

FURTHER AMENDED AND RESTATED RATE AGREEMENT

This **RATE AGREEMENT** (this “Agreement”) is made and entered into as of _____, 20____, by and between **THE CITY OF LOS ANGELES DEPARTMENT OF AIRPORTS**, a municipal corporation (“City”) (sometimes referred to as “Los Angeles World Airports” or “LAWA”), acting by order of and through its Board of Airport Commissioners (the “Board”), and _____, an air carrier offering regularly scheduled passenger service at the Airport or an airline consortium that has been formed to manage specified Terminal facilities or equipment at the Airport and has been approved by City for this purpose (in either case, referred to for convenience as “Airline” throughout this Agreement). Airline and City are collectively referred to as “Parties.” Capitalized terms used in this Agreement without definition shall have the meanings given to such terms in the Rate Methodology (as defined below).

RECITALS

The Parties hereby acknowledge and agree that their respective decisions to enter into this Agreement are premised on the following recitals:

A. City is the owner of Los Angeles International Airport (the “Airport”) and operates the Airport for the promotion, accommodation and development of air commerce and air transportation.

B. City has undertaken construction projects to refurbish and renovate certain Terminals at the Airport and expects to continue to make significant investments in all the Terminals to improve and modernize the Airport and accommodate additional passengers. City and Airline desire to communicate regularly on the status of Capital Improvements to the Terminals.

C. Airline (i) is or will be using space in a Terminal at the Airport pursuant to the Los Angeles International Airport Passenger Terminal Tariff (the “Tariff”) or (ii) is using space in a Terminal at the Airport pursuant to a lease and desires to have the rates and charges for its use of Terminal space at the Airport calculated in accordance with this Agreement.

D. The Board adopted a new methodology for the calculation of rates and charges for the use of Terminal space and equipment at the Airport on September 7, 2012.

E. Airline understands that this rate methodology was developed in anticipation of future Terminal construction projects and is intended as a self-financing mechanism to recover the costs of constructing, acquiring, operating and maintaining the Terminals at the Airport.

F. City and Airline desire predictable rates and charges for use of Airport facilities.

G. City and Airline desire to avoid disputes about the methods used to calculate rates and charges for use of Terminals at the Airport.

H. City and various air carriers offering regular scheduled passenger service at the Airport, including Airline, initially entered into a rate agreement effective as of January 1, 2013 (the “2013 Rate Agreement”). Desiring to extend, and to amend and restate the 2013 Rate

Agreement, Airline and various other air carriers entered into a revised rate agreement effective as of January 1, 2020 (the “Amended and Restated Rate Agreement”), to enhance consultation on major capital improvement projects affecting passenger carriers, to provide stronger financial protection to City, and to relieve air carriers and airline consortiums that execute this Agreement of the burden of posting a performance guaranty while protecting City from airline-related bad debt.

I. City and various air carriers, including Airline, now wish to further amend and restate the rate agreement and to have LAWA employ a revised Rate Methodology so that LAWA can set rates on a fiscal year, rather than calendar year basis, using budgeted Operations and Maintenance Expenses rather than past actual Operations and Maintenance Expenses, and can further its effort to achieve fully equalized Terminal charges for all airlines using common use facilities at the Airport.

J. The Board adopted a revised methodology (the “Rate Methodology”), effective July 1, 2021, for the calculation of rates and charges for the use of Terminal space and equipment at the Airport on June 3, 2021. The revised Rate Methodology is attached to this Agreement as Exhibit A.

K. City will make this form of Agreement available to all air carriers offering regularly scheduled passenger service at the Airport, and all air carriers that execute this form of Agreement will be “Signatory Airlines” for purposes of this Agreement. City will also make this form of Agreement available to airline consortiums that have been formed to manage specified Terminal facilities and equipment at the Airport and have been approved by City for this purpose, but nothing in this Agreement shall be construed to impose an obligation upon City to approve any new airline consortiums. Each airline consortium that becomes a party to this form of Agreement will be a “Signatory Consortium” and except as otherwise provided in Section 3, will be treated as if it were a “Signatory Airline” for purposes of this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Airline hereby agree as follows:

1. Term.

1.1. Commencement of Term.

- (a) With respect to any air carrier, this Agreement shall commence on July 1, 2021 if executed by such air carrier and delivered to City on or before September 30, 2021 and otherwise shall commence on the first day of the next month beginning no less than thirty (30) days after execution by an air carrier and delivery to City; provided, however, that any Signatory Airline under the Amended and Restated Rate Agreement may only become a Signatory Airline under this Agreement if such Signatory Airline executes and delivers this Agreement to City on or before September 30, 2021.

- (b) With respect to any City approved airline consortium in existence before July 1, 2021 (“Existing Consortium”), this Agreement shall commence on July 1, 2021 if executed by the Existing Consortium and delivered to City on or before September 30, 2021.
- (c) With respect to any airline consortium formed and approved on or after July 1, 2021, this Agreement shall commence on the first day of the next month beginning no less than sixty (60) days after execution and delivery to City by such consortium and one hundred percent (100%) of the individual airline members of such consortium.

1.2. Termination. This Agreement shall terminate on June 30, 2033.

1.3. Prior Agreement. Upon its commencement, this Agreement shall supersede the Amended and Restated Rate Agreement.

2. Acceptance of Rate Methodology. Airline agrees to pay charges for its use of space in the Terminals calculated in accordance with the Rate Methodology as modified by this Agreement and acknowledges that this Agreement constitutes a written agreement with air carriers within the meaning of 49 U.S.C. § 47129(e)(1).

3. No Change to Rate Methodology. City agrees that during the Term, City shall use the Rate Methodology as modified by this Agreement to calculate Airline’s rates and charges for the use of Terminal space at the Airport under the Tariff or Airline’s lease, as applicable, and City shall not subject Airline to a different rates and charges methodology for the use of Terminal space at the Airport during the Term; provided, however, that City may modify the Rate Methodology in a manner generally applicable to all Terminals with the written consent of Signatory Airlines that are then operating at the Airport. City shall give written notice and meet with the Signatory Airlines to discuss any such proposed modification. In lieu of providing written notice to each Signatory Airline, City may provide written notice to the Airline Airport Affairs Committee (“AAAC”) at the Airport. City shall provide at least thirty (30) days written notice of the meeting and request the written consent of the Signatory Airlines to the proposed modification no less than forty-five (45) days following the meeting. Such consent shall be deemed to have been given if the modification is approved in writing by a vote in which Signatory Airlines that collectively paid no less than fifty-one percent (51%) of the total rates and charges paid under the Rate Methodology by all Signatory Airlines during the immediately preceding Fiscal Year cast ballots and the Signatory Airlines voting to approve the modification also paid no less than sixty-seven percent (67%) of the total rates and charges paid under the Rate Methodology during the immediately preceding Fiscal Year by all Signatory Airlines casting ballots (including Signatory Airlines that vote not to approve the modification). A Signatory Consortium shall not itself participate in such a vote, but the rates and charges paid by a Signatory Consortium shall be credited proportionately to any of its members who are Signatory Airlines and participate in such a vote.

City and Airline acknowledge that during the Term questions may inevitably arise about the application of the Rate Methodology in new or unforeseen circumstances. They commit to work together in good faith to resolve any such questions to the satisfaction of City and all

Signatory Airlines in ways that are consistent with the intent of this Agreement and may not require any changes to the Rate Methodology under this Section 3.

4. Tier One Revenue Sharing. City will share the concession revenues that City derives from the Terminals at the Airport with all Signatory Airlines in accordance with the following formulas (“Tier One Revenue Sharing”), which reduce the otherwise-indicated Terminal Buildings Requirement and FIS Requirement calculated under the Rate Methodology. Airlines and airline consortiums that are not signatories to this form of Agreement shall not be eligible for Tier One Revenue Sharing.

4.1. Tier One Terminal Buildings Revenue Sharing.

- (a) The Terminal Buildings Requirement otherwise calculated under Section 2.2.1 of the Rate Methodology for any given Fiscal Year shall be reduced by the full amount of Tier One Terminal Buildings Concession Revenue applicable to that year. The Terminal Buildings Rate (and all rates derived from it under the Rate Methodology) charged to all Signatory Airlines, including Airline, shall reflect the reduction in the Terminal Buildings Requirement yielded by Tier One Revenue Sharing.
- (b) For purposes of this section, the following definitions shall be used:
 - (i) “Terminal Buildings Concession Revenue” shall mean all budgeted revenue from Terminal Buildings Concessions for the following Fiscal Year.
 - (ii) “Tier One Terminal Buildings Concession Revenue” shall mean fifty percent (50%) of the amount, if any, of budgeted Terminal Buildings Concession Revenue for the following Fiscal Year that is above the Terminal Buildings Concession Baseline.
 - (iii) “Terminal Buildings Concessions” shall mean all concessions and concessions management in the Terminals at the Airport including, but not limited to, food and beverage, retail, telecommunications, ATMs, luggage carts, advertising and sponsorships, passenger lounges operated on a pay-for-use basis (other than lounges leased by air carriers or airline consortiums), and Terminal commercial management and Terminal media operations. Terminal Building Concessions do not include FIS Concessions, parking and rental car concessions, or commercial vehicle and other ground transportation fees.
 - (iv) “Terminal Buildings Concession Baseline” shall mean Ninety Million, Six Hundred Thousand Dollars (\$90,600,000) as of July 1, 2018 and as adjusted as of July 1 of each following year to reflect any changes after June 30, 2018 in the consumer price index published by the Bureau of Labor Statistics for “all urban

consumers” for “all items” for the Los Angeles-Long Beach-Anaheim Area.

4.2. Tier One FIS Concession Revenue Sharing.

- (a) The Gross FIS Requirement otherwise calculated under Section 2.3.1 of the Rate Methodology for any given Fiscal Year shall be reduced by the full amount of Tier One FIS Concession Revenue applicable to that year. The FIS Rate charged to all Signatory Airlines, including Airline, shall reflect the reduction in the Gross FIS Requirement yielded by Tier One Concession Revenue Sharing.
- (b) For purposes of this section, the following definitions shall be used:
 - (i) “FIS Concessions” shall mean duty free and foreign exchange concessions at the Airport. FIS Concessions do not include Terminal Buildings Concessions, parking and rental car concessions, or commercial vehicle and other ground transportation fees.
 - (ii) “Tier One FIS Concession Revenue” shall mean twenty-five percent (25%) of all budgeted revenues from FIS Concessions contracts for the following Fiscal Year.

Illustrative calculations displaying how Tier One Revenue Sharing will affect the rates and charges otherwise calculated under the Rate Methodology are attached to this Agreement as Exhibit B through Exhibit H.

4.3. Adjustments-to-Actual for Tier One Revenue Sharing. In making annual adjustments-to-actual under Section 2.10 of the Rate Methodology after the close of each Fiscal Year after 2022, LAWA shall include recalculations of (a) Tier One Terminal Buildings Concession Revenue Sharing, in accordance with Section 4.1, on the basis of actual Tier One Terminal Buildings Concession Revenue; and (b) Tier One FIS Concession Revenue Sharing, in accordance with Section 4.2, on the basis of actual Tier One FIS Concession Revenue.

5. [INTENTIONALLY LEFT BLANK]

6. [INTENTIONALLY LEFT BLANK]

7. Capped Common Use Holdroom Fee.

7.1. During any Fiscal Year, City shall not charge any Signatory Airline, including Airline, cumulative Common Use Holdroom fees for the use of a given Common Use Holdroom that exceed the applicable Common Use Holdroom Cap. For any given Fiscal Year, LAWA shall calculate the Common Use Holdroom Cap applicable to a Signatory Airline’s use of a particular Common Use Holdroom as follows:

- (a) Separate Relative Common Use Holdroom Caps for each class of aircraft shall be computed as the product of (x) the Terminal Buildings Rate calculated in accordance with this Agreement for that year, (y) the average number of square feet in all Common Use Holdrooms in the Terminals, and (z) the relativities for each class of aircraft established under Section 2.4.2 of the Rate Methodology.
- (b) The Common Use Holdroom Cap applicable to a Signatory Airline's use of a particular Common Use Holdroom shall be the sum of (a) the proportion of Turns by such Signatory Airline at that Common Use Holdroom for each aircraft class during the Fiscal Year, multiplied by (b) the Relative Common Use Holdroom Cap for each corresponding aircraft class.

7.2. LAWA may adjust the methodology in Section 7.1(b) used to determine Common Use Holdroom Caps. Prior to any such adjustment, LAWA shall provide written notice ("New Common Use Holdroom Cap Notice") to the AAAC that provides the new methodology and the reasons for the adjustment. The AAAC shall provide LAWA with any comments in writing within thirty (30) days following the New Common Use Holdroom Cap Notice. LAWA shall consider any such comments and then, in its sole discretion, shall reasonably determine whether to make the adjustment. LAWA shall provide written notice to the AAAC of its determination, and thereafter calculations of the Common Use Holdroom Cap shall be calculated in accordance with the adjustment.

7.3. For purposes of determining whether a Signatory Airline's cumulative Common Use Holdroom fees for a given Common Use Holdroom exceed the applicable Common Use Holdroom Cap, LAWA shall include Common Use Holdroom fees paid by a Signatory Airline for the use of other Common Use Holdrooms if such Signatory Airline provides written documentation reasonably acceptable to LAWA's Chief Executive Officer ("CEO," referred to as the "Executive Director" in the Rate Methodology) that the use of such other Common Use Holdrooms was required in order to accommodate the schedule of another airline on the Common Use Holdroom for which the cumulative Common Use Holdroom fees are being computed. The Turns and aircraft class associated with any such Common Use Holdroom fees shall be included in determining the Common Use Holdroom Cap under Section 7.1. Illustrative calculations displaying how the Common Use Holdroom Cap will be calculated are attached to this Agreement as Exhibit D-1.

7.4. After January 1 of each Fiscal Year, LAWA will determine whether each Signatory Airline utilizing one or more Common Use Holdrooms has paid Common Use Holdroom fees that exceed the applicable Common Use Holdroom Cap prorated over a six month period ("Prorated Common Use Holdroom Cap"). For any Signatory Airline that has paid Common Use Holdroom fees during the first six months of the Fiscal Year for Turns on a Common Use Holdroom that exceed the applicable Common Use Holdroom Cap, LAWA shall issue the Signatory Airline a credit for the difference no later than March 31 of such Fiscal Year. LAWA shall take account of any such credits given to a Signatory Airline during the Fiscal Year when making adjustments-to-actual at the end of each Fiscal Year under Sections 12 and 13 of this Agreement and Sections 2.10 and 2.11 of the Rate Methodology.

8. Terminal Renewal and Improvement Fund & Tier Two Revenue Sharing. To provide a dedicated funding source for future Terminal capital improvement projects, City shall establish a Terminal Renewal and Improvement Fund (“TRIF”).

8.1. Net Terminal Area Cash Flow. At the end of each Fiscal Year, commencing at the end of Fiscal Year 2022, the Net Terminal Area Cash Flow shall be deposited to the TRIF; provided, however, that the annual deposit of the Net Terminal Area Cash Flow shall not exceed the Net Terminal Area Cash Flow Cap. For purposes of this Section, the “Net Terminal Area Cash Flow” for any Fiscal Year shall mean the difference between (a) the total revenues received by City from all sources for use of space in the Terminals (excluding ECPCs, if any) and (b) the sum of (x) debt service (net of PFC’s) and Operations and Maintenance Expenses allocable to the Terminals and (y) required Reserve Deposits allocable to the Terminals for the immediately preceding Fiscal Year. The “Net Terminal Area Cash Flow Cap” shall mean One Hundred Thirty-Nine Million, Two Hundred Thousand Dollars (\$139,200,000) as of July 1, 2018 and as adjusted as of July 1 of each following year to reflect any changes after July 1, 2018 in the consumer price index published by the Bureau of Labor Statistics for “all urban consumers” for “all items” for the Los Angeles-Long Beach-Anaheim Area. If at the end of any Fiscal Year the Net Terminal Area Cash Flow exceeds the Net Terminal Area Cash Flow Cap, fifty percent (50%) of the funds in excess of the Net Terminal Area Cash Flow Cap shall be deposited to the Tier Two Revenue Sharing Fund; the remaining fifty percent (50%) of any such excess funds shall be deposited to City's revenue fund for City's unrestricted use for airport system capital or operating costs in accordance with applicable law.

8.2. Use of TRIF and Tier Two Revenue Sharing.

(a) TRIF.

(i) The funds in TRIF, if any, shall only be used by City to fund Capital Improvements in the Terminals unless the CEO reasonably determines, after consultation with the Signatory Airlines (except when exigent circumstances make such consultation impractical), that funds in TRIF are needed for other airport purposes (x) as a result of emergencies, including natural disasters or acts of war, (y) to meet regulatory or security requirements or (z) to satisfy bond covenants. The costs of Terminal projects funded by TRIF shall be amortized over the project’s useful life and recovered through future rates and charges; provided, however, that City will defer for five years from the Date of Beneficial Occupancy the collection of any amortization charges associated with the use of TRIF moneys to fund new Terminal Capital Improvements, as provided in Section 9.3. For purposes of this Agreement, “Date of Beneficial Occupancy” or “DBO” shall mean the date when a project or phased component of a project has been completed and the CEO determines that it is available for use.

(ii) The TRIF Balance at the end of each Fiscal Year shall not exceed the TRIF Cap. At the end of each Fiscal Year, fifty percent (50%)

of the funds in excess of the TRIF Cap shall be deposited to the Tier Two Revenue Sharing Fund; the remaining fifty percent (50%) of any such excess funds shall be deposited to City's revenue fund for City's unrestricted use for airport system capital or operating costs in accordance with applicable law. For purposes of this Section, the "TRIF Balance" shall mean the TRIF account balance as of July 1 after depositing the Net Terminal Area Cash Flow pursuant to Section 8.1 of this Agreement for the immediately preceding Fiscal Year and including any accrued interest. The "TRIF Cap" shall mean Five Hundred Fifty-Six Million, Seven Hundred Thousand Dollars (\$556,700,000), as of July 1, 2018 and as adjusted as of July 1 of each following year to reflect any changes after July 1, 2018 in the consumer price index published by the Bureau of Labor Statistics for "all urban consumers" for "all items" for the Los Angeles-Long Beach-Anaheim Area.

(b) Tier Two Revenue Sharing Fund Distributions.

- (i) Commencing in Fiscal Year 2022 and continuing on an annual basis until the end of the Term, the funds in the Tier Two Revenue Sharing Fund, if any, shall be distributed among all of the Signatory Airlines in the form of a credit (the "Tier Two Credit") at the end of each Fiscal Year. Tier Two Credits can only be used by a Signatory Airline, including Airline, as an offset against amounts due to City in the following order of priority: first, against any amounts due to City on account of Airline's use of Terminal space at the Airport; and second, against any landing fees due to City on account of Airline's use of the airfield at the Airport. Tier Two Credits will not be issued in cash. Tier Two Credits must be used within twelve (12) months after they are issued and expire immediately if Airline ceases operations at the Airport for any reason other than the closure of the Airport. The distribution of Tier Two Credits shall be subject to the eligibility rules set forth below in subsection 8.2(b)(ii) and shall be based upon the ratio of each Signatory Airline's payments of Terminal charges during the preceding Fiscal Year to all payments of Terminal charges by Signatory Airlines during the preceding Fiscal Year. The calculation of Tier Two Credits shall be made after the annual adjustment-to-actual of rates pursuant to Section 2.10 of the Rate Methodology. City may, in its discretion, elect to reduce or defer the distribution of Tier Two Credits in any Fiscal Year to the extent the distribution of Tier Two Credits would cause City to increase the otherwise-indicated amounts of ECPCs calculated under Section 10.2. Such reduction or deferral is not intended to eliminate City's obligation to provide the full benefit of such credits to each Signatory Carrier in future years. When an ECPC is no longer required, City shall distribute any past Tier Two

Credits due to Signatory Airlines no later than when refunds of ECPCs are made pursuant to Section 10.7.

- (ii) Conditions for the Issuance and Use of the Tier Two Credit. To be eligible to receive a Tier Two Credit, if any, for any given Fiscal Year Airline must be operating at the Airport at the time the Tier Two Credits are issued. Airline will only be eligible to use Tier Two Credits as offsets against amount due to City, in accordance with Section 8.2(b)(i), if at the time Airline seeks to use such Credits, Airline is not in arrears to City by more than 45 (forty-five) days for any outstanding amount due on account of Airline's use of Terminal space or use of the airfield at the Airport for which City has given Airline notice (and for purposes of this Section 8.2(b)(ii), the discharge of a debt in a bankruptcy proceeding at any time during the preceding two (2) years shall not constitute the elimination of an arrearage or the payment of any amount to City). An illustrative calculation displaying how Tier Two Revenue Sharing will work is attached to this Agreement as Exhibit I. If any Signatory Airline is unable to use its Tier Two Credit by reason of such arrearage or because it is no longer operating at the Airport, such Signatory Airline's Tier Two Credit shall be retained in the Tier Two Revenue Sharing Fund and distributed at the end of the next Fiscal Year in accordance with Section 8.2(b)(i).

9. Terminal Capital Improvements.

9.1. Consultation. The AAAC will designate a representative of all Signatory Airlines (the "Airline Technical Representative") who will meet no less than twice each Fiscal Year with City to consult about the scope and status of Capital Improvements with costs allocable to the Terminals, Airfield and Apron, and Access (collectively, the "Airline Area Capital Improvement Plan"). City and the Airline Technical Representative will work cooperatively to make the consultation meetings collaborative and informative (e.g., format and approach of communicated information) with the objective of developing a common understanding of the Airline Area Capital Improvement Plan. City will use good faith efforts to implement each Airline Area Capital Improvement included in the Airline Area Capital Improvement Plan, but the Signatory Airlines understand and agree that City may make changes in the scope, purpose, design, schedule, cost and funding sources of each Airline Area Capital Improvement. After City gives due consideration to whatever information and written comments are provided by the Signatory Airlines or the Airline Technical Representative as described below, City will in its reasonable discretion make the final determination on all of these matters and such determinations will be binding.

At each such consultation meeting for the Airline Area Capital Improvement Plan, City will provide the following for the then current Fiscal Year and on a forward rolling basis for the next three (3) Fiscal Years: (a) a list, description, and prioritization of each Airline Area Capital Improvement that is planned, in design, designed or in construction at the time of the meeting, with those Airline Area Capital Improvements for the maintenance, renewal and replacement of assets or equipment in such areas separately identified; (b) the estimated gross project cost and

construction schedule for each Airline Area Capital Improvement; (c) the then anticipated source of funds for each Airline Area Capital Improvement; (d) the potential project delivery method that may be used by City for each Airline Area Capital Improvement (e.g. design-build, public private partnership), and (e) the anticipated impact of the projected set of Airline Area Capital Improvements on charges to be calculated in accordance with the Rate Methodology, this Agreement or the Air Carrier Operating Permit, and the amount and timing of any projected Extraordinary Coverage Protection Charge (“ECPC”) calculated in accordance with this Agreement. Upon request, City will also provide at that time any other publicly available information (1) provided to the Board about each such Airline Area Capital Improvement or (2) otherwise publicly disseminated by LAWA.

For each Airline Area Capital Improvement that meets established materiality criteria, which may change from time-to-time as discussed below, City agrees to engage the Airline Technical Representative from time-to-time, through a designated City representative and communication protocol to be reasonably determined by City after consultation with the Signatory Airlines, starting at the early development of and continuing through the implementation of each such Airline Area Capital Improvement to exchange information or comments meant to improve the Airline Area Capital Improvement, and to address the budget, schedule, operational or other impacts of each such Airline Area Capital Improvement on airline tenants in a timely manner. The materiality criteria will be established in consultation with the Signatory Airlines after taking into account the total cost, changes in airline rates and charges, or airline operational impacts of each such Airline Area Capital Improvement. If after consultation the Parties cannot reasonably agree on the materiality criteria, City will make the final determination and such determination will be binding.

City will give due consideration to written comments on Airline Area Capital Improvements provided to City by Signatory Airlines or the Airline Technical Representative within thirty (30) days of any such communication regarding items (a) through (e) above with respect to any Airline Area Capital Improvement or otherwise regarding any material Airline Area Capital Improvements and will advise the Board of any such written comments when requesting Board action on any Airline Area Capital Improvement that is the subject of such comments.

9.2. Funding Sources. Airline Area Capital Improvements may be funded from one or more of the following sources: Airport revenue bonds, Airport revenue other than TRIF, developer capital (e.g., through a public private partnership), federal grants-in-aid (where available to pay eligible project costs), PFCs (subject to availability and FAA approval), and TRIF for Terminal Capital Improvements only. City shall retain sole discretion to determine the sources of funding for each Capital Improvement. City acknowledges and shares Airline’s desire for a cumulative funding mix which minimizes the airline rate burden; optimizes the use of grants-in-aid, PFCs and CFCs; maintains City’s ability to access capital markets on favorable terms; and eliminates or reduces the amount, frequency and duration of ECPCs, if any. City shall give due consideration to these objectives when determining the sources of funding for each Capital Improvement. Airline acknowledges that the actual mix of sources used to fund Airline Area Capital Improvements during the Term of this Agreement may vary depending upon, but not limited to, the following factors: (a) the availability of funds in TRIF and Airport revenue accounts; (b) federal funding levels and project eligibility; (c) the allowable amounts and uses of PFCs and CFCs; and (d) capital market conditions.

9.3. Deferred Amortization Charges. City will defer for five years from the Date of Beneficial Occupancy the collection of any amortization charges associated with the use of TRIF moneys to fund new Terminal Capital Improvements.

10. Extraordinary Coverage Protection. Airline agrees that in addition to paying charges for its use of space and equipment in the Terminals calculated in accordance with the Rate Methodology as modified by this Agreement, Airline shall when required by this Agreement pay a separate charge to provide extraordinary coverage protection to City (the "Extraordinary Coverage Protection Charge" or "ECPC") in accordance with the following terms and conditions.

10.1. Definitions. For purposes of this section, the following definitions shall be used:

- (a) "APM" shall mean the automated people mover to be constructed at the Airport.
- (b) "APM Capital AP" shall mean the annual availability payments City is obligated to make to the private developer of the APM for capital costs.
- (c) "APM O&M AP" shall mean the annual availability payments City is obligated to make to the private developer of the APM for operations and maintenance costs and renewal costs.
- (d) "CFC Revenues" shall mean Customer Facility Charges collected by City with respect to the Airport.
- (e) "ConRAC" shall mean the consolidated rent-a-car car facility to be constructed at the Airport.
- (f) "ConRAC Capital AP" shall mean the annual availability payments City is obligated to make to the private developer of the ConRAC for capital costs and renewal costs.
- (g) "ConRAC O&M AP" shall mean the annual availability payments City is obligated to make to the private developer of the ConRAC for operations and maintenance costs.
- (h) "Coverage Amount" shall mean the ratio of Adjusted Net Pledged Revenues to Total LAX Obligations, calculated as provided in Section 10.2(d).
- (i) "Coverage Target" shall mean that the Coverage Amount equals 1.40x.
- (j) "Customer Facility Charge" or "CFC" shall mean "Customer Facility Charge as that term is defined in California Government Code § 50474.21(a) as it may be amended from time to time.
- (k) "Gross Annual Debt Service" shall mean gross annual debt service (including debt service expected to be paid by PFCs and CFCs) allocable to

bond-funded Capital Improvements, excluding debt service on special facility bonds.

- (l) “Included CFC Revenues” shall mean that portion of the CFC Revenues collected by City (plus any interest income on CFC balances) that is used to (i) make ConRAC Capital APs to the developer of the ConRAC beginning on the DBO of the ConRAC (or such other date as reasonably determined by LAWA) and (ii) pay debt service on debt issued by City to fund a portion of APM costs and make APM Capital APs and APM O&M APs to the developer of the APM, all beginning on the DBO (or such other date reasonably determined by LAWA). CFC Revenues used to pay debt service on special facility bonds are not Included CFC Revenues.
- (m) “Included PFC Revenues” shall mean that portion of the PFC Revenues collected by City (plus any interest income on PFC balances) that is used to pay PFC-eligible debt service and other capital costs (e.g., availability payments).
- (n) “LAX O&M Expenses” shall mean Operations and Maintenance Expenses (as defined in the Rate Methodology) including both APM O&M AP and ConRAC O&M AP made by City.
- (o) “Other Nonairline Revenue” or “ONR” shall mean all revenue received by City from nonairline sources other than Terminal Building Concessions and FIS Concessions, such as revenue received by City from parking and rental car concessions; from commercial vehicle and other ground transportation fees; and from commercial development at the Airport. ONR shall not include any revenue received by City from any source that is credited to the airfield and offset against the airfield revenue requirement in the calculations used to derive the landing fee at the Airport.
- (p) “ONR/EP Ratio” shall mean the ratio of Other Nonairline Revenues divided by total Enplaned Passengers.
- (q) “PFC Revenues” shall mean Passenger Facility Charges collected by City with respect to the Airport.
- (r) “Pledged Revenues” shall mean the income, receipts, earning and revenues received by City from the Airport, excluding (i) PFC Revenues, (ii) CFC Revenues and (iii) grant funding for capital projects.

10.2. Amount of Aggregate ECPCs. City shall calculate the aggregate amount of ECPCs, if any, to be paid by Airline and all other Signatory Airlines in any given Fiscal Year as follows:

- (a) First: estimated Net Pledged Revenues shall be computed as Pledged Revenues minus LAX O&M Expenses.

- (b) Second: estimated Adjusted Net Pledged Revenues shall be computed as the sum of Net Pledged Revenues, Included CFC Revenues and Included PFC Revenues, less the total amount of Tier Two Credits, if any, distributed under Section 8.2(b).
- (c) Third: estimated Total LAX Obligations shall be computed as the sum of Gross Annual Debt Service, APM Capital AP and ConRAC Capital AP.
- (d) Fourth: the estimated Coverage Amount shall be computed by dividing Adjusted Net Pledged Revenues by Total LAX Obligations.
- (e) Fifth: if the Coverage Amount equals or exceeds the Coverage Target (1.40), no ECPCs shall be required.
- (f) Sixth: if the Coverage Amount is less than the Coverage Target, ECPCs shall be required in an aggregate amount sufficient, when added to Adjusted Net Pledged Revenues, to cause the Coverage Amount to equal the Coverage Target (1.40).

10.3. Nonairline Revenue Target Credits.

- (a) Eligibility for NRTC. The aggregate amount of ECPCs, if any, to be paid by Airline and all other Signatory Airlines in any given Fiscal Year shall be reduced by a Nonairline Revenue Target Credit (“NRTC”) if, but only if, the ONR/EP Ratio for the current Fiscal Year is fifty percent (50%) or more lower than the ONR/EP Ratio for the immediately preceding Fiscal Year, after taking account of any projects undertaken at the Airport for the benefit of any airline and any exogenous events (outside City’s control) that, in each case, City can demonstrate adversely affected Other Nonairline Revenues.
- (b) Amount of NRTC. If the Signatory Airlines must pay ECPCs in any given Fiscal Year, the amount of the NRTC, if any, for that Fiscal Year shall be the amount required to increase the ONR/EP Ratio for that fiscal so that it equals fifty percent (50%) of the ONR/EP Ratio for the immediately preceding year (after adjustments, if any, under Section 10.3(a)); provided, however, that the NRTC can never exceed the aggregate amount of ECPCs otherwise due for that Fiscal Year.

Illustrative calculations displaying how ECPCs and NRTCs will be calculated are attached to this Agreement as Exhibit J and Exhibit K.

10.4. Consultation on ECPCs. City will determine, and notify each Signatory Airline, whether an ECPC will be required at the time City provides annual notice of proposed rates and charges under Section 2.1 of the Rate Methodology; at the time City provides notice of any mid-year adjustment to rates and charges under Section 2.9 of the Rate Methodology; or at any other time City determines that an ECPC is required as a result of an unexpected event outside of City’s control.

Before requiring payment of ECPCs in accordance with this Agreement, City shall consult with all Signatory Airlines concerning, and provide supporting documents showing, the basis for implementing the ECPC; the calculation of the amount of the ECPC, including the NRTC, if any; the projected frequency and duration of the ECPC; and any reasonable steps City has taken and could take to reduce the amount, frequency and duration of the ECPC. City shall give due consideration to the possibility of eliminating or reducing the amount, frequency and duration of ECPCs by changing the scope or phasing of or the funding sources for Capital Improvements, increasing the amounts of Nonairline Revenues or reducing Operations and Maintenance Expenses; provided, however, that City shall not be required to take any of these steps.

10.5. Payments of ECPCs.

- (a) Calculation of Individual Airline ECPCs. To determine the amount of ECPCs, if any, to be paid by each Signatory Airline, including Airline, in any given Fiscal Year, City shall first subtract the NRTC, if any, calculated in accordance with Section 10.3 from the aggregate amount of ECPCs calculated in accordance with Section 10.2, and City shall then multiply that difference by each Signatory Airline's proportionate share of total payments (excluding ECPCs, if any) made by all Signatory Airlines for use of the Terminals under the Tariff, as modified by the Rate Methodology and this Agreement over the most recent twelve (12) month period for which such payments have been made.
- (b) Timing of Required Payments. Payments of the ECPCs to be made by Airline in any given Fiscal Year shall be made on the first day of each month. The amount of each such payment shall be calculated by dividing the total amount of ECPCs Airline must pay during such year by the number of months remaining in the year.

10.6. Adjustments-to-Actual for ECPCs. When City makes its annual adjustments-to-actual under Section 2.10 of the Rate Methodology, City shall also recalculate any ECPCs on the basis of actual Adjusted Net Pledged Revenues and Total LAX Obligations and other factors affecting the prescribed calculations and shall determine the amount of any overpayment (credit) or underpayment (debit) due to or from each Signatory Airline. Any resulting credit shall be issued to Airline, and any resulting debit shall be invoiced to and payable by Airline, as prescribed in Section 2.10 of the Rate Methodology.

10.7. Refunds of ECPCs in Future Years. If ECPCs are paid in any given Fiscal Year, City shall in subsequent Fiscal Years credit each Signatory Airline with its proportionate share of such payments as soon as, and to the extent, the Coverage Amount exceeds the Coverage Target. Credits for past ECPCs paid can only be used by a Signatory Airline, including Airline, as an offset against amounts due to City in the following order of priority: first, against any amounts due to City on account of Airline's use of Terminal space at the Airport; and second, against any landing fees due to City on account of Airline's use of the airfield at the Airport. Credits for past ECPCs paid will not be issued in cash. Such credits must be used within twenty-four (24) months after they are issued and expire immediately if Airline ceases operations at the Airport for any reason other than the closure of the Airport. Any unused credits that expire shall be applied by City against any

outstanding amount due on account of Airline's use of Terminal space or use of the airfield at the Airport, and the remaining balance, if any, of such credits shall be retained in the Tier Two Revenue Sharing Fund and distributed at the end of the next Fiscal Year in accordance with Section 8.2(b)(i).

10.8. Paydown of Debt. City may at any time, but shall not be obligated to, use available Pledged Revenues to pay down bond principal allocable to the Terminal, to reduce outstanding debt and the amount, frequency or duration of any ECPCs. Any such payments will be recovered through amortization charges based on the remaining economic life of the Capital Improvements funded by the outstanding bonds or the last maturity date of the bonds that were paid down, whichever is shorter.

11. Performance Guaranty.

11.1. Definitions.

- (a) "Bad Debt" shall mean a monetary amount owed to City by an air carrier or airline consortium with respect to the Terminals that is unlikely to be paid as it is beyond the collectible period as set by City policy.
- (b) "Bad Debt Recovery" shall mean the recapture of Bad Debt that has previously been included in the Operations and Maintenance Requirement calculated under Section 2.2.1(b) of the Rate Methodology.
- (c) "Performance Guaranty" shall mean the performance guarantee required by Section 15 of the Tariff and the performance guarantee provision of Airline's lease (if any).

11.2. Rate Recovery of Bad Debt. At the time City establishes rates and charges to be effective on July 1 of the next Fiscal Year under Section 2 of the Rate Methodology, City shall also calculate a "Bad Debt Surcharge" to recover its costs of Bad Debt. The aggregate amount of such a Surcharge shall be calculated by subtracting from any Bad Debt arising during the preceding Fiscal Year the amounts of any Bad Debt Recovery achieved during that year. If the amount of Bad Debt Recovery exceeds the amount of Bad Debt for any given year, the Surcharge will be a credit. The amount of each Signatory Airline's share of the total Bad Debt Surcharge (or credit) shall be based upon each Signatory Airline's proportionate share of total payments (excluding ECPCs, if any) by all Signatory Airlines for use of the Terminals under the Tariff, as modified by the Rate Methodology and this Agreement, in the most recent completed Fiscal Year. Such surcharges or credits shall be distributed at the same time and in the same manner as adjustments-to-actual under Section 2.10 of the Rate Methodology. Illustrative calculations displaying how Bad Debt Surcharges will be calculated are attached to this Agreement as Exhibit L.

11.3. Relief from Obligation to Provide Performance Guaranty.

- (a) Subject to Section 11.5, City shall not require any Signatory Airline, including Airline, to provide a Performance Guaranty as otherwise required by Section 15 of the Tariff or such Signatory Airline's lease (if any) if such Signatory Airline was also a Signatory Airline under the 2013 Rate

Agreement and has not failed, after any applicable notice and cure period, to make timely, full payments of all rentals, fees and charges due to City during the preceding thirty-six (36) months.

- (b) Subject to Section 11.5, City may, in its discretion, choose not to require a new Signatory Airline under this Agreement to provide a Performance Guaranty under Section 15 of the Tariff or such Signatory Airline's lease (if any) if such Signatory Airline commences regular scheduled service at the Airport on or after January 1, 2020 and such new Signatory Airline (a) has not in the past failed to make timely payments, if any, due to City and (b) demonstrates to City's satisfaction that it has an established track record of making timely payments to at least three (3) other large-hub or medium-hub airports (selected at City's discretion) during at least the preceding thirty-six (36) months and has not been defaulted for failure to make timely payments due at any such airports during the preceding thirty-six (36) months.

11.4. Requirement to Provide Performance Guaranty. Except as provided in Section 11.3, Airline shall provide City with a Performance Guaranty in accordance with Section 15 of the Tariff or the applicable provisions of Airline's lease (if any).

11.5. Reinstatement of Performance Guaranty Requirement. Even if Airline has previously been relieved of its obligation to provide a Performance Guaranty by reason of Section 11.3, City shall require Airline to provide a Performance Guaranty in accordance with Section 15 of the Tariff or the applicable provisions of Airline's lease (if any) if Airline fails, after any applicable notice and cure period, to make timely, full payments of all rentals, fees and charges due to City. In such event, Airline shall, within thirty (30) days from its receipt of written notice of default, provide a Performance Guaranty to City in such form and amounts, and subject to such terms and conditions, as are specified in Section 15 of the Tariff or the applicable provisions of Airline's lease (if any).

12. Adjustments-to-Actual After the Close of Fiscal Year 2022. Consistent with Section 2.11 of the Rate Methodology, within 180 days after the close of Fiscal Year 2022, LAWA shall separately recalculate rates and charges in accordance with Section 2.10 of the Rate Methodology as modified by this Agreement for (i) the first half of calendar year 2021 (January 1 through June 30) and (ii) Fiscal Year 2022 on the basis of actual financial results, Airline activity and other factors affecting the prescribed calculations and shall determine the cumulative amount of any overpayment (credit) or underpayment (deficit) due or from each Airline for these eighteen (18) months combined. The recalculation of rates and charges for the first half of calendar year 2021 shall reflect the provisions of the Amended and Restated Rate Agreement in effect as of January 1, 2021. The recalculation of rates and charges for Fiscal Year 2022 shall reflect the provisions of this Agreement.

13. Final Adjustments-to-Actual Under This Agreement. For Fiscal Year 2033, the final year of the Term, City shall calculate adjustments-to-actual in accordance with Section 2.10 of the Rate Methodology as modified by this Agreement. Any resulting credit will be issued to Airline, and

any resulting debit will be invoiced to and payable by Airline, as prescribed in Section 2.10 of the Rate Methodology.

14. Equalization of Charges for Services in Common Use Facilities. City and Airline also commit to work together in good faith to substantially reduce or eliminate any such differences in charges to airlines using their facilities on a common use basis for services provided by Airline that airlines are required to provide to their passengers (such as, but not limited to, services required by the Americans with Disabilities Act or the Air Carrier Access Act). City and Airline acknowledge that while the goal is to eliminate differences in charges for the same types and levels of services, it may be appropriate in charging for various services to differentiate between domestic and international operations or to take into account other differences in airline operations that make equalized charges inappropriate. Nothing in this Section is intended to affect charges by Airline for optional services that are requested by an airline.

15. No Challenge to Rate Methodology. Airline agrees that it will not contest or challenge, in any forum, the reasonableness or validity of the Rate Methodology; provided, however, that Airline reserves the right to dispute whether the rates adopted by City for any given Fiscal Year were calculated in accordance with the Rate Methodology and this Agreement. Any such dispute shall be resolved in a court of competent jurisdiction in Los Angeles County, California unless otherwise agreed by City.

16. More Favorable Rate Methodology. If during the Term of this Agreement City adopts a new Tariff or otherwise makes available to other airlines an alternative rate methodology that is more favorable than the Rate Methodology, Airline may, at its option, elect to have its rates and charges calculated under such alternative rate methodology rather than in accordance with this Agreement; provided, however, that if Airline makes such an election, Airline shall waive whatever rights, if any, it might have to Tier One Revenue Sharing and Tier Two Revenue Sharing under this Agreement.

17. No Third Party Rights or Obligations. No person or entity not a Party to or expressly identified as a beneficiary under this Agreement shall have any third-party beneficiary or other rights under this Agreement.

18. Applicable Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California.

19. Venue. Any litigation concerning this Agreement may only be filed in a court of competent jurisdiction in Los Angeles County, California.

20. Binding Agreement. This Agreement shall be binding upon the Parties hereto and their respective successors and assigns, corporate parents, subsidiaries and affiliates, and representatives, including a debtor in possession, a chapter 11 trustee or a chapter 7 trustee in a case or cases commenced under 11 U.S.C. §§ 101 *et seq.*

21. Headings. Descriptive headings are used in this Agreement for convenience only and shall not control, limit, amplify or otherwise modify or affect the terms and provisions of this Agreement or the meaning or construction of the terms and provisions of this Agreement.

22. Multiple Counterparts and Electronic Signatures. This Agreement may be executed in a number of identical counterparts, each of which for all purposes is deemed an original, and all of which constitute collectively one agreement. The parties acknowledge and agree that electronic records and electronic signatures, as well as facsimile signatures, may be used in connection with the execution of this Agreement and electronic signatures, facsimile signatures or signatures transmitted by electronic mail in so-called PDF format shall be legal and binding and shall have the same full force and effect as if a paper original of this Agreement had been delivered that had been signed using a handwritten signature. An electronic signature means a signature that is executed by symbol attached to or logically associate with a record and adopted by a party with the intent to sign such record, including facsimile or e-mail signatures. Each signatory to this Agreement (i) agrees that an electronic signature, whether digital or encrypted, is intended to authenticate this writing and to have the same force and effect as a manual signature; (ii) intended to be bound by the signatures (whether original, faxed, or electronic) on any document sent or delivered by facsimile or electronic mail or other electronic means; (iii) is aware that the other party(ies) will rely on such signatures; and, (iv) hereby waives any defenses to the enforcement of the terms of this Agreement based on the foregoing forms of signature. If this Agreement has been executed by electronic signature, the party executing this document is expressly consenting, under the United States Federal Electronic Signatures in Global and National Commerce Act of 2000 (“E-SIGN”) and the California Uniform Electronic Transactions Act (“UETA”) (California Civil Code §1633.1 et seq.), that a signature by fax, e-mail, or other electronic means shall constitute an Electronic Signature to an Electronic Record under both E-SIGN and UETA with respect to this specific transaction.

23. Sole Agreement. THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT AMONG THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF, AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

THE CITY OF LOS ANGELES; LOS ANGELES WORLD AIRPORTS

By: _____
Printed Name:

By: _____
Printed Name:

Its: _____
DATE: _____, 2021

Its: _____

APPROVED AS TO FORM:
MICHAEL N. FEUER, City Attorney

Attest:
By: _____
Printed Name:

By: _____
Deputy/Assistant City Attorney

DATE: _____, 2021

Its: _____
DATE: _____, 2021