier for any diminution or deprivation of its rights hereunder due to the exercise of any such authority as provided for in this Section 29.13, nor shall Carrier be entitled to terminate this Agreement by reason thereof, unless the exercise of such authority shall so interfere with Carrier's exercise of the rights hereunder as to constitute a termination of this Agreement by operation of law in accordance with the laws of the State of Oregon, or permit Carrier to cancel this Agreement pursuant to the provisions of Section 25.

29.14 Headings and Titles

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

29.15 Height Limitations

The Port reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstructions, including the right to prevent the Carrier from erecting, or permitting to be erected, any structure on the Airport which, in the opinion of the Port, would limit the usefulness of the Airport or constitute a hazard to aircraft or which would otherwise fail to comply with Federal Aviation Regulations, Part 77, as such may be amended or replaced from time to time.

29.16 Incorporation of Exhibits

All Exhibits referred to in this Agreement are intended to be and hereby are specifically made a part of this Agreement.

29.17 Interpretation of Agreement

This Agreement is the result of extensive negotiations between the parties and shall not be construed against the Port by reason of its preparation of this Agreement.

29.18 Labor Disputes

Carrier agrees to use reasonable efforts to avoid disruption to the Port, its tenants or members of the public, arising from labor disputes involving Carrier, and in the event of a strike, picketing, demonstration or other labor difficulty involving Carrier, to use reasonable efforts to

minimize or eliminate any disruption to the Port, its tenants or members of the public, arising from such strike, picketing, demonstration or other labor difficulty.

29.19 Mediation

Should any dispute arise between the parties to this Agreement other than and excepting disputes regarding: (a) failure to pay Rent as required by this Agreement; or (b) any other matters stated elsewhere in this Agreement as not being subject to mediation, then it is agreed that such other dispute will be submitted to non-binding mediation prior to any litigation. The parties shall exercise good faith efforts to select a mediator who shall be compensated equally by both parties. Mediation will be conducted in the Airport Conference Center in Portland, Oregon, unless both parties agree otherwise. Both parties agree to exercise good faith efforts to resolve disputes through the mediation process. If either party requests mediation and the other party fails to respond within ten (10) calendar days, or if the parties fail to agree on a mediator within ten (10) calendar days, a mediator shall be appointed by the presiding judge of the Multnomah County Circuit Court upon the request of either party. The parties agree that mediation shall occur on an expedited schedule and that they will not attempt to delay mediation, the scheduling of the mediation or continue the mediation once it has been set. The parties shall retain all rights at law or in equity with respect to any dispute not covered by this Section and also with respect to those disputes covered by this Section after mediation has been completed.

29.20 National Emergency

During time of war or national emergency, the Port shall have the right to enter into an agreement, or perform any existing agreement, with the United States government for use of part or all of the Landing Area, the publicly owned air navigation facilities and/or other areas or facilities of the Airport. If any such agreement exists or is executed, the provisions of this instrument, insofar as they are inconsistent with the provisions of the agreement with the United States government, shall be suspended.

29.21 No Implied Warranty

In no event shall a consent, approval, acquiescence, or authorization by the Port be deemed a warranty, representation, or covenant by the Port that the matter approved, consented to, acquiesced in or authorized is appropriate, suitable, practical, safe or in compliance with any applicable law or this Agreement. In no event shall the Port be deemed liable therefore. Carrier shall be solely responsible for such matters.

29.22 No Third Party Beneficiary

The Port and Carrier are the only parties to this Agreement and as such are the only parties to enforce its terms. Nothing in this Agreement gives, or shall be construed to give or provide, any benefit, direct or indirect, to third parties unless a third party is expressly described as an intended beneficiary of its terms. A taxing authority is intended as a third party beneficiary to this Agreement for the limited purpose of collecting taxes due from the Carrier.

29.23 Nonliability of Agents and Employees

No commissioner, officer, agent, director, or other employee of the Port or Carrier shall be charged personally or held contractually liable by or to the other party under the terms or provisions of this Agreement or because of any breach thereof or because of its execution or attempted execution, except for breach of Section 29.8.

29.24 Nonwaiver of Rights

No waiver of rights or of default by either party of any of the terms, covenants, and conditions herein to be performed, kept and observed by the other party shall be construed as, or shall operate as, a subsequent waiver of rights or a waiver of any subsequent default of any of the terms, covenants, or conditions herein contained, to be performed, kept, and observed by the other party.

29.25 Notices

Except as otherwise provided herein, notices required herein shall be given by personal delivery or by depositing notice in the United States mail, certified mail, return receipt requested, and postage prepaid, to the parties at their respective addresses set forth below. Unless otherwise provided in this Agreement, any notice shall be effective upon its actual receipt but, in any event, shall be deemed received by the addressee no later than four (4) calendar days after deposit of same in the mail. Either party shall have the right, by giving written notice to the other, to change the address at which notices are to be received. If notice is given in any other manner or at any other place than those specified below, it will also be given at the place and in the manner specified below.

Notice to the Port shall be mailed to the following address:

The Port of Portland
Attention: Chief Operating Officer
7200 N.E. Airport Way
Portland, OR 97218

With a copy to:

The Port of Portland
Attention: General Counsel
7200 NE Airport Way
Portland, OR 97218
Fax: 503-548-5925

With a copy to:

The Port of Portland
Attention: General Manager
Aviation Business and Properties
7200 NE Airport Way
Portland, OR 97218
E-mail: chris.madsen@portofportland.com
Phone: 503-415-6064
Fax: 503-548-5925

Notice to the Carrier shall be mailed to the following address:

Federal Express Corporation
Attn: Manager, Airport Development (#00-0800)
3680 Hacks Cross Road, Building H, 3rd Floor
Memphis, Tennessee 38125

With a copy to:

Federal Express Corporation
Legal Department
Attention: Managing Director
Business Transactions Group (#00-0800)
3620 Hacks Cross Road, Building B, 3rd Floor
Memphis, Tennessee 38125

E-mail and fax may not be used for sending MII ballots by the Port and for response by the Signatory Airlines. Informal notices may be transmitted via electronic mail at the addresses noted above. Any changes made to the notice address shall be made in accordance with this provision.

29.26 Other Agreements Continued

Nothing contained in this Agreement shall be deemed or construed to nullify, restrict or modify any other unexpired lease or contract between the Port and Carrier.

29.27 Public Contracting Requirements

To the extent, if any, that the provisions required to be included in public contracts by Oregon Revised Statutes Sections 279.312 through 279.320, inclusive, as amended or renumbered from time to time, are applicable to this Agreement, and apply to Carrier, said provisions are incorporated herein.

29.28 Quiet Enjoyment

Except with respect to the exercise of the Port's governmental powers, the Port agrees that on payment of the Rent due hereunder, and performance of the covenants and agreements on the part of Carrier to be performed hereunder, Carrier shall peaceably use the Airfield and the Airport pursuant to the terms of this Agreement.

29.29 Right of Port to Enter

The Port and its authorized employees, agents, contractors, subcontractors, and other representatives shall have the right at all reasonable times, pursuant to written notice from the Port to the Carrier as further described below, to enter upon any portion of the Airport occupied by Carrier for the following purposes (provided such right of entry shall not unreasonably interfere with Carrier's use or occupancy):

29.29.1 Inspections

The Port may, upon twenty-four (24) hours advance written notice to the Carrier's designated representative, cause Carrier's operations at the Airport to be inspected and may conduct an inspection of Carrier's operations at the Airport to confirm that such operations comply with the requirements set forth in this Agreement. The Port shall use reasonable efforts not to interfere with Carrier's operations during any such inspection, and Carrier shall cooperate with such inspection. In the event such inspection shows that Carrier is not substantially complying with such requirements, without limiting the Port's ability to call an Event of Default hereunder, the Port may require that Carrier reimburse the Port for the reasonable costs of such inspection. Carrier shall promptly remedy any noncompliance shown in any such inspection.

29.29.2 Maintenance and Repairs

The Port may, upon twenty-four (24) hours advance written notice to the Carrier's designated representative, enter any Airport facilities in order to make repairs and replacements in any event where Carrier is obligated to do so under this Agreement and has failed to do so within a reasonable period after being notified by the Port of Carrier's failure to so perform. The Port may also enter to perform maintenance and make repairs and replacements, including structural additions and alterations, in any event where the Port is obligated to do so under this Agreement and in any other event where the Port determines that it is necessary or desirable to do so to preserve the Airport or any portion thereof or to correct any conditions likely to cause injury or damage. As to any such repairs or replacements that are occasioned by the misuse by Carrier, Carrier shall pay the Port for its entire cost of performing such work, plus the sum of fifteen percent (15%). Said fifteen percent (15%) payment shall constitute a credit to the appropriate Cost Center of the Airline Supported Area. Notwithstanding the foregoing, no notice is required in the event of the need to make an emergency repair.

29.29.3 Environmental Compliance Inspection

The Port may, upon seventy-two (72) hours advance written notice to the Carrier's designated representative, enter upon any portion of the Airport occupied by Carrier in order to review Carrier's compliance with Environmental Law at the Airport. The Port may conduct environmental sampling, and perform any Hazardous Substance Release remediation or restoration, as required by applicable Environmental Laws, or this Agreement, in the event Carrier is obligated to do so under this Agreement and has failed to do so within a reasonable period after being notified by the Port of Carrier's failure so to perform. The Port shall use all reasonable efforts not to interfere with Carrier's operations while conducting such inspections.

29.29.4 Impact of Entry on Rent

All entries made for the purposes set forth in this Section shall be without abatement of Rent unless Carrier is deprived of its use of the affected space (except in the event of entry pursuant to Section 29.29.2).

29.30 Rights Non Exclusive

Notwithstanding anything herein contained that may be or appear to the contrary, the rights, privileges and licenses granted under this Agreement are "non exclusive," and nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958, as such may be amended.

29.31 SEC Rule 15c2-12

The Carrier, upon request by the Port, shall provide the Port with such information as the Port may reasonably request in writing to comply with the Port's continuing disclosure requirements under any Securities and Exchange Commission rulings, including, but not limited to, SEC Rule 15c2-12, as it may be amended from time to time, provided, however, that Carrier may, in lieu of providing the requested information, direct the Port to an Carrier or SEC website where the requested information is then currently available.

29.32 Severability

If one or more clauses, sections, or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable by any court of competent jurisdiction, the remainder of this

Agreement shall not be affected thereby, unless the rights enjoyed by either the Port or Carrier hereunder are substantially adversely affected.

29.33 Status of Parties

The parties hereto are independent contracting principals, who have entered into this Agreement after extensive negotiations. Nothing contained in this Agreement, including the method of computation of Rents, or the manner in which improvements shall be constructed by Carrier upon Port property, shall be deemed or construed as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship, between the parties hereto.

29.34 Subordination of Agreement/References to the Governmental Agreements and Port Ordinances

The terms of this Agreement shall be subordinate to the provisions of any existing or future agreements between the Port and the United States government, or other governmental authority, with respect to the operation or maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of federal funds, or other governmental authority funds, for the development of the Airport to the extent that the provisions of any such existing or future agreements are generally required by the United States or other governmental authority or other civil airports receiving such funds. The rights and obligations of this Agreement shall be subordinate and subject to the terms and conditions of all applicable Port ordinances, as amended, and as they may be amended from time to time. The Port and Carrier agree that the bond Trustee(s), as defined in the Port Bond Ordinances 155 and 323, both as amended ("Bond Ordinance"), shall possess, enjoy and may exercise all rights of the Port hereunder to the extent such possession, enjoyment and exercise are necessary to ensure compliance by the Port or Carrier with the terms and provisions of this Agreement. Carrier and Port further agree that each party shall not do, or fail to do, any act which shall render taxable any federally tax exempt revenue bonds issued to finance Airport construction. If the Bond Ordinance is amended, any citations contained in this Agreement shall be deemed amended to conform to the amended Ordinance.

29.35 Successors and Assigns Bound

All of the covenants, conditions, and agreements contained herein shall extend to and be binding upon the legal representatives, successors and assigns of the respective parties hereto; provided, however, that any assignment by Carrier must be in accordance with the provisions of Section 27.1.

IN WITNESS HEREOF, the parties have subscribed their names hereto effective as of the year and date first written above.

FEDERAL EXPRESS CORPORATION

THE PORT OF PORTLAND

By: _____

By: _____

Print Name: _____

Print Name: _____

As Its: _____

As Its: _____

Date: _____

Date: _____

APPROVED FOR LEGAL SUFFICIENCY
FOR THE PORT:

By: _____
Counsel for Port of Portland

APPROVED BY COMMISSION ON:

ALLOCATIONS TO COST CENTERS

1. AIRPORT COST CENTERS:

Revenues, Direct and Indirect O&M Expenses, Direct and Indirect Debt Service and Capital Expenditures shall be allocated to the Cost Centers, generally described as follows:

1.1 Airline Supported Areas (Direct Cost Centers):

<u>Airfield</u>	The Airfield.
<u>Terminal</u>	The Terminal.

1.2 Port Supported Areas (Direct Cost Centers):

<u>Ground Transportation</u>	Areas and facilities accommodating ground transportation, including Airport public access roadways (other than those which are part of the Terminal), auto parking facilities and rental car operation.
<u>Air Cargo</u>	Areas and facilities leased or provided for air cargo activities.
<u>Other Aviation</u>	Areas and facilities provided for aviation activities which are not allocated to the Airfield Cost Center, Terminal Cost Center or Air Cargo Cost Center.
<u>Non-Aviation</u>	Areas and facilities provided for non-aviation activities (e.g., commercial and industrial property ground leases).

1.3 Indirect Cost Centers:

<u>Operations</u>	Operations activities and facilities which are not attributable to any Direct Cost Centers.
<u>Maintenance</u>	Maintenance activities and facilities which are not attributable to any Direct Cost Centers.
<u>Systems and Services</u>	Systems and services, and associated facilities (e.g., sewer, water, electrical distribution and heating-ventilation-air conditioning system), which are not attributable to any Direct Cost Centers.
<u>Airport Rescue and Fire Fighting</u>	Crash, fire and rescue activities and facilities, including those required under federal aviation regulations.
<u>Aviation Security and Public Safety</u>	Police activities and facilities, including those required under federal aviation regulations.
<u>Environmental</u>	Environmental activities and facilities, including control of deicing run-off, wildlife control, excluding noise abatement.
<u>Administration</u>	Airport administration activities and facilities.

2. ALLOCATION OF EXPENSES, REVENUES, DEBT SERVICE AND CAPITAL EXPENDITURES FROM INDIRECT COST CENTERS

2.1 Expenses and Debt Service

O&M Expenses and debt service for the Indirect Cost Centers shall be allocated to the Airfield, Terminal and Port Cost Centers, as indicated below:

	Airfield Cost Center	Terminal Cost Center	Port Cost Centers
Operations	50%	25%	25%
Maintenance	15%	52%	33%
Systems and services	33%	55%	12%
Aviation security and public safety	13%	61%	26%
Airport rescue and fire fighting (ARFF)	88%	6%	6%
Environmental	60%	16%	24%
Administration	Varies	Varies	Varies

O&M Expenses and debt service for the Administration Cost Center are allocated to the Direct Cost Centers based upon each Direct Cost Center's share of total Direct O&M Expenses.

2.2 Revenues

The Revenues for the Indirect Cost Centers are allocated to the Direct Cost Centers in proportion to each Direct Cost Center's share of total debt service (i.e., Direct and allocated Indirect Debt Service).

2.3 Allocation of Bond Issues and Debt Service

Debt service for each bond issue shall be allocated to Cost Centers based on the actual or estimated Capital Expenditures funded by that bond issue.

EXAMPLES OF ADDITIONAL REVENUE SHARING AND REDUCED REVENUE SHARING

Example Calculation of Revenue Sharing:

As a hypothetical example, if Airport Net Revenues before Revenue Sharing were \$106,000,000 and debt service was \$49,500,000 and there was a \$1,000 shortfall in prior year's Revenue Sharing payments, then the Port would have \$15,849,000 available for additional Revenue Sharing as follows:

Airport Net Revenues before Revenue Sharing	\$106,000,000	A
Fixed Revenue Sharing	(\$6,000,000)	B
Shortfall in Fixed Revenue Sharing from prior years	(\$1,000)	C
	<u>\$99,999,000</u>	D = A+B+C
Debt Service	<u>\$49,500,000</u>	E
Airport Coverage Ratio before variable Revenue Sharing	<u>2.020</u>	F = D / E
Baseline Airport Coverage Ratio	1.700	G
Net Revenues at 1.700 Airport Coverage Ratio	<u>\$84,150,000</u>	H = E x G
Net Revenues available for additional Revenue Sharing	<u>\$15,849,000</u>	J = D - H

The Port would compute the additional Revenue Sharing as follows:

Net Revenues above this Airport Coverage Ratio	Net Revenues up to and including this Airport Coverage Ratio	Net Revenues available for additional Revenue Sharing	Percentage of increment paid as additional Revenue Sharing	Additional Revenue Sharing
1.700	1.800	\$4,950,000	50%	\$2,475,000
1.800	1.900	\$4,950,000	25%	\$1,237,500
1.900	2.000	\$4,950,000	15%	\$742,500
2.000		\$999,000	0%	\$0
Total		<u>\$15,849,000</u>		<u>\$4,455,000</u>

Example Calculation of Reduced Revenue Sharing

As a hypothetical example, if the target was \$60,123,442 and Airline O&M Expenses were \$55,123,442, then the O&M Expenses would be \$5,000,000 below target and the Port would reduce Revenue Sharing by \$898,765 as follows:

Amount under Target	Reduction %	Reduction in Revenue Sharing
\$1,202,469	10.0%	\$120,247
\$1,202,469	15.0%	\$180,370
\$1,202,469	20.0%	\$240,494
\$1,202,469	25.0%	\$300,617
\$190,125	30.0%	\$57,037
\$5,000,000		\$898,765

PORT OF PORTLAND PROJECT FACT SHEET

Insert Any Relevant Map/Drawing of Project:

Project Name: Click here to enter the Project Name.

Project Number:

Project Description:

Click here to enter the Project Description. Field will auto-expand as needed. You can also copy and paste from a separate document.

Project Schedule:

Click here to enter Project Schedule.

Financial Information

Total Project Cost:

Cash Flows:

Click here and enter Project Cashflows by fiscal year

Funding Plan:

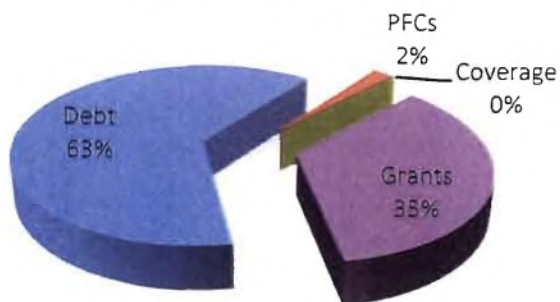
- Grants – _____
- PFCs – _____
- Coverage – _____
- Debt – 0

Anticipated Operating Cost:

Click here to enter text.

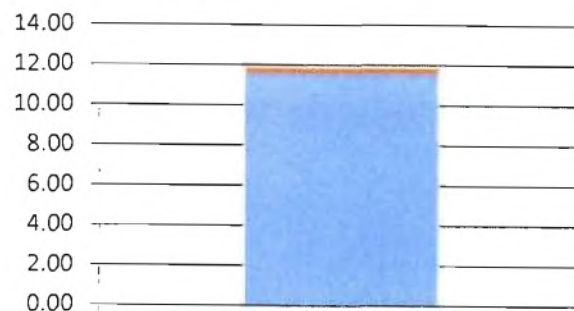
Anticipated Impact on Airline Rents:

Fund Source(s)



■ Debt ■ PFCs ■ Coverage ■ Grants

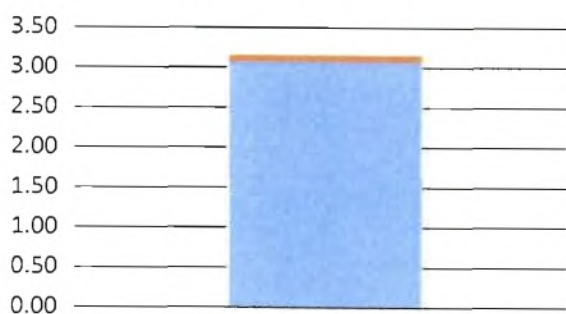
Cost Per Enplanement



Cost Per Enplanement

Incremental	0.29
Current	11.55

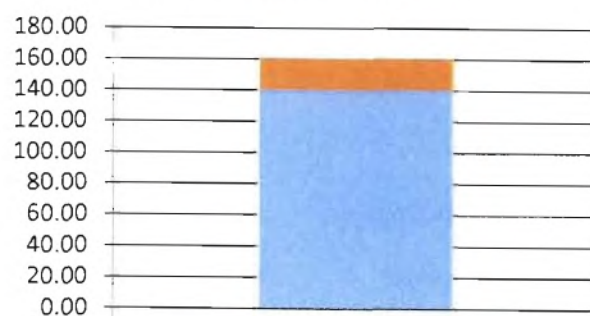
Landing Fee Impact



Landing Fee

Incremental	0.09
Current	3.07

Terminal Rent Impact



Terminal Rent

Incremental	20.00
Current	140.00

PORT STORM WATER POLLUTION CONTROL PLAN

1. PREPARATION AND IMPLEMENTATION OF THE STORM WATER POLLUTION CONTROL PLAN (SWPCP)

The SWPCP must be prepared by a person knowledgeable in storm water management and familiar with the facility and signed in accordance with 40 CFR § 122.22.

2. STORM WATER POLLUTION CONTROL PLAN REQUIREMENTS

- (a) **Title Page:** The title page should contain the following information:
 - (i) Name of the site.
 - (ii) Name of the site operator or owner.
 - (iii) Site or File Number as indicated on the permit.
 - (iv) The county the site is located in.
 - (v) The last date of revision of the SWPCP with the Month, Day, and Year.
 - (vi) The contact person's name and telephone number.
 - (vii) The site physical address and mailing address if different.
- (b) **Site Description:** The SWPCP must contain the following information:
 - (i) A description of the industrial activities conducted at the site. Include a description of the significant materials that are stored, used, treated and/or disposed of in a manner that allows exposure to storm water. Also describe the methods of storage, usage, treatment and/or disposal.
 - (ii) A general location map showing the location of the site in relation to surrounding properties, transportation routes, surface waters and other relevant features.
 - (iii) A site map including the following:
 - (1) drainage patterns,
 - (2) drainage and discharge structures,
 - (3) outline of the drainage area for each storm water outfall,
 - (4) paved areas and buildings within each drainage area,
 - (5) areas used for outdoor manufacturing, treatment, storage, and/or disposal of significant materials,
 - (6) existing structural control measures for reducing pollutants in storm water runoff,
 - (7) material loading and access areas,
 - (8) hazardous waste treatment, storage and disposal facilities,
 - (9) location of wells including waste injection wells, seepage pits, drywells, etc.,
 - (10) location of springs, wetlands and other surface water bodies, and
 - (11) location of spill kits.
 - (iv) Estimates of the amount of impervious surface area (including paved areas and building roofs) relative to the total area drained by each storm water outfall.

- (v) For each area of the site where a reasonable potential exists for contributing pollutants to storm water runoff, identify the potential pollutants that could be present in storm water discharges.
- (vi) The name(s) of the receiving water(s) for storm water drainage. If drainage is to a municipal storm sewer system, the name(s) of the ultimate receiving waters and the name of the municipality.

(c) **Site Controls:** The permittee must maintain existing controls and/or develop new controls appropriate for the site. The purpose of these controls is to eliminate or minimize the exposure of pollutants to storm water. In developing a control strategy, the SWPCP must have the following minimum components. A description of each component must be included in the SWPCP.

- (i) *Storm Water Best Management Practices:* BMPs in use at the site must be described in the SWPCP. The following best management practices must be employed, if applicable, to the site. For each BMP selected for the site, a description of the proposed BMP and an implementation schedule must be included in the SWPCP if the practice has not already been implemented.
 - (1) Containment - All hazardous materials and other materials that could adversely impact storm water runoff must be stored within berms or other secondary containment devices to prevent leaks and spills from contaminating storm water. If the use of berms or secondary containment devices is not possible, then these materials must be stored in areas that do not drain to the storm sewer system or infiltration systems i.e. dry wells, sumps, drainage trenches, or other injection wells.
 - (2) Oil and Grease - Oil/Water separators, catch basins with inverted elbows, booms skimmers or other methods must be employed to eliminate or minimize oil and grease contamination of storm water discharges.
 - (3) Waste Chemicals and Material Disposal - Wastes must be recycled or properly disposed of in a manner to eliminate or minimize exposure of pollutants to storm water. All waste contained in bins or dumpsters where there is a potential for drainage of storm water through the waste must be covered to prevent exposure of storm water to these pollutants. Acceptable covers include, but are not limited to, storage of bins or dumpsters under roofed areas and use of lids or temporary covers such as tarps.
 - (4) Erosion and Sediment Control - Erosion control methods such as vegetating exposed areas, graveling or paving must be employed to minimize erosion of soil at the site. Sediment control methods such as detention facilities, sediment control fences, vegetated filter strips, bioswales, or grassy swales must be employed to minimize sediment loads in storm water discharges. For activities that involve land disturbance, the permittee must contact the local

municipality to determine if there are other applicable requirements.

- (5) Debris Control - Screens, booms, settling ponds, or other methods must be employed to eliminate or minimize debris in storm water discharges.
 - (6) Storm Water Diversion - Storm water must be diverted away from fueling, manufacturing, treatment, storage, and disposal areas to prevent exposure of uncontaminated storm water to potential pollutants.
 - (7) Covering Activities - Fueling, manufacturing, treatment, storage, and disposal areas must be covered to prevent exposure of storm water to potential pollutants. Acceptable covers include, but are not limited to, permanent structures such as roofs or buildings and temporary covers such as tarps.
 - (8) Housekeeping - Areas that may contribute pollutants to storm water must be kept clean. Sweeping, prompt clean up of spills and leaks, and proper maintenance of vehicles must be employed to eliminate or minimize exposure of storm water to pollutants.
- (ii) *Spill Prevention and Response Procedures:* Methods to prevent spills along with clean-up and notification procedures must be included in the SWPCP. These methods and procedures must be made available to appropriate personnel. The required clean up material must be on-site and readily available. Spill prevention plans required by other regulation may be substituted for this provision providing that storm water management concerns are adequately addressed.
- (iii) *Preventative Maintenance:* A preventative maintenance program must be implemented to ensure the effective operation of all storm water best management practices. At a minimum the program must include:
- (1) Monthly inspections of areas where potential spills of significant materials or industrial activities that could impact storm water runoff.
 - (2) Inspections of storm water control measures, structures, catch basins, and treatment facilities two times per year, once in the early summer or late spring and once in the late fall or early winter.
 - (3) Cleaning, maintenance and/or repair of all materials handling and storage areas and all storm water control measures, structures, catch basins, and treatment facilities once before the wet weather season and as needed thereafter. This pertains to areas which drain industrial activity areas and exempts catch basins which drain areas not involved in industrial activity and that do not mix with drainage from those areas before the sampling point. Catch basins draining storm water from non-industrial activity areas should also have a preventive maintenance schedule but this schedule is at the discretion of the permittee and is not required. On sites in which historical maintenance records show that some or all of the catch

basins do not accumulate sufficient oil and grease and/or sediment to justify annual cleaning of the catch basins and which do not have difficulty in meeting the benchmarks, a biannual cleaning cycle may be used.

- (vii) *Employee Education:* An employee orientation and education program must be developed and maintained to inform personnel of the components and goals of the SWPCP. The program must also address spill response procedures and the necessity of good housekeeping practices. A schedule for employee education must be included in the SWPCP.

(d) **Record Keeping and Internal Reporting Procedures:** The following information must be recorded and maintained at the facility.

- (i) Inspection, maintenance, repair and education activities as required by the SWPCP.
- (ii) Spills or leaks of significant materials at or above the reportable quantity that impacted or had the potential to impact storm water or surface waters. Include the corrective actions to clean up the spill or leak as well as measures to prevent future problems of the same nature.