



**MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE  
A.B. WON PAT INTERNATIONAL AIRPORT AUTHORITY, GUAM  
Monday, December 3, 2018, 3:00 p.m.  
GIAA TERMINAL CONFERENCE ROOM #3**

**1. CALL TO ORDER AND ATTENDANCE**

The December 3, 2018 regular meeting of the Board of Directors of the A.B. Won Pat International Airport Authority, Guam ("GIAA" or the "Authority") was called to order by Chairman Duenas at 3:05 p.m. at the GIAA Terminal Conference Room #3, 355 Chalan Pasaheru, Tamuning, Guam, 96913.

**Directors Present:**

Ricardo C. Duenas  
Katherine C. Sgro  
Gurvinder "Bic" Sobti  
Rosalinda A. Tolan  
Deedee S. Camacho

**Offices or positions:**

Chairman  
Vice Chairperson  
Board Secretary

**Directors Absent:**

None

**GIAA Officials:**

Charles H. Ada II  
Pedro R. Martinez  
John A. Rios  
Jean M. Arriola  
Gerard Bautista  
Raymond Mantanona  
Edward Muna  
Victor Cruz  
Joseph Javellana  
Rolenda Faasuamalie  
Henry Cruz

Executive Manager  
Deputy Executive Manager  
Comptroller  
Airport Services Manager  
Air Terminal Manager  
Chief, GIAA ARFF  
Superintendent of Operations  
Engineering Supervisor  
Program Coordinator IV  
GIAA Marketing  
GIAA Procurement

Janalynn C. Damian, Esq.  
Frank R. Santos

GIAA Legal Counsel  
GIAA Consultant

Chairman Duenas welcomed Airport tenants, stakeholders, and members of the public who are noted in a sign-in sheet attached to these minutes.

**2. APPROVAL OF AGENDA**

Motion to approve the agenda as presented duly made by Vice Chairperson Sgro, seconded by Director Tolan; motion unanimously passed.

**3. APPROVAL OF MINUTES**

**A. October 25, 2018 Regular Meeting**

On motion duly made by Director Camacho, seconded by Director Tolan, the following resolution was unanimously passed:

**Resolution No. 19-06**

The Board hereby approves the minutes of the October 25, 2018 regular meeting, subject to corrections.

**4. CORRESPONDENCE**

Executive Manager announced that there was correspondence from Governor-elect Leon Guerrero and Lieutenant Governor-elect Tenorio, which will be discussed further during the Executive Manager's report.

**5. OLD BUSINESS**

**A. Status Updates of Capital Improvement Projects ("CIP")**

Mr. Frank Santos, Consultant, provided brief highlights on Capital Improvement Projects for FY2018.

- International Arrivals Corridor with Building Seismic Upgrades: \$210 million project; \$110 million expended. Estimated contract completion date is September 2019. Updated Stakeholder meeting scheduled for December 18, 2018 at 10:00 a.m.
- Apron Rehabilitation - Design: Scheduled for bid April 2019
- Rehabilitation Runway 6L - Design: Scheduled for bid April 2019

**6. NEW BUSINESS**

**A. Signatory Airline Operating Agreement & Terminal Building Lease**

The first matter discussed was the approval of Signatory Airline Operating Agreement & Terminal Building Lease. The Executive Manager provided a brief executive summary to the Board highlighting a number of revisions to the existing Agreement, to include the term, now five (5) years, commencing October 1, 2018 and expiring September 30, 2023. Term shall be extended for one (1) additional five (5) year period, in the event of change in law and mutual agreement of the parties.

Vice Chairperson Sgro inquired if all Airlines have the same expiration dates to their Agreements. Executive Manager Ada replied yes. Ms. Jean Arriola added that the revisions to

the Agreement are a result of input from staff, consultants and the Airlines themselves. The Airport team has had two (2) consultation meetings with the Airlines, in January and October 2018.

After further discussion, on motion duly made by Vice Chairperson Sgro, seconded by Director Sobti, the following resolution was unanimously approved:

**Resolution No. 19-07**

The Board hereby approves the Signatory Airline Operating Agreement & Terminal Building Lease as presented.

**B. Approval of Award for Glass Window Cleaning Services - IFB No. GIAA-001-FY19**

Executive Manager Ada provided background information to the Board on the referenced IFB. Thirteen (13) firms/individuals purchased bid packages and only four (4) firms submitted a bid before the submission deadline. The four (4) firms were evaluated and determined to be acceptable. As required by the Guam Procurement Regulations, the bid was publicly opened and read aloud in the presence of the bidders. The bid prices submittal are as follows:

<b>Bidder/Firm's Name:</b>	<b>Amount</b>
Guam Cleaning Masters	\$418,422.72
Maids to Order, Inc. dba MTO Maintenance	\$104,400.00
General Pacific Services, LLC dba Pacific Waste Systems, LLC	\$345,000.00
JJ Global Services	\$165,000.00

Executive Manager Ada informed the Board that the lowest total bid amount was in the amount of \$104,400.00 from Maids to Order, Inc. dba MTO Maintenance. However, the bidder failed to submit a bid security in the amount of not less than fifteen percent (15%) of the amount of their Total Bid Price. Therefore, pursuant to Section 15 of the Instruction to Bidders, the bidder was deemed non-responsive due to failure to comply with the Invitation For Bid.

The second lowest bidder, JJ Global Services failed to submit the Acknowledgement Receipt form provided in Required Forms of the IFB documents. As this mistake is immaterial and does not prejudice other bidders, having a no effect on price, quantity, quality, delivery, or contractual conditions, a written determination to waive this minor informality is made part of the procurement record.

Management recommends the contract award in the total amount of \$165,000.00 to JJ Global Services who has met the standards of responsibility and responsiveness outlined in the Guam Procurement Regulations.

After further discussion, on motion duly made by Director Tolan, seconded by Director Camacho, the following resolution was unanimously approved:

**Resolution No. 19-08**

The Board hereby approves the contract award for Glass Window Cleaning Services - IFB No. GIAA-001-FY19 to JJ Global Services for a total contract amount of \$165,000.00, subject to review by legal counsel.

**C. Approval of Board Resolution No. 19-09: Agreement for Legal Services**

The third item discussed was the extension of the Agreement for legal services with Fisher & Associates. The extension would be the third of four (4) options to extend.

After further discussion, on motion duly made by Vice Chairperson Sgro, seconded by Director Tolan, the following resolution was unanimously approved:

**Resolution No. 19-09**

WHEREAS, an Agreement for Legal Services – Conflicts Counsel (the “Conflicts Counsel Agreement”) was entered into effective as of December 1, 2015, by and between the ANTONIO B. WON PAT INTERNATIONAL AIRPORT AUTHORITY, GUAM (“GIAA”) and Fisher & Associates; and

WHEREAS, the Conflicts Counsel Agreement provides for a term of one (1) year with four (4) options to extend for a period of one (1) year each, not to exceed a total contract period of five (5) years with GIAA approval; and

WHEREAS, on October 27, 2016, by Resolution No. 17-05, the Board of Directors approved the extension of the Conflicts Counsel Agreement for an additional one year period (1st Option) commencing on December 1, 2016, and expiring on November 30, 2017, under the same terms and conditions as set forth in the Conflicts Counsel Agreement; and

WHEREAS, on October 26, 2017, by Resolution No. 18-03, the Board of Directors approved the extension of the Conflicts Counsel Agreement for an additional one year period (2nd Option) commencing on December 1, 2017, and expiring on November 30, 2018, under the same terms and conditions as set forth in the Conflicts Counsel Agreement; and

WHEREAS, the Board of Directors has determined that GIAA continues to require the services of conflicts legal counsel and that it is in the best interests of GIAA to extend the term of the Conflicts Counsel Agreement for an additional one (1) year period (3rd Option) commencing on December 1, 2018, and expiring on November 30, 2019, under the same terms and conditions as set forth in the Conflicts Counsel Agreement.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of GIAA hereby extends the term of the Conflicts Counsel Agreement for an additional one (1) year period commencing on December 1, 2018, under the same terms and conditions as set forth in the Conflicts Counsel Agreement.

## **7. REPORT OF THE EXECUTIVE MANAGER**

Reference is made to the Executive Manager's Report included as part of the Board's packet, which was presented by Executive Manager Ada.

## **8. REPORT OF THE COMPTROLLER**

Mr. John Rios reported on the revenues and expenses of the Authority as of **October 31, 2018**. Mr. Rios reported that year-to-date Total Signatory Revenues are below budgeted revenues by **-9.5%**, year-to-date Total Concession Revenues and Passenger Facility Charges are below budget by **-2.0%** and **-27.5%**, respectively. Year-to-date Total Other Revenues, inclusive of non-signatory and non-airline revenues are below the budget estimate by **-7.9%**. Year-to-date Total Operating Revenues Actual of **\$6.1M** is **-9.0%** below the budget estimate of **\$6.7M**. Year-to-date Total Operating Expenses are below budget by **12.2%**. Components of this line item include a **-34.6%** decrease in Personnel Service, a **25.0%** increase in Contractual Services, a **-82.7%** decrease in Materials & Supplies and a **-100.0%** decrease in Equipment/Furnishings from budgeted amounts for these respective categories. The actual year-to-date Net Revenues from Operations of **\$2.5M** reflects a decrease of **-4.2%** over the year-to-date budgeted amount of **\$2.7M**. Mr. Rios reported that the year-to-date Debt Service Coverage is at **1.34** versus the requirement of **1.25**.

Chairman Duenas announced that Public Comments will move up on the agenda to accommodate a presentation.

## **9. PUBLIC COMMENTS**

Representatives Richard Reed and Tony Kim from RNK Architects provided a brief PowerPoint presentation of a proposed hotel across to be built on six acres of property across the Airport off of Route 10A. Mr. Reed informed the Board that they will be presenting the project at a public hearing at the Guam Land Use Commission to get an approval to proceed. Chairman Duenas announced that one of the Board members would also attend the public hearing.

At this time, Chairman Duenas announced that Director Gerber's and Director Alcorn's terms as Members of the GIAA Board of Directors has expired.

## **10. EXECUTIVE SESSION**

The next item on the agenda was Executive Session.

Upon written recommendation of counsel, on motion duly made by Director Tolan, seconded by Vice Chairperson Sgro, and unanimously approved, the Board recessed to convene into Executive Session at 3:57 p.m.

The Board convened into Executive Session at 4:05 p.m. to discuss pending or threatened litigation to which GIAA is or may be a party. Attending Executive Session were Directors Duenas, Sgro, Sobti, and Camacho, Executive Manager Ada, and Legal Counsel Eduardo A. Calvo, Michael A. Pangelinan, Janalynn C. Damian, and Genevieve Rapadas. Also present was the court reporter who will prepare a transcript of the Executive session.

Executive Session adjourned at 5:02 p.m., at which time the Board reconvened regular session.

Director Tolan did not participate in Executive Session due to conflicts of interest.

As a result of discussion during Executive Session, Chairman Duenas announced that there was a matter for Board approval, and presented the matter to the Board.

After further discussion, on motion duly made by Director Camacho, seconded by Director Sobti, the following resolution was unanimously approved:

**Resolution No. 19-10**

The Board hereby authorizes legal counsel to send a response to Lotte Duty Free's November 30, 2018 letters, authorizes the Chairman and the Executive Manager to handle and make all decisions relating to the current dispute with Lotte Duty Free, to include a decision to move forward with the drawdown on letter of credit.

On motion duly made by Director Camacho, seconded by Director Sobti, the following resolution was unanimously approved:


**Resolution No. 19-11**

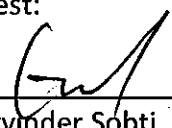

The Board also hereby authorizes the Authority to pay Calvo Fisher & Jacob LLP (1) its legal fees/costs relating to the specialty retail matter to bring them current and (2) for general matters legal fees incurred in October and November 2018 that exceed the monthly cap in the amount of \$21,757.70 and approximately \$46,000.00, respectively.

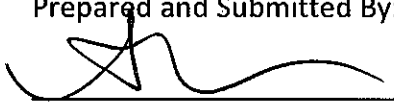
**11. ADJOURNMENT**

Motion to adjourn duly made by Vice Chairperson Sgro, seconded by Director Camacho; motion unanimously passed. The meeting was adjourned at 5:04 p.m.

Dated this 3rd day of January, <sup>2019</sup>~~2018~~.

  
\_\_\_\_\_  
Ricardo C. Duenas  
Chairman

Attest:  
   
\_\_\_\_\_  
Gurvinder Sobti  
Secretary

Prepared and Submitted By:  
  
\_\_\_\_\_  
Amanda O'Brien-Rios  
Corresponding Secretary

**ANTONIO B. WON PAT INTERNATIONAL AIRPORT AUTHORITY, GUAM  
BOARD OF DIRECTORS RESOLUTION NO. 19-09**

**RELATIVE TO THE  
EXTENSION OF THE AGREEMENT FOR LEGAL SERVICES –  
CONFLICTS COUNSEL  
WITH FISHER & ASSOCIATES**

**WHEREAS**, an Agreement for Legal Services – Conflicts Counsel (the “Conflicts Counsel Agreement”) was entered into effective as of December 1, 2015, by and between the ANTONIO B. WON PAT INTERNATIONAL AIRPORT AUTHORITY, GUAM (“GIAA”) and Fisher & Associates; and

**WHEREAS**, the Conflicts Counsel Agreement provides for a term of one (1) year with four (4) options to extend for a period of one (1) year each, not to exceed a total contract period of five (5) years with GIAA approval; and

**WHEREAS**, on October 27, 2016, by Resolution No. 17-05, the Board of Directors approved the extension of the Conflicts Counsel Agreement for an additional one year period (1st Option) commencing on December 1, 2016, and expiring on November 30, 2017, under the same terms and conditions as set forth in the Conflicts Counsel Agreement; and

**WHEREAS**, on October 26, 2017, by Resolution No. 18-03, the Board of Directors approved the extension of the Conflicts Counsel Agreement for an additional one year period (2nd Option) commencing on December 1, 2017, and expiring on November 30, 2018, under the same terms and conditions as set forth in the Conflicts Counsel Agreement; and

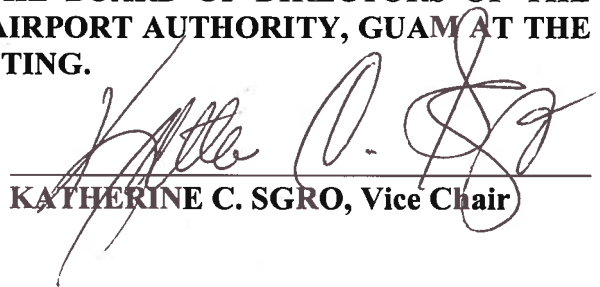
**WHEREAS**, the Board of Directors has determined that GIAA continues to require the services of conflicts legal counsel and that it is in the best interests of GIAA to extend the term of the Conflicts Counsel Agreement for an additional one (1) year period (3rd Option) commencing on December 1, 2018, and expiring on November 30, 2019, under the same terms and conditions as set forth in the Conflicts Counsel Agreement.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Directors of GIAA hereby extends the term of the Conflicts Counsel Agreement for an additional one (1) year period commencing on December 1, 2018, under the same terms and conditions as set forth in the Conflicts Counsel Agreement.

**DULY AND REGULARLY ADOPTED BY THE BOARD OF DIRECTORS OF THE ANTONIO B. WON PAT INTERNATIONAL AIRPORT AUTHORITY, GUAM AT THE DECEMBER 3, 2018 REGULAR BOARD MEETING.**

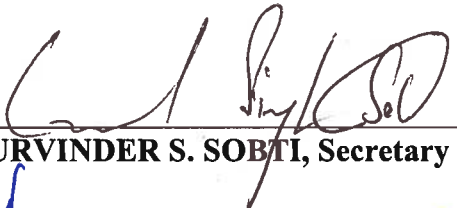


**RICARDO C. DUENAS, Chairman**

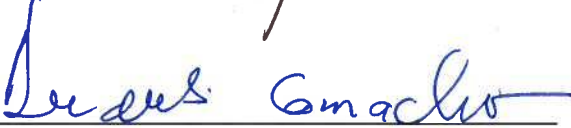


**KATHERINE C. SGRO, Vice Chair**



  
GURVINDER S. SOBTI, Secretary

  
ROSALINDA A. TOLAN

  
DEEDEE S. CAMACHO

ATTEST:  
  
GURVINDER S. SOBTI, Secretary

## **BOARD OF DIRECTORS REGULAR MEETING**

**3:00 p.m., Monday, December 3, 2018**

**GIAA TERMINAL CONFERENCE ROOM #3**

### Public Notice

#### **First Notice:**

Guam Daily Post – November 26, 2018

Notice to Media – November 26, 2018

#### **Second Notice:**

Guam Daily Post – November 29, 2018

Notice to Media – November 29, 2018

## **AGENDA**

- 1. Call to Order and Attendance**
- 2. Approval of Agenda**
- 3. Approval of Minutes**
  - A. October 25, 2018 Regular Meeting**
- 4. Correspondence**
- 5. Old Business**
  - A. Status Updates of Capital Improvement Projects**
- 6. New Business**
  - A. Signatory Airline Operating Agreement & Terminal Building Lease**
  - B. Approval of Award for Glass Window Cleaning Services - IFB No. GIAA-001-FY19**
  - C. Approval of Board Resolution No. 19-09: Agreement for Legal Services**
- 7. Report of Executive Manager**
- 8. Report of the Comptroller**
- 9. Executive Session**
- 10. Public Comments**
- 11. Adjournment**

**A.B. WON PAT INTERNATIONAL AIRPORT AUTHORITY, GUAM**

**Board of Directors Regular Meeting**

**3:00 p.m., Monday, December 3, 2018**

**GIAA Terminal Conference Room #3**

**SIGN-IN SHEET**

	<u>PRINT NAME</u>	<u>COMPANY/AGENCY</u>
1.	Gerard BAUTISTA	GIAA - ATM
2.	Henry Cruz	GIAA
3.	CHUCK ADA	GIAA
4.	EDUARDO MORA	CIKX
5.	JENN ARRIOLA	GIAA
6.	Robert Faacile	GIAA
7.	VICTOR J. CRUZ	GIAA
8.	Raymond Martenson	GIAA
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		

# 24 bills on session agenda

By Kevin Kerrigan  
kevin@postguam.com

Twenty-four bills and a veto override are on the agenda for the November legislative session scheduled to begin Wednesday.

Sen. Tom Ada is seeking to override Gov. Eddie Calvo's veto of his Bill 28-34. Rejecting the bill last month, the governor said both the attorney general and the General Services Agency opposed the measure.

Bill 28 sought to improve Guam's protest-plagued procurement process by expanding the right to protest and establishing a time limit for a decision to be made on any protest.

However, in his veto message, the governor said the bill would lead to ambiguity and "a multiplicity of frivolous protests" because it would allow anyone who shows interest in the procurement to file a protest even if they never submitted a bid or offer.

Some concern was expressed during last week's Rules Committee hearing about the number of bills set to be heard during the three-day session.

Ada said, realistically, senators cannot get through all 24 bills in three days. One day has to be set aside for voting, he added.

A motion from Sen. Telenia Nelson was adopted to permit the seven senators who introduced the 24 bills

to prioritize their two most important measures to be acted on first. Then, if time permits, their other bills would be considered.

The bills selected as priorities are:

- Bill 365-34 was introduced by Nelson relative to the adoption of peace officer physical fitness qualifications and training standards.

- Bill 144-34 was introduced by Nelson to establish the Guam Landlord and Tenant Rental Act.

- Bill 344-34 was introduced by Sen. Therese Terlaje relative to expediting distribution of Guam World War II claims to awardees who die before receiving the award.

- Bill 342-34 was introduced by Ada to authorize the Chamorro Land Trust Commission to enter into a 50-year lease with the Guam Racing Federation to continue the Guam Raceway Park.

- Bill 236-34 was introduced by Ada to establish new rules to enable the Guam Environmental Protection Agency to more effectively prevent, prepare for and respond to the possibility of an oil spill.

- Bill 267-34 was introduced by Sen. Mary Torres to enhance procedural protections within the civil service commission in favor of increasing due process for classified government of Guam employees.

- Bill 238-34 was introduced by Sen.

Louise Muña to update the definition of violent crimes as they relate to criminal injuries compensation.

- Bill 274-34 was introduced by Sen. Fernando Esteves to exempt vehicle inspection fees from being applied to the gross income of safety inspection stations for the purpose of assessing business privilege taxes.

- Bill 211-34 was introduced by Esteves to prioritizing the procurement process for supplies or services deemed necessary to protect the interests of the territory and requiring a bond to be posted when a procurement protest is filed.

- Bill 42-34 was introduced by Sen. Dennis Rodriguez Jr. to establish qualified tax-exempt ABLE savings accounts designed to provide secure funding for disability-related expenses without supplanting other sources.

- Bill 347-34 was introduced by Rodriguez to pay special tribute to all veterans who served in the Korean War by designating a portion of Route 7 as "Korean War Veterans Drive."

- Bill 366-34 was introduced by Ada to appropriate \$3.5 million from the Healthy Futures Fund to the Department of Public Health and Social Services for the local matching requirement for the Medicaid program.

- Bill 354-34 was introduced by Ada to transfer Guam Regional Medical City's annual \$700,000 community contribution to the Guam Economic Development Authority into the Healthy Futures Fund to supplement the local matching requirement for the Medicaid program.

## Girl Scouts cookie presales started; boxes now \$5

By Meghan Swartz  
meghan@postguam.com

Your favorite Girl Scout cookies won't be on island until Jan. 12, but cookie presales have begun.

Cookie presales began Nov. 9 and will continue through Nov. 30. Those interested in ordering ahead of time can order through any Girl Scout or by calling the Guam Girl Scouts office at 671-646-5652. Guam Girl Scouts accounting associate Melanie Reyos said scout leaders will do their best to connect people with a Girl Scout in the buyers' area from whom they can order directly.

The 2019 cookie season will see a few changes, including increased prices, as boxes will now sell for \$5 each, up from \$4 last year. Reyos said the price increase is due to higher shipping and supply prices.

The gluten-free Caramel Chocolate Chip Cookie is the only new flavor to debut this year, but unfortunately it is available for purchase only in the states at this time, Reyos said.

Last year, Reyos said approximately 92,000 boxes of cookies were sold on Guam. At \$4 per box, that comes out to \$368,000. All of that money stays on Guam, Reyos said.

According to the national Girl Scouts website, local councils typically receive up to 75 percent of the local retail price, as each council determines its revenue structure based on the cost for the council to buy cookies. These net proceeds are used to fund Guam Girl Scouts programs and projects throughout the year.

## PUBLICATION NOTICE

In accordance with the provisions of Guam Code Annotated, Title XI, Chapter III, Section 3315, notice is hereby given that:

### HAEVICHI HOSPITALITY GUAM, INC.

dba: I Pilan Room, Misty's Poolside Grill, Mix @ Cha Cha Cha, Prego, Pution Room, Royal Beach Club Lounge, Service Express, Somnak Ballroom, Taste, Unnai Room.

has applied for a Class: 4 General On Sale Alcoholic Beverage License said premises being marked as Lot: 5052-6-NEW, WESTIN HOTEL, TUMON.

## Kumision I Tano Saina'ta Guam Ancestral Lands Commission

The Guam Ancestral Lands Commission Board Meeting will be held on **Wednesday, November 28, 2018 at 2:00 p.m.**, Department of Land Management conference room, 3<sup>rd</sup> Floor of the ITC Building 590 S. Marine Corps Drive, Tamuning. The agenda may be viewed at the following link:

<http://dlm.guam.gov/announcements-2/>

Individuals requiring special accommodations, auxiliary aids or services, may call 649-5263 ext. 400

This ad paid for by Government funds.

**little type BIG RESULTS**

use the classifieds whether you're buying or selling



The University of Guam Solicits Applications to Establish a List of Eligibles for the Following Limited Term, Federally Funded Positions (Subject to the availability of funds) for **Enrollment Management & Student Success/ TRIO Programs--Upward Bound (UB)**. Deadline to apply: Continuous Until Filled

### #006-19 ACADEMIC ASSISTANTS (Part-Time and Full-Time positions available)

Supporting documents are required with application as per job announcements such as copy of school transcripts and valid driver's license.

Contact the Human Resources Office at (671)735-2350 for additional information regarding requirements, qualifications and application deadline, 8:00 a.m. to 5:00 p.m., Monday through Thursday, and 8:00 a.m. to 12:00 p.m. on Friday, except holidays. View the Human Resources Office website at <http://www.uog.edu/hro> for detailed information on the job announcement.

The University of Guam is a U.S. accredited institution and an Equal Opportunity Employer and Provider and complies with the Americans with Disabilities Act. For assistance, please contact the University's Director, EEO and Title IX/ADA Coordinator at (671)735-2244; (671)735-2243 (TTY).

/s/ JOSEPH B. GUMATAOTAO  
Acting Chief Human Resources Officer

This ad is paid for by University of Guam TRIO-Upward Bound. Upward Bound is 100% federally funded with an annual total funding of \$442,397.00 from the U.S. Education Department.



The Honorable  
EDDIE B. CALVO  
Governor

The Honorable  
RAY TENORIO  
Lt. Governor



## PUBLIC NOTICE

The Board of Directors of the A.B. Won Pat International Airport Authority, Guam (GIAA) will convene its Regular Board meeting on Monday, December 3, 2018 at 3:00 p.m. in Terminal Conference Room No. 3. In addition to regular matters, pursuant to 5 G.C.A. §8111(c)(2), Executive Session will be held to discuss pending litigation to which GIAA is a party. Parking is available in the Public Parking Lot.

For special accommodations or agenda items, please call the Board Office at 642-4717/18.

(This ad paid for by GIAA)



# Teacher in diploma scam must avoid partner, others

By Tihu Lujan

[tihu@postguam.com](mailto:tihu@postguam.com)

The high school teacher accused of issuing fake diplomas was ordered to cease contact with several people, as reaffirmed during a hearing Wednesday at the Superior Court of Guam.

Andrea Maanao Cruz, a teacher at George Washington High School, appeared in court for her first trial setting Wednesday.

Judge Anita Sukola of the Superior Court of Guam was looking over a list of stay-away orders for Cruz and said she had "quite a few."

Cruz is also required not to discuss the case with her life partner, who wasn't charged or arrested in relation to the alleged crime.

Joaquin Arriola Jr., defense counsel for Cruz, said he recently received 200 pages of discovery, which he told Sukola he needed to review.

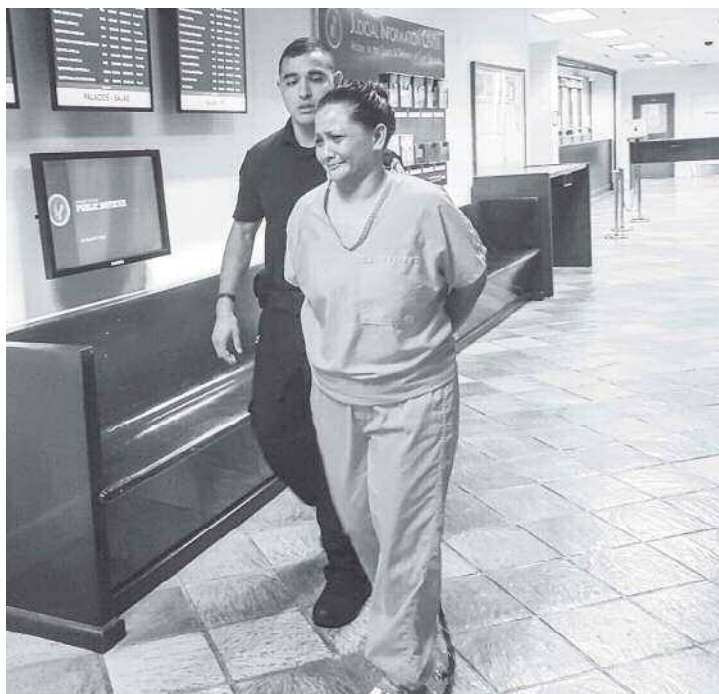
The defendant will next be in court on Jan. 16.

Judge Anita Sukola of the Superior Court of Guam was looking over a list of stay-away orders for Cruz and said she had "quite a few."

## 300 students affected

Cruz was arrested on Oct. 17 following an investigation into the Believe, Achieve, Motivate private tutoring school. She has pleaded not guilty.

She allegedly started B.A.M. in late 2017 and had provided approximately 300 students with B.A.M. diplomas and transcripts. The institution caught the attention of authorities after students attempted to enroll at Guam Community College using



**CRUZ:** Andrea Maanao Cruz is escorted at the Guam Judicial Center after her appearance in the Superior Court of Guam on Oct. 26. The George Washington High School teacher was arrested on Oct. 17 following an investigation into the Believe, Achieve, Motivate private tutoring school. Post file photo

B.A.M. diplomas and transcripts.

The diplomas also allegedly used the logo for the Guam Department of Education. Both GCC and GDOE have denied any affiliation with B.A.M.

A nearly 350-student drop in high school enrollment for school year

2017-2018 may be attributable to the alleged diploma scam, according to the Guam Department of Education.

Cruz is accused of official misconduct and possession of methamphetamine. She was allegedly found with the drug during her arrest.

# Construction company cited after land clearing

By Tihu Lujan

[tihu@postguam.com](mailto:tihu@postguam.com)

A construction company clearing forested land along a Maite cliff line recently has been instructed to halt their work after failing to obtain the proper permits. The entity responsible for contracting the construction work has yet to be identified.

UMS Equipment Rental was issued a field citation Tuesday by the Guam Environmental Protection Agency.

"We instructed UMS to cease work until the proper permits are obtained," said Nic Rupley Lee, Guam EPA acting deputy administrator and public information officer.

Lee said he believed the company

was only permitted to clear the land, which is located off Marine Corps Drive in East Hagåtña and just below the Bayview Baptist Church along the Maite cliff line.

## Investigation


Despite the permit's limitations, heavy equipment was used to grade, or carve soil, at the lot. Lee said there's an active investigation into the company's earth-moving activity. Guam EPA will determine how to address UMS overstepping the parameters of the permit.

Lee could not immediately identify the entity that contracted UMS to clear the land, but indicated the company is listed in Guam EPA permits.




**ON HOLD:** Vehicles pass an area that had been cleared along Marine Corps Drive in East Hagåtña just below the Bayview Baptist Church along the Maite cliff line. The use of heavy equipment to carve soil at the site has been halted after the issuance of a field citation. A permit had been issued for the clearing of the land, but not for grading.

Dontana Keraskes/The Guam Daily Post



**The Honorable  
EDDIE B. CALVO**  
Governor



**The Honorable  
RAY TENORIO**  
Lt. Governor

## PUBLIC NOTICE

The Board of Directors of the A.B. Won Pat International Airport Authority, Guam (GIAA) will convene its Regular Board meeting on Monday, December 3, 2018 at 3:00 p.m. in Terminal Conference Room No. 3. In addition to regular matters, pursuant to 5 G.C.A. §8111(c)(2), Executive Session will be held to discuss pending litigation to which GIAA is a party. Parking is available in the Public Parking Lot.

For special accommodations or agenda items, please call the Board Office at 642-4717/18.

(This ad paid for by GIAA)

## PUBLICATION NOTICE

In accordance with the provisions of Guam Code Annotated, Title XI, Chapter III, Section 3315, notice is hereby given that:

### BB CORPORATION

### dba: Cali Vietnam Restaurant and Lounge

has applied for a Class: **4 / General On-Sale Alcoholic Beverage License**. Said premises being marked as Lot: **5056-3NEW-1NEW, Unit 106 Tumon Offices Park (Former Young Plaza) Tumon**.

**MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE  
A.B. WON PAT INTERNATIONAL AIRPORT AUTHORITY, GUAM  
Thursday, October 25, 2018, 3:00 p.m.  
GIAA TERMINAL CONFERENCE ROOM #3**

**1. CALL TO ORDER AND ATTENDANCE**

The October 25, 2018 regular meeting of the Board of Directors of the A.B. Won Pat International Airport Authority, Guam ("GIAA" or the "Authority") was called to order by Chairman Duenas at 3:17 p.m. at the GIAA Terminal Conference Room #3, 355 Chalan Pasaheru, Tamuning, Guam, 96913.

**Directors Present:**

Ricardo C. Duenas  
Katherine C. Sgro  
Gurvinder "Bic" Sobti  
Martin J. Gerber  
Lucy M. Alcorn  
Rosalinda A. Tolan  
Deedee S. Camacho

**Offices or positions:**

Chairman  
Vice Chairperson  
Board Secretary

**Directors Absent:**

None

**GIAA Officials:**

Pedro R. Martinez	Deputy Executive Manager
Jean M. Arriola	Airport Services Manager
Gerard Bautista	Air Terminal Manager
Raymond Santos	Assistant Chief, GIAA ARFF
Edward Muna	Superintendent of Operations
Victor Cruz	Engineering Supervisor
Joseph Javellana	Program Coordinator IV
Antoinette Bautista	General Accounting Supervisor
Elfrie Koshiba	GIAA Marketing
Henry Cruz	GIAA Procurement
Janalynn C. Damian, Esq.	GIAA Legal Counsel
Thomas J. Fisher, Esq.	GIAA Conflicts Counsel
Frank R. Santos	GIAA Consultant

Chairman Duenas welcomed Airport tenants, stakeholders, and members of the public who are noted in a sign-in sheet attached to these minutes.

## **2. APPROVAL OF AGENDA**

Motion to approve the agenda as presented duly made by Director Tolan, seconded by Director Sobti; motion unanimously passed.

## **3. APPROVAL OF MINUTES**

### **A. September 25, 2018 Regular Meeting**

On motion duly made by Vice Chairperson Sgro, seconded by Director Alcorn, the following resolution was unanimously passed:

#### **Resolution No. 19-01**

The Board hereby approves the minutes of the September 25, 2018 regular meeting, subject to corrections.

## **4. CORRESPONDENCE**

Deputy Executive Manager Martinez had no Correspondence to report.

## **5. OLD BUSINESS**

### **A. Status Updates of Capital Improvement Projects("CIP")**

Mr. Frank Santos, Consultant, provided brief highlights on Capital Improvement Projects for FY2018.

- International Arrivals Corridor with Building Seismic Upgrades: "Sneak Peak" event scheduled for October 26, 2018. Media and the public will be able to view the pods. Hoarding area by Gate 6 will move to Gate 7, which will be closed for 4-5 months. Hoarding area will then move to Gate 9. United Airlines has a design team for the Club Room, who will be visiting Guam to coordinate their design. Moving Walkways are being worked back into project as funds become available.
- Noise Mitigation Program 65 DNL & Higher: 22 homes; preparing bids for sound proofing. Recent FAA regulations have indicated that the Noise Exposure Maps require updating. Any remaining funds from the existing grant will be used for updating the Maps.
- ARFF Facility-Design/Construction: Phase I essentially complete. Contract with the construction contractor has been executed. Pre-Notice to Proceed expected. "Ground Washing" event scheduled for November 1, 2018.

## 6. NEW BUSINESS

### A. Approval of Award for Purchase and Delivery of Vehicles FY18 - IFB No. GIAA-001-FY18

The first matter discussed was the approval of award of the Purchase and Delivery of Vehicles FY18 under the Invitation For Bid No. GIAA-001-FY18. Deputy Executive Manager Martinez provided background information to the Board on the referenced IFB. Seven (7) firms/individuals purchased or downloaded bid packages, and three (3) firms submitted a bid before the submission deadline. The three (3) firms were evaluated and determined to be acceptable. As required by the Guam Procurement Regulations, the bid was publicly opened and read aloud in the presence of the bidder. The bid price submittals are as follows:

BIDDER'S NAME	ITEM No. 1.0	ITEM No. 2.0	ITEM No. 3.0	ITEM No. 4.0	ITEM No. 5.0	ITEM No. 6.0
<b>Triple J Enterprises, Inc.</b>	\$72,750.00	\$38,800.00	\$40,200.00	NO BID	NO BID	\$41,490.00
<b>Cars Plus, LLC</b>	\$64,500.00	\$29,852.00	\$36,592.00	NO BID	\$81,000.00	NO BID
<b>Monster Auto Corp. dba Auto Sport</b>	\$74,985.00	NO BID	NO BID	NO BID	NO BID	NO BID

Deputy Executive Manager Martinez informed the Board that the total contract award for this bid is \$253,434.00. Funding for this bid is available under the O&M budget or CIP grant funding. Pursuant to the guidelines in Item 9 of the Instruction to Bidders, the award of contract will be made to the lowest responsible, responsive bidder for each item bid, provided the bid is reasonable and in the best interest of GIAA. Triple J Enterprises, Inc. and Cars Plus, LLC have been determined to have met the standards of responsibility and responsiveness outlined in the Guam Procurement Regulations. Therefore, Management recommends the contract awards be made according to the following:

<b>Item &amp; Description:</b>	<b>Awarded To:</b>	<b>Total Amount:</b>
Item 1.0: Small Sports Utility Vehicles; 3 each	Cars Plus, LLC	\$64,500.00
Item 2.0: Mid Size SUV Sports Utility Vehicle; 1 each	Cars Plus, LLC	\$29,852.00
Item 3.0: Full-Size SUV Sports Utility Vehicle; 1 each	Cars Plus, LLC	\$36,592.00
Item 4.0: Full-Size SUV Sports Utility Vehicle (Extended Wheelbase, 130"); 1 each	NO BID	NO BID



Item 5.0: Police Pursuit Vehicles (4-Door Sedan Model); 2 each	Cars Plus, LLC	\$81,000.00
---	----------------	-------------

Item 6.0: 15 Passenger Van; 1 each	Triple J Enterprises, Inc.	\$41,490.00
------------------------------------	----------------------------	-------------

**TOTAL CONTRACT AWARD: \$253,434.00**

Director Alcorn brought attention to a possible typographical error on page two (2) of the Bid Evaluation and Recommendation Memorandum regarding the bid by Auto Spot. Mr. Henry Cruz of Procurement acknowledged the error and informed the Board that the correct bid by Auto Spot for Item 1.0 was \$74,985.

Vice Chairperson Sgro inquired if these are replacement vehicles. Mr. Cruz replied that they are additional vehicles. Chairman Duenas asked what divisions these vehicles would be assigned to. Deputy Executive Manager informed the Board that they will be used by Airport Police, Operations and Administration. Discussion followed on the life cycle of the official vehicles, with Air Terminal Manager, Mr. Gerard Bautista announcing that there are 2003 vehicles still being utilized.

Director Alcorn inquired on the vehicle that got no bid. Air Terminal Manager announced that this vehicle was for ARFF and had specific requirements so it will go back out for bid.

After further discussion, on motion duly made by Director Sobti, seconded by Director Tolan, the following resolution was unanimously approved:

**Resolution No. 19-02**

The Board hereby approves the contract award for Purchase and Delivery of Vehicles FY18 - IFB No. GIAA-001-FY18 to Triple J Enterprises, Inc. in the amount of \$41,490.00 for Bid Item 6.0, and Cars Plus, LLC in the total amount of \$211,944.00 for Bid Items 1.0, 2.0, 3.0 and 5.0; for a total contract amount of \$253,434.00, subject to review by conflicts counsel.

**B. Ratification of Quarterly Travel**

Deputy Executive Manager Martinez presented the quarterly travel from July to September 2018 for ratification by the Board.

Vice Chairperson Sgro inquired if the travel presented falls within the travel budget, and if it is an annual or monthly allocation. Air Terminal Manager informed the Board that the travel budget is compiled by all divisions, the travel calendar then gets approved as part of the annual budget. Every division submits travel requests prior to the budget getting approved.

After further discussion, on motion duly made by Director Gerber, seconded by Director Alcorn, the following resolution was unanimously approved:

**Resolution No. 19-03**

The Board hereby ratifies the FY2018 4th quarter travel report from July to September 2018 as presented.

At this time, Deputy Executive Manager Martinez announced that he had a Travel Request for Board approval for Chairman Duenas and Executive Manager Ada to travel to San Francisco, California on November 12-13, 2018 to attend the Ninth Circuit Hearing for the Crawford vs. A.B. Won Pat International Airport Authority, Guam matter.

Chairman Duenas announced that he is recusing himself from the discussion.

Vice Chairperson asked for clarification, if the request was for two (2) travelers. The Deputy Executive Manager replied yes.

After further discussion, on motion duly made by Director Gerber, seconded by Director Sobti, the following resolution was unanimously approved:

**Resolution No. 19-04**

The Board hereby approves the Official Travel Request for Chairman Ricardo Duenas and Executive Manager Charles H. Ada II to travel to San Francisco, California on November 12-13, 2018 to attend the Ninth Circuit Hearing for the Crawford vs. A.B. Won Pat International Airport Authority, Guam matter.

**7. REPORT OF THE EXECUTIVE MANAGER**

Reference is made to the Executive Manager's Report included as part of the Board's packet, which was presented by Deputy Executive Manager Martinez.

**8. REPORT OF THE COMPTROLLER**

Ms. Antoinette Bautista reported on the revenues and expenses of the Authority as of **September 30, 2018**. Ms. Bautista reported that year-to-date Total Signatory Revenues are below budgeted revenues by **-8.7%**, year-to-date Total Concession Revenues and Passenger Facility Charges are below budget by **-3.9%** and **-14.0%**, respectively. Year-to-date Total Other Revenues, inclusive of non-signatory and non-airline revenues are above the budget estimate by **22.9%**. Year-to-date Total Operating Revenues Actual of **\$75.5M** is **-1.5%** below the budget estimate of **\$76.7M**. Year-to-date Total Operating Expenses are above budget by **1.3%**. Components of this line item include a **1.0%** increase in Personnel Service, a **6.7%** increase in Contractual Services, a **-54.2%** decrease in Materials & Supplies and a **68.8%** increase in Equipment/Furnishings from budgeted amounts for these respective categories. The actual year-to-date Net Revenues from Operations of **\$27.9M** reflects a decrease of **-6.0%** over the year-to-date budgeted amount of **\$29.4M**. Ms. Bautista reported that the year-to-date Debt Service Coverage is at **1.36** versus the requirement of **1.25**.

Vice Chairperson Sgro inquired on what were the contractual services. Ms. Bautista replied custodial and preventive maintenance contracts.

## **9. EXECUTIVE SESSION**

The next item on the agenda was Executive Session.

Upon written recommendation of counsel, on motion duly made by Vice Chairperson Sgro, seconded by Director Camacho, and unanimously approved, the Board recessed to convene into Executive Session at 3:53p.m.

The Board convened into Executive Session at 4:03 p.m.to discuss pending or threatened litigation to which GIAA is or may be a party. Attending Executive Session were Directors Duenas, Sgro, Sobti, Gerber, and Alcorn, Deputy Executive Manager Martinez, and Legal Counsel, Janalynn C. Damian. Also present was the court reporter who will prepare a transcript of the Executive session.

Executive Session adjourned at 4:09 p.m., at which time the Board reconvened regular session.

Director Tolan and Director Camacho did not participate in Executive Session due to conflicts of interest.

As a result of discussion during Executive Session, Chairman Duenas announced that there was a matter for Board approval, and presented the matter to the Board.

After further discussion, on motion duly made by Vice Chairperson Sgro, seconded by Director Alcorn, the following resolution was unanimously approved:

### **Resolution No. 19-05**

The Board hereby authorizes the Authority to issue payment to Calvo Fisher & Jacob LLP for the general matters legal fees incurred in September 2018 that exceed the monthly cap in the amount of \$18,018.70.

## **10. PUBLIC COMMENTS**

There were no Public Comments.

## **11. ADJOURNMENT**

Motion to adjourn duly made by Director Alcorn, seconded by Director Tolan; motion unanimously passed. The meeting was adjourned at 4:11 p.m.

Dated this \_\_\_\_\_, day of \_\_\_\_\_, 2018.

Attest:

\_\_\_\_\_  
Ricardo C. Duenas  
Chairman

\_\_\_\_\_  
Gurvinder Sobti  
Secretary

Prepared and Submitted By:

\_\_\_\_\_  
Amanda O'Brien-Rios  
Corresponding Secretary



**A.B. WON PAT INTERNATIONAL AIRPORT AUTHORITY, GUAM**  
**CAPITAL IMPROVEMENT PROJECTS FOR FISCAL YEARS THROUGH 2018**  
as of 12/03/18

		PROJECT NAME	Bond	Federal	CIF	Total	Payment	Balance
<b>I. ONGOING</b>								
1	AIP 97 AIP 100 AIP 104	Int'l Arrivals Corridor w/Bldg Seismic Upgrades	96,108,007	21,685,448	10,018,198	127,811,653	56,009,659	71,801,995
2	AIP 93	Noise Mitigation Program 65 DNL & Higher - Phase		2,000,000	200,000	2,200,000	1,544,544	655,456
3	AIP 94	Miscellaneous Airport Improvements - Ph 5		706,077	78,453	784,530	755,607	28,923
4	AIP 95	Wildlife Management Assessment		100,000	10,000	110,000	102,078	7,922
5	AIP 96	Safety Management System		150,000	30,000	180,000	179,013	987
6	AIP 98 AIP 101 AIP 105	ARFF Facility-Design/Construction Phase 1/2	422,472	20,543,259	2,488,889	23,454,620	1,719,298	21,735,322
7	AIP 99 AIP 102	Apron Rehabilitation - Design		1,810,000	192,112	2,002,112	734,570	1,267,542
8	AIP 103	Rehabilitation Runway 6L - Design		750,000	83,334	833,334	58,992	774,342
9		Hold Bag Screening Relocation	5,369,933	24,899,330	260,092	30,529,355	30,451,201	78,155
10		Parking Expansion	1,654,912		704,881	2,359,793	1,654,912	704,881
11		Upgrade Airport IT & FMS	389,118		1,000,000	1,389,118	886,663	502,455
12		Art Program	639,000		-	639,000	-	639,000
13		Impr Leasehold Facilities (GSE, Tech, VQ1,HC-5)			2,971,312	2,971,312	2,333,565	637,747
14		Tiyan Land Acquisition & Redevelopment			725,604	725,604	715,988	9,616
15		Facilities Fire Alarm/Suppression System			3,223,301	3,223,301	3,159,451	63,850
16		Upgrades to Public Restrooms - Final Phase			2,976,436	2,976,436	2,976,436	0
17		Maintenance Equipment			101,625	101,625	101,625	-
18		Airport Facilities Upgrades, Phased			5,371,711	5,371,711	4,811,366	560,345
19		Replace Roofing Systems			2,509,934	2,509,934	2,481,074	28,860
		<b>Totals:</b>	<b>\$ 104,583,442</b>	<b>\$ 72,644,114</b>	<b>\$ 32,945,883</b>	<b>\$ 210,173,440</b>	<b>\$ 110,676,044</b>	<b>\$ 99,497,396</b>

**A.B. Won Pat International Airport Authority, Guam**  
**Regular Meeting of the Board of Directors**  
**December 3, 2018**

**EXECUTIVE SUMMARY**

This Executive Summary sets forth the key provisions of the Signatory Airline Operating Agreement and Terminal Building Lease by and between the A. B. Won Pat International Airport Authority, Guam and **SIGNATORY AIRLINE CARRIERS**.

<b><i>SIGNATORY AIRLINE LEASE &amp; OPERATING AGREEMENT</i></b>		
<b><i>Signatory Airline Carriers</i></b>	Air Seoul Air Busan Cebu Air China Air Japan Airlines Jin Air Jeju Air	Korean Airlines T'way Airlines Philippine Airlines United Airlines
<b><i>Premises</i></b>	Each Signatory Airline Carrier has Exclusive Use space that varies in size as needed for operations and Joint Use Space that consists of approximately 299,756 square feet.	
<b><i>Term</i></b>	Five (5) years, commencing October 1, 2018 and expiring September 30, 2023. Term shall be extended for one (1) additional five (5) year period, in the event of change in law and mutual agreement of the parties.	
<b><i>Rent/Financial</i></b>	Rates and fees as set forth in the Tariff Schedule to cover the Series 2013 A, B, & C Revenue Bond Indenture and operating cost including the debt service obligation. Signatory Airlines are the primary financial guarantor for airport operating costs and debt service obligations.	
<b><i>Use</i></b>	Air transportation of persons, baggage, property, cargo and mail.	

**Recommendation**

Management recommends that the Board approve the Signatory Airline Agreement subject to further review by GIAA Legal Counsel.



DRAFT AS OF 10/29/18

**SIGNATORY AIRLINE OPERATING AGREEMENT AND  
TERMINAL BUILDING LEASE**

**by and between**

**A.B. WON PAT INTERNATIONAL AIRPORT AUTHORITY, GUAM**

**and**

**[INSERT NAME]**

## TABLE OF CONTENTS

ARTICLE 1.	DEFINITIONS .....	1
Section 1.01.	Definitions.....	1
Section 1.02.	Cross-References.....	9
Section 1.03.	Construction of Certain Words. ....	9
ARTICLE 2.	TERM.....	10
Section 2.01.	Term. ....	10
ARTICLE 3.	RIGHTS AND SPECIFIC PRIVILEGES.....	10
Section 3.01.	Use of the Airport.....	10
Section 3.02.	Specific Rights of AIRLINE at the Airport. ....	10
Section 3.03.	Limitations on Use by AIRLINE. ....	12
ARTICLE 4.	PREMISES.....	13
Section 4.01.	Terminal Building Space.....	13
Section 4.02.	Use of Leased Premises.....	13
Section 4.03.	Assignment of Loading Bridge. ....	14
Section 4.04.	Reassignment of Leased Premises. ....	17
Section 4.05.	AIRLINE Relinquishment of Exclusively Leased Space. ....	18
Section 4.06.	Surrender of the Premises. ....	18
Section 4.07.	Employee Parking Facilities.....	19
Section 4.08.	Access.....	19
Section 4.09.	Transportation Security Administration Space. ....	20
ARTICLE 5.	CAPITAL IMPROVEMENTS .....	20
Section 5.01.	Capital Improvements. ....	20
ARTICLE 6.	RENTS AND FEES .....	21
Section 6.01.	Consideration. ....	21
Section 6.02.	Terminal Building Rents. ....	22
Section 6.03.	Departure Fees.....	22
Section 6.04.	Arrival Fees. ....	22
Section 6.05.	Immigration Inspection Fee. ....	23
Section 6.06.	Loading Bridge Use Fees. ....	23
Section 6.07.	Apron Use Fees. ....	23
Section 6.08.	Landing Fees. ....	23
Section 6.09.	Payments to AUTHORITY.....	24
Section 6.10.	Additional Rent. ....	25
Section 6.11.	Additional Passenger Fees and Charges.....	25
Section 6.12.	Fees for Other Commercial Activities. ....	26
Section 6.13.	Aircraft Storage Fee. ....	26
Section 6.14.	No Other Fees and Charges.....	27
Section 6.15.	Interest on Overdue Payments.....	27
Section 6.16.	Endorsement of Checks.....	27
Section 6.17.	Timely Issuance of Reports.....	27
Section 6.18.	Excess Time on Loading Bridge Position. ....	27
ARTICLE 7.	ADJUSTMENT OF AIRLINE RENTS AND FEES.....	28
Section 7.01.	Effective Date of Adjustments. ....	28
Section 7.02.	AUTHORITY Records. ....	28
Section 7.03.	Annual Budget.....	28



<b>Section 7.04.</b>	Calculation of Terminal Building Rental Rates. ....	30
<b>Section 7.05.</b>	Calculation of Departure Fee. ....	31
<b>Section 7.06.</b>	Calculation of Arrival Fee.....	31
<b>Section 7.07.</b>	Calculation of Immigration Inspection Fee.....	32
<b>Section 7.08.</b>	Calculation of Loading Bridge Use Fee.....	32
<b>Section 7.09.</b>	Calculation of Apron Use Fee.....	33
<b>Section 7.10.</b>	Calculation of Landing Fee Rate.....	34
<b>Section 7.11.</b>	Special Increases in Landing Fee Rate.....	36
<b>Section 7.12.</b>	Extraordinary Adjustments of Rents and Fees.....	36
<b>Section 7.13.</b>	Calculation of Departure FeeCommon Use Departure Fee. ....	37
<b>ARTICLE 8.</b>	<b>BOND INDENTURE AND FLOW OF FUNDS</b> .....	37
<b>Section 8.01.</b>	Subordination to Bond Indenture. ....	37
<b>Section 8.02.</b>	Flow of Funds.....	37
<b>ARTICLE 9.</b>	<b>MAINTENANCE, REPAIR, ALTERATIONS, AND IMPROVEMENTS</b> .....	39
<b>Section 9.01.</b>	AIRLINE's Responsibilities. ....	39
<b>Section 9.02.</b>	AUTHORITY's Responsibilities.....	40
<b>Section 9.03.</b>	AUTHORITY's Right to Inspect and Make Repairs. ....	41
<b>Section 9.04.</b>	Alterations and Improvements. ....	42
<b>ARTICLE 10.</b>	<b>DAMAGE OR DESTRUCTION, INSURANCE, INDEMNIFICATION, AND RELEASE OF LIABILITY</b> .....	42
<b>Section 10.01.</b>	Damage or Destruction. ....	42
<b>Section 10.02.</b>	Insurance.....	43
<b>Section 10.03.</b>	Indemnification.....	44
<b>Section 10.04.</b>	Release of Liability re: Certain Damages.....	45
<b>ARTICLE 11.</b>	<b>ASSIGNMENT OF SPACE, MERGER, AND BANKRUPTCY</b> .....	45
<b>Section 11.01.</b>	Assignment and Subletting. ....	45
<b>Section 11.02.</b>	Nonwaiver of Responsibility. ....	45
<b>Section 11.03.</b>	Relinquishment of Space. ....	45
<b>Section 11.04.</b>	Ground Handling Agreements.....	46
<b>Section 11.05.</b>	Merger. ....	46
<b>Section 11.06.</b>	Security Deposit. ....	46
<b>Section 11.07.</b>	Bankruptcy.....	47
<b>Section 11.08.</b>	Consent. ....	47
<b>ARTICLE 12.</b>	<b>DEFAULT</b> .....	48
<b>Section 12.01.</b>	Default. ....	48
<b>Section 12.02.</b>	Additional Rights of AUTHORITY.....	49
<b>ARTICLE 13.</b>	<b>RULES AND REGULATIONS, COMPLIANCE WITH LAW, NONDISCRIMINATION</b> .....	49
<b>Section 13.01.</b>	Rules and Regulations. ....	49
<b>Section 13.02.</b>	Compliance with Law.....	50
<b>Section 13.03.</b>	Nondiscrimination. ....	51
<b>ARTICLE 14.</b>	<b>COVENANT NOT TO GRANT MORE FAVORABLE TERMS</b> .....	51
<b>Section 14.01.</b>	Covenant Not to Grant More Favorable Terms.....	51
<b>ARTICLE 15.</b>	<b>TERMINATION</b> .....	52
<b>Section 15.01.</b>	Events Permitting Termination of Agreement by AIRLINE.....	52
<b>Section 15.02.</b>	Events Permitting Termination of Agreement by AUTHORITY. ....	52

<b>Section 15.03.</b>	Possession by AUTHORITY.....	53
<b>ARTICLE 16.</b>	NOTICES .....	53
<b>Section 16.01.</b>	Delivery of Notice. ....	53
<b>ARTICLE 17.</b>	MISCELLANEOUS.....	53
<b>Section 17.01.</b>	Successors and Assigns Bound.....	54
<b>Section 17.02.</b>	Governing Law Choice of Forum.....	54
<b>Section 17.03.</b>	Noninterference with Operation of the Airport. ....	54
<b>Section 17.04.</b>	Severability.....	54
<b>Section 17.05.</b>	Quiet Enjoyment.....	54
<b>Section 17.06.</b>	Taxes.....	55
<b>Section 17.07.</b>	Liens. ....	55
<b>Section 17.08.</b>	Obtaining Federal Funds. ....	55
<b>Section 17.09.</b>	Nonliability of AUTHORITY's or AIRLINE's Officers, Agents. and Employees. ....	56
<b>Section 17.10.</b>	Subordination to Agreements with the U.S. Government. ....	56
<b>Section 17.11.</b>	Incorporation of Exhibits.....	56
<b>Section 17.12.</b>	Incorporation of Required Provisions.....	56
<b>Section 17.13.</b>	Price Level Adjustments.....	56
<b>Section 17.14.</b>	Entire Agreement.....	57
<b>Section 17.15.</b>	Nonwaiver of Rights.....	57
<b>Section 17.16.</b>	Force Majeure.....	57
<b>Section 17.17.</b>	Headings. ....	57
<b>Section 17.18.</b>	Nonexclusive Rights.....	57
<b>Section 17.19.</b>	Inspection of Books and Records. ....	57
<b>Section 17.20.</b>	Generally Accepted Accounting Principles.....	59
<b>Section 17.21.</b>	General Interpretation.....	59
<b>Section 17.22.</b>	Holding Over. ....	59
<b>Section 17.23.</b>	Consent Not to be Unreasonably Withheld. ....	59
<b>Section 17.24.</b>	Authority of Executive Manager. ....	59
<b>Section 17.25.</b>	Invalid Provision.....	59
<b>Section 17.26.</b>	Amendments.....	60
<b>Section 17.27.</b>	Payment of Utility Charges. ....	60
<b>Section 17.28.</b>	Vending Machines. ....	60
<b>Section 17.29.</b>	Public Address System. ....	60
<b>Section 17.30.</b>	Employees of AIRLINE. ....	60
<b>Section 17.31.</b>	Removal of Disabled Aircraft.....	60
<b>Section 17.32.</b>	Licenses, Fees, and Permits.....	61
<b>Section 17.33.</b>	Prudent Operator.....	61
<b>Section 17.34.</b>	Airport Access License/Permit.....	61
<b>Section 17.35.</b>	Energy Conservation. ....	61
<b>Section 17.36.</b>	Compliance with Part 77, Title 14, CFR. ....	61
<b>Section 17.37.</b>	Reservations re: Airspace and Noise. ....	61
<b>Section 17.38.</b>	Attorneys' Fees.....	61
<b>Section 17.39.</b>	Apron Area Aircraft Servicing. ....	62
<b>Section 17.40.</b>	National Emergency. ....	62
<b>Section 17.41.</b>	Time is of the Essence. ....	62

<b>Section 17.42.</b>	Informal Dispute Resolution. ....	62
<b>Section 17.43.</b>	Authority to Enter Into Contract.....	62
<b>Section 17.44.</b>	General Civil Rights Provisions. ....	<b>Error! Bookmark not defined.</b>

**Exhibits**

A	Airport Layout Plan
B	Terminal Layout Plan
C	Breakdown of Exclusive and Joint Airline Use Space
D	Daily Flight Activity Log Form
E	Monthly Revenue Report Form
F	Federal Aviation Administration Required Provisions

**ANTONIO B. WON PAT INTERNATIONAL AIRPORT, GUAM  
SIGNATORY AIRLINE OPERATING AGREEMENT AND TERMINAL  
BUILDING LEASE**

This Signatory Airline Operating Agreement and Terminal Building Lease (the “Agreement”), made and entered into this \_\_\_\_\_, by and between the A.B. Won Pat International Airport Authority, Guam, (hereinafter referred to as “AUTHORITY”), and \_\_\_\_\_, an air transportation company authorized to do business in Guam (hereinafter referred to as “AIRLINE”).

**WITNESSETH:**

WHEREAS, the Government of Guam has established the AUTHORITY (12 GCA § 1101 et seq.) to own and operate the Antonio B. Won Pat Guam International Air Terminal (the “Airport”) and has the power to grant rights and privileges with respect thereto; and

WHEREAS, AIRLINE is a corporation primarily engaged in the business of providing Air Transportation of persons, baggage, property, cargo, and mail; and

WHEREAS, AIRLINE desires to lease certain premises and use certain facilities, and acquire certain rights and privileges from AUTHORITY in connection with its use of the Airport and AUTHORITY is willing to lease and grant same to AIRLINE under the terms and conditions hereinafter stated; and

WHEREAS, AUTHORITY has the power and authority to enter into this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and considerations herein contained, the AUTHORITY and AIRLINE agree as follows:

**ARTICLE 1. DEFINITIONS**

**Section 1.01. Definitions.**

The words and phrases in this section shall have the following meanings when used elsewhere in this Agreement. All other words and phrases that are not specifically defined herein are to have the meanings set forth in the Bond Indenture. If not defined specifically in this Agreement or the Bond Indenture, then such shall be according to common usage or by law.

1.01.01 “Air Transportation” shall mean the carriage for hire of persons, baggage, property, cargo, and mail by aircraft.

1.01.02 “Aircraft Arrivals” shall mean any aircraft arrivals at the Airport (including, without limitation, scheduled, charter, sightseeing, training, test, ferry, courtesy, and inspection flights, or any other flights) operated by an Air Transportation company. Aircraft Arrivals shall not include any flights by aircraft owned or operated by the U.S. Government, or any aircraft returning to the Airport as the result of an equipment failure, passenger emergency,

meteorological, or other precautionary reason without first landing at another airport.

1.01.03 “AIRLINE” hereunder means the entity that has executed this Agreement and that is identified in the first paragraph of this Agreement. However, and notwithstanding anything to the contrary herein, for purposes of the enjoyment of the rights conferred on AIRLINE hereunder, it is agreed that any Airline Affiliate (as defined herein) of AIRLINE shall have the rights afforded AIRLINE hereunder, including the right to use the premises leased hereunder to AIRLINE, without payment of any additional charges or premiums, it being agreed that such Airline Affiliate shall be entitled to signatory rates and charges hereunder and that AIRLINE and any Airline Affiliates shall be counted as one airline for purposes of computing any shared use or joint use charges; provided, however, that AIRLINE shall be responsible for the actions (including the payment of any activity fees incurred by) any such Airline Affiliate while such Airline Affiliate operates at the Airport until AIRLINE gives the AUTHORITY ninety (90) days advance written notice that AIRLINE will no longer be responsible for the actions (or activity fees) of such Airline Affiliate, at which time such Airline Affiliate may enter into its own agreement with AUTHORITY.

1.01.04 “Airline Affiliate” shall mean any Air Transportation company, to the extent that such Air Transportation company (i) is a parent or subsidiary of AIRLINE, or (ii) shares flight codes or livery with AIRLINE at the Airport, or (iii) otherwise operates under AIRLINE's trade name at the Airport, provided that no major airline, as such term is defined by the FAA, shall be classified as an Affiliate of another major airline.

1.01.05 “Airline Employees” shall mean airline crew, and other airline employees traveling on a non-revenue basis, but shall not include dependents of airline employees.

1.01.06 “Airport” shall mean the Antonio B. Won Pat International Airport, Guam, as shown on Exhibits A and B attached hereto and made a part hereof, as the same may change from time to time, together with all related facilities owned or operated or acquired by AUTHORITY, as further defined in the Bond Indenture.

1.01.07 “Airport Cost Centers” shall mean direct cost areas to be used in accounting for Airport revenues and expenses and for calculating and adjusting rents and fees described herein, as shown on Exhibits A and B, as more particularly described below:

A. “Airfield Area” shall mean those areas of civil cost responsibility of the Airport, as shown on Exhibits A and B, as they exist or as they may hereafter be expanded, modified, changed, or developed, that provide for the landing, takeoff, taxiing, parking (other than in the Apron Area), or other operations of aircraft. The Airfield Area includes the runways, taxiways, approach and clear zones, safety areas, infield areas, landing and navigational aids, and other facilities and land areas at the Airport required by or related to aircraft operations.

B. “Apron Area” shall mean the areas of the Airport, as shown on Exhibits A and B, as they now exist or as they may hereafter be expanded, modified, changed or developed, that are dedicated to the parking, servicing, and ground handling of aircraft.

C. "Terminal Area" shall mean the access roads, public and employee automobile parking areas, and other areas surrounding the Terminal Building as shown on Exhibits A and B, as such areas now exist or as they may hereafter be expanded, modified, changed, or developed.

D. "Terminal Building" shall mean the terminal building serving the airlines together with the associated concourses, as shown on Exhibits A and B, as such areas now exist or as they may hereafter be expanded, modified, changed, or developed.

E. "Other Buildings and Areas" shall mean those portions of the Airport not included in the preceding Airport Cost Centers, including the facilities, installations, and improvements thereon as such areas now exist or as they may hereafter be expanded, modified, changed, developed, or acquired.

1.01.08 "Airport Purpose" shall mean any action or undertaking by AUTHORITY reasonably relating to the operation, maintenance, expansion and development and preservation of the Airport for air commerce.

1.01.09 "Airport Requirement" shall mean all costs and expenses incidental to, necessary for, or arising out of the operation of the Airport, including but not limited to Operation and Maintenance Expenses, Annual Debt Service and coverage on Airport revenue bonds, repayment of loans, and the cost of defending, settling, or satisfying the results of any litigation or threatened litigation directly arising out of the operation and management of the Airport or any aspect thereof.

1.01.10 "Airport Revenue" shall mean Revenues as defined in the Bond Indenture.

1.01.11 "Amortization Requirement" shall mean the annual amount of amortization, based upon the Airport's Capital Improvements program and the Authority's calculation of the resulting annual amortization.

1.01.12 "Annual Debt Service" shall mean the aggregate Annual Debt Service as defined in the Bond Indenture.

1.01.13 "Annual Budget" shall mean the budget of AUTHORITY pertaining to the Airport for any Fiscal Year.

1.01.14 "Apron Use Fee" shall mean the fee charged to AIRLINE for each use by AIRLINE of the Apron Area by AIRLINE's aircraft.

1.01.15 "Arrival Fee" shall mean the fee charged to AIRLINE for each Arriving Passenger carried by AIRLINE.

1.01.16 "Arrivals Facilities" shall mean those Terminal Building facilities used for Arriving Passengers, including customs inspection, inbound baggage handling, baggage claim and certain other areas set forth on Exhibit C attached hereto and made a part hereof.

1.01.17 “Arriving Passengers” shall mean revenue and non-revenue passengers, excluding Airline Employees, arriving at the Airport and terminating their journeys in Guam.

1.01.18 “Bond Funds” shall mean those funds and accounts established by the Bond Indenture and described below in the order in which such funds and accounts are established by the Bond Indenture:

A. “Revenue Fund.” All revenues derived from operation of the Airport are deposited into the Revenue Fund. All moneys shall be used and applied in the priority indicated below. The Revenue Fund is more specifically described in Section 8.02.

B. “Operation and Maintenance Fund.” Amounts shall be paid out of the Operation and Maintenance Fund by AUTHORITY from time to time for necessary expenses related to the maintenance, operation, repair, and ordinary replacement and reconstruction of the Airport. The Operation and Maintenance Fund is more specifically described in Section 8.02.

C. “Bond Fund.” Amounts shall be paid out of the Bond Fund by AUTHORITY from time to time for the required interest and principal due on any Airport revenue bonds outstanding and payable from Airport Revenue. The Bond Fund is more specifically described in Section 8.02.

D. “Bond Reserve Fund.” Amounts shall be paid out of the Bond Reserve Fund by AUTHORITY from time to time as necessary for the interest and principal due on any Airport revenue bonds outstanding and payable from Airport Revenue to the extent that other moneys are not available within the Bond Fund. The Bond Reserve Fund is more specifically described in Section 8.02.

E. “Subordinate Securities Fund.” Amounts shall be paid out of the Subordinate Securities Fund by AUTHORITY from time to time for the required interest and principal due on any loans or interfund borrowings payable from Airport Revenue that are subordinate to Airport revenue bonds. The Subordinate Securities Fund is more specifically described in Section 8.02.

F. “Operation and Maintenance Reserve Fund.” Amounts shall be paid out of the Operation and Maintenance Reserve Fund by AUTHORITY from time to time for necessary expenses related to the maintenance, operation, repair, and ordinary replacement and reconstruction of the Airport to the extent that other moneys are not available in the Operation and Maintenance Fund for such purposes. The Operation and Maintenance Reserve Fund is more specifically described in Section 8.02.

G. “Renewal and Replacement Fund.” Amounts shall be paid out of the Renewal and Replacement Fund by AUTHORITY from time to time as necessary for the costs of unanticipated or emergency repairs, renewals, and replacement to the Airport. The Renewal and Replacement Fund is more specifically described in Section 8.02.

H. “Capital Improvement Fund.” Amounts in the Capital Improvement Fund shall be available for any lawful purpose of AUTHORITY. The Capital Improvement Fund is more specifically described in Section 8.02.

1.01.19 “Bond Indenture” shall mean the 2003 Indenture relating to the Guam International Airport Authority 2003 General Revenue Bonds, together with any supplemental bond indenture and any future indentures or resolutions, authorizing the issuance of Bonds, other than Special Facility Bonds, payable from Airport Revenue.

1.01.20 “Bonds” shall mean any bond or bonds issued in accordance with the provisions of the Bond Indenture, other authorizing legislation enacted in accordance with the provisions of the Bond Indenture, other authorizing legislation enacted by the Territory as more specifically defined in such Bond Indenture, or such other authorizing legislation enacted by the Territory.

1.01.21 “Capital Improvement” shall mean any single item or a series of substantially similar items having an aggregate net cost in excess of one-hundred thousand dollars (\$100,000) and a useful life in excess of five (5) years acquired, purchased, or constructed to improve, maintain, preserve, or develop the Airport.

1.01.22 “Common Use Departure Fee” shall mean the fee charged to AIRLINE for each Enplaned Passenger carried by that AIRLINE that utilizes the Common-Use Ticket Counter Space as designated in Exhibit C.

1.01.23 “Common Use Ticket Counter Space” shall mean the premises leased by AUTHORITY to AIRLINE and one or more other airlines, as more particularly set forth in Exhibit C.

1.01.24 “Conditional Airline Use” shall refer to space, designated in Section 4.02, that is initially assigned to AIRLINE as Exclusive Use Space, but that is subject to reassignment to other Signatory Airlines on the basis of actual usage that is consistently less than the average usage of comparable space at the Airport during the most recent six (6) months, as described more fully in Section 4.03.

1.01.25 “Daily Flight Activity Report” shall mean the daily report provided by AIRLINE to AUTHORITY, that shall include the following data in the format stated by AUTHORITY: flight number, aircraft type, seat capacity, originating daily passengers, terminating daily passengers and transit daily passengers as shown on Exhibit D attached hereto and made a part hereof.

1.01.26 “Date of Beneficial Occupancy” or “DBO” shall mean that date upon which a Capital Improvement is so substantially complete that it is usable by AIRLINE and the public without hazard or undue inconvenience, but in no event later than thirty (30) days after AUTHORITY notifies AIRLINE that the Capital Improvement has been certified by the project architect/engineer as available for public use and airline occupancy.

1.01.27 “Departure Facilities” shall mean those Terminal Building facilities used



for AIRLINE'S Enplaned Passengers including departure lounges, baggage make up, bus gate facilities, security and certain other areas as set forth in Exhibit C.

1.01.28 "Departing Passengers" shall mean revenue and non-revenue passengers, excluding Airline Employees, originating their journey in Guam.

1.01.29 "Deplaned Passengers" shall mean (1) Arriving Passengers, and (2) in-transit passengers arriving at and departing from the Airport on the same flight, or making a connection with another flight; and shall include revenue and non-revenue passengers, excluding Airline Employees.

1.01.30 "Enplaned Passengers" shall mean (1) Departing Passengers and (2) in-transit passengers arriving in and departing from the Airport on the same flight, or making a connection with another flight; and shall include revenue and non-revenue passengers, excluding Airline Employees.

1.01.31 "Departure Fee" shall mean the fee charged to AIRLINE for each Enplaned Passenger carried by that AIRLINE.

1.01.32 "Exclusive Use Space" shall mean the premises leased by AUTHORITY to AIRLINE, as more fully set forth in Exhibit C.

1.01.33 "Executive Manager" shall mean the Executive Manager of AUTHORITY, designated as such by AUTHORITY.

1.01.34 "FAA" shall mean the Federal Aviation Administration of the U.S. Government or any federal agencies succeeding to its jurisdiction.

1.01.35 "Fiscal Year" shall mean the twelve (12) months commencing on October 1 of any calendar year and ending on September 30 of the next succeeding calendar year or any other 12-month period established by AUTHORITY.

1.01.36 "Immigration Inspection Facilities" shall mean those facilities operated by US immigration authorities, including passenger inspection areas and other office and support space.

1.01.37 "Immigration Inspection Fee" shall mean the fee charged by AUTHORITY to AIRLINE for each Deplaned Passenger of that AIRLINE, who uses Airport Immigration Inspection Facilities.

1.01.38 "Joint Airline Use Formula" shall mean the formula used to prorate the specified charge according to the ratio of the number of each Signatory Airline's Enplaned Passengers at the Airport during the most recent month for which such information is available to the total number of enplaning passengers of all Signatory Airline users of a facility or area at the Airport during that same month. The Joint Airline Use Formula may also mean such other formula as may be agreed upon by Signatory Airlines who constitute sixty percent (60%) in number and who pay more than sixty percent (60%) of the rents and fees of the Signatory

Airlines using the service or space based on the most recent twelve (12) month period for which such data are available.

1.01.39 “Joint Airline Use Space” shall mean the premises leased by AUTHORITY to AIRLINE and one or more other airlines, as more particularly set forth in Exhibit C.

1.01.40 “Landing Fee” shall mean the fee charged to AIRLINE for each AIRLINE Aircraft Arrival made at the Airport.

1.01.41 “Loading Bridge Positions” shall mean aircraft parking positions at which the passenger loading bridges owned by AUTHORITY are available and provided to Air Transportation companies for their use.

1.01.42 “Loading Bridge Use” shall mean each Aircraft Arrival which uses a Loading Bridge Position for enplaning and/or deplaning passengers or Airline Employees, excluding use by an aircraft returning to a gate as a result of an equipment failure, passenger emergency, meteorological or other precautionary reason without first landing at another airport.

1.01.43 “Loading Bridge Use Fee” shall mean the fee charged to AIRLINE for each Loading Bridge Use.

1.01.44 “Maximum Certificated Gross Takeoff Weight” shall mean the maximum certificated weight, in one thousand (1,000) pound units, that each aircraft operated by AIRLINE is certificated by either the FAA for U.S. or non-U.S. airlines or the government of the country of origin for non-U.S. airlines, as recited in AIRLINE's flight manual governing that aircraft type. Maximum Certificated Gross Takeoff Weight shall be rounded up to nearest 1,000-pound unit for all landing fee computations. For the purposes of this Agreement, widebody aircraft are those having a Maximum Certificated Gross Takeoff Weight in excess of two hundred and forty thousand (240,000) pounds.

1.01.45 “Monthly Revenue Report” shall mean the monthly report, provided by AIRLINE to AUTHORITY, that shall include the following data in the format stated by AUTHORITY, as shown at Exhibit E attached hereto and made a part hereof:

**A. Passenger Data.**

**i. Deplaned Passengers**

**A. Arriving passengers: revenue, non-revenue and total categories displayed by domestic, international and total.**

**B. Inbound in-transit passengers: revenue, non-revenue and total categories displayed by thru, connecting and total.**

**C. Total deplaned passengers.**

**ii. Enplaned Passengers**

**A. Departing Passengers: revenue, non-revenue and total**

categories displayed by domestic, international and total.

B. Outbound in-transit passengers: revenue, non- revenue and total categories displayed by thru, connecting and total.

C. Total enplaned passengers.

D. Number of Departing Passengers using the Common Use Ticket Counters.

**B. Cargo/Mail Data**

iii. Cargo (pounds): revenue, non-revenue and total categories displayed by deplaned, enplaned and total.

iv. Mail (pounds): revenue, non-revenue and total categories displayed by deplaned, enplaned and total.

**C. Aircraft operations.**

v. Number of aircraft arrivals by aircraft type, and category of scheduled passenger, charter passenger, cargo, other and total.

vi. Aircraft Maximum Certificated Gross Takeoff Weight and Loading Bridge Use.

vii. For the prior month, the number, dates and times of all aircraft parked at the gate and remaining overnight.

1.01.46 “Operation and Maintenance Expenses” shall mean all reasonable and necessary current expenses of AUTHORITY, paid or accrued, for operating, maintaining, and repairing the Airport, as more specifically defined in the Bond Indenture.

1.01.47 “Other Airlines” shall mean, for purposes of allocating Loading Bridge Positions according to Section 4.03, the group of airlines operating scheduled flights at the Airport for more than one quarter of the Fiscal Year that includes, and is limited to, (1) nonsignatory airlines operating scheduled flights at the Airport, and (2) Signatory Airlines not already entitled to a minimum of one Loading Bridge Position according to Section 4.03.

1.01.48 “Passenger Facility Charge” or “PFC” shall mean a charge authorized by Federal Aviation Regulations 14 CFR Part 158 and imposed by AUTHORITY on enplaned passengers (as defined in FAR 14 CFR Part 158) at the Airport, as same may be amended, modified, or supplemented from time to time.

1.01.49 “Public Areas” shall mean those Terminal Building areas not leased on an exclusive or joint use basis, or otherwise, to any person, company, or corporation and which are accessible to the general public. Such areas are shown in Exhibit C.

1.01.50 “Rules and Regulations” shall mean those rules and regulations promulgated by AUTHORITY pursuant to the Administrative Adjudication Act of Guam or operating directives issued by the Executive Manager for the orderly use of the Airport by both the airlines and other tenants and users of the Airport, including the Airport Tariff Schedule, as the same may be amended, modified, or supplemented from time to time.

1.01.51 “Signatory Airlines” shall mean those airlines providing Air Transportation to and from the Airport that have executed substantially similar agreements with AUTHORITY covering the use and occupancy of facilities at the Airport.

1.01.52 “Special Facilities” shall mean structures; hangars; aircraft overhaul, maintenance, or repair shops; heliports; hotels; storage facilities; garages; other facilities; and appurtenances, being a part of and located on the Airport, the cost of the construction or other acquisition of which Special Facilities is financed with the proceeds of Special Facilities Bonds issued pursuant to the Bond Indenture.

1.01.53 “Terminal Building Requirement” shall mean the total amounts summarized in Section 7.04.A, used to calculate the Terminal Building rental rate.

1.01.54 “Total Takeoff Weight” shall mean the sum of the Maximum Certificated Gross Takeoff Weight for all Signatory Airline Aircraft Arrivals over a stated period of time. Said sum shall be rounded up to the nearest one thousand (1,000) pound unit for all landing fee computations.

1.01.55 “Transportation Security Administration” or “TSA” Transportation Security Administration created under the Aviation and Transportation Security Act (“ATSA”), Public Law 107-71 of 2001, as amended, or any successor agency thereto.

1.01.56 “Trustee” shall mean the person, firm, or corporation designated by AUTHORITY to act in a fiduciary capacity with respect to the issuance of Bonds.

1.01.57 “Usable Space” shall mean the gross space in the Terminal Building at the Airport less mechanical and administration space, as more particularly set forth on Exhibit D.

## **Section 1.02. Cross-References.**

All references to articles, sections, and exhibits in this Agreement pertain to material in this Agreement unless specifically noted otherwise.

## **Section 1.03. Construction of Certain Words.**

Words used in this Agreement may be construed as follows:

1.03.01 Number. Words used in the singular include the plural, and words used in the plural include the singular.

1.03.02 Tense. Words used in the present tense include the future as well as the present.

1.03.03 Gender. Words used in the masculine gender include the feminine gender, and words used in the feminine gender include the masculine gender.

## **ARTICLE 2. TERM**

### **Section 2.01. Term.**

When executed, this Agreement shall become effective as of \_\_\_\_\_, and continue for five (5) years. The parties agree that Guam law (5 GCA § 5127) precludes the AUTHORITY from entering into an agreement for the use of public real property for a term in excess of five (5) years. In the event that 5 GCA § 5127 is amended to exclude or otherwise permit this Agreement prior to the expiration of the initial term, upon mutual agreement of the AUTHORITY and AIRLINE in writing, this Agreement shall be extended for an additional five (5) year term upon the same terms and conditions as provided herein..

## **ARTICLE 3. RIGHTS AND SPECIFIC PRIVILEGES**

### **Section 3.01. Use of the Airport.**

AIRLINE shall have for itself and its employees, passengers, guests, and invitees the unrestricted and unencumbered right to the use (in common with other authorized users) of the Airport and appurtenances, including all facilities, improvements, equipment, and services that have been or may hereafter be provided for common use at or in connection with the Airport, subject to the Rules and Regulations of AUTHORITY.

### **Section 3.02. Specific Rights of AIRLINE at the Airport.**

AIRLINE and any Airline Affiliate shall have the right, in addition to all rights elsewhere granted in this Agreement, but subject to the Rules and Regulations and lawful ordinances of AUTHORITY, to use the Airport for the following purposes:

3.02.01 The operation of an Air Transportation business including all activities reasonably necessary to such operations.

3.02.02 The landing, taking off, flying over, taxiing, pushing, towing, loading, unloading, repairing, maintaining, fueling, conditioning, servicing, parking, storing, and testing of aircraft or other equipment of or operated by AIRLINE, or other certificated Air Transportation companies with which AUTHORITY has an agreement, including the right to provide or handle all or part of the operations or services of such other companies, all of which are subject to the Rules and Regulations of AUTHORITY.

3.02.03 The sale of tickets, documentation of shipments, handling of reservations, and the loading and unloading of persons, baggage, property, and mail at the Airport by such motor vehicles or other means of conveyance as AIRLINE may desire to use in the operation of its Air Transportation business. Any ground transportation commercial carrier (including AIRLINE, except for such ground transportation as AIRLINE may provide solely for the benefit of its employees and passengers without charge, and except for such ground transportation as AIRLINE's direct vendor may provide solely for the benefit of AIRLINE's employees without charge) regularly transporting persons or their baggage to, from or within the Airport shall first

secure and thereafter hold a valid lease, license, or other agreement with AUTHORITY for the right to carry persons or their baggage to, from or within the Airport and shall pay AUTHORITY such rents, fees, and percentages of the fares of such ground transportation commercial carrier for such rights, as AUTHORITY may set by agreements, ordinances, or Rules and Regulations.

3.02.04 The training at the Airport of persons and testing of aircraft and other equipment, such training and testing to be limited to that incidental to AIRLINE's Air Transportation business at the Airport. Flight training undertaken by AIRLINE will be subject to the conditions of the Rules and Regulations of AUTHORITY.

3.02.05 The purchase of AIRLINE's requirements of personal property or services, including fuel, lubricants, food, beverage, and other passenger supplies and any other materials and supplies used by AIRLINE from any person or company of AIRLINE's choice, and the making of agreements with any person or company of AIRLINE's choice for services to be performed for AIRLINE that are incidental to the operation of AIRLINE's Air Transportation business. Nothing herein shall restrict AUTHORITY from levying a reasonable nondiscriminatory concession fee on any other person or company for conducting business at the Airport.

3.02.06 The sale or disposal of AIRLINE's aircraft engines, accessories, and other equipment, and materials or supplies, provided that such right shall not be construed as authorizing the conduct of a separate regular business by AIRLINE, but as permitting AIRLINE to perform only such functions for itself and other Air Transportation companies as are incidental to the conduct or operation of its Air Transportation business. Airline may sell fuel and lubricants to the extent such items are not otherwise available at the Airport.

3.02.07 The servicing by AIRLINE, or by its suppliers of materials, or its furnishers of services and maintenance, of aircraft and other equipment operated by AIRLINE or by other Air Transportation companies or the U.S. Government with which AIRLINE has an applicable agreement for handling, maintenance, or other materials or supplies, at reasonable locations designated by the Executive Manager

3.02.08 The installation and operation of identifying signs, posters, and graphics on AIRLINE's leased premises, subject to the prior written approval of the Executive Manager. Such signs shall be substantially uniform in size, type, and location with those of other airlines, consistent with AUTHORITY's graphic standards, the Rules and Regulations, and in compliance with all applicable laws and ordinances.

3.02.09 The installation, maintenance, and operation of radio, meteorological, and aerial navigation equipment and facilities at suitable locations on the Airport as may be necessary or convenient in the opinion of AIRLINE for its operations; provided that the location of such equipment and facilities shall be subject to the prior written approval of the Executive Manager.

3.02.10 The installation, maintenance, and operation of computer data lines, telephone communications equipment and associated conduits, and telephone communications

switchgear and support computers including electronic ticketing machines for passenger and airline employee use, at suitable locations on the Airport, as may be necessary or convenient in the opinion of AIRLINE for its operations; provided that the location of such equipment and facilities shall be subject to the prior written approval of the Executive Manager.

3.02.11 The installation, maintenance, and operation of passenger clubs, lounges, or VIP rooms in AIRLINE's Exclusive Use Space, subject to the approval of the Executive Manager and provided that such right shall not be construed as authorizing the conduct of a separate regular business by AIRLINE, but as permitting AIRLINE to perform only such functions as are incidental to the conduct or operation of its Air Transportation business. AIRLINE may permit passengers of other airlines and other persons of AIRLINE's choice to use its passenger clubs, lounges, or VIP rooms.

**Section 3.03. Limitations on Use by AIRLINE.**

In connection with the exercise of its rights under this Agreement, AIRLINE shall not:

3.03.01 Do or permit its agents, employees, directors, or officers to do anything at or about the Airport that may interfere with the effectiveness or accessibility of the drainage and sewage system, electrical system, air conditioning system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located on or within the premises of the Airport.

3.03.02 Do or permit its agents, employees, directors, or officers to do any act or thing upon the Airport that will invalidate or conflict with any fire or other casualty insurance policies (copies of which, together with premium schedules, shall be furnished to AIRLINE on request) covering the Airport or any part thereof. If AIRLINE does or permits its agents, employees, directors, or officers to do any act or thing upon the Airport that results in an increase in the cost of any fire or other casualty insurance policies for common or joint use areas, AIRLINE shall be liable for such increase. In such event, AUTHORITY will provide written notice to AIRLINE and provide AIRLINE an opportunity to cure the act or thing causing an increase in the cost of any fire or other casualty insurance policies. AIRLINE may cure the act or thing or, if not inconsistent with Article 13 herein, may continue to do the act or thing and pay such increase.

3.03.03 Dispose of or permit its agents, employees, directors, or officers to dispose of any waste material taken from or products used (whether liquid or solid) with respect to its aircraft into the sanitary or storm sewers at the Airport unless such waste material or products first be properly treated by equipment installed with the approval of the Executive Manager for that purpose. For purposes of this section "treated" shall mean processed in accordance with applicable Federal (including the Environmental Protection Agency), Territorial or local laws, codes, rules, regulations and/or sound commercial practice.

3.03.04 Keep or store, during any twenty four- (24) hour period, flammable liquids within the enclosed portion of the premises in excess of AIRLINE's working requirements during said 24-hour period, except in storage facilities especially constructed for such purposes in

accordance with standards established by the National Board of Fire Underwriters, and approved by the Executive Manager from the standpoint of safety, and to comply with any other applicable law. Any such liquids having a flash point of less than one hundred degrees Fahrenheit (100-F) shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories.

3.03.05 Do or permit its agents, employees, directors, or officers to do any act or thing upon the Airport that will be in conflict with FAR Part 139 or jeopardize the Airport's compliance with FAR Part 139, as same may be amended, modified, or supplemented from time to time.

3.03.06 Do or permit its agents, employees, directors, or officers to do any act or thing in conflict with the Airport's TSA and/or FAA-approved security plan.

3.03.07 Display or sell, exchange, offer, or deliver or permit its, agents, employees, directors, officers, to sell, exchange, or deliver any duty paid or duty free merchandise at the Airport, unless such agents, employees, directors or officers have a written agreement between themselves and the AUTHORITY to do so.

## **ARTICLE 4. PREMISES**

### **Section 4.01. Terminal Building Space.**

4.01.01 From the date of this Agreement, AIRLINE hereby leases the areas (hereinafter referred to as AIRLINE's "Exclusive Use Space" and "Joint Airline Use Space") in the Terminal Building as more particularly delineated on Exhibit C.

4.01.02 Subsequent modification of areas occupied by AIRLINE shall be accomplished by the Executive Manager and AIRLINE executing an amendment to this Agreement including a revised Exhibit C.

### **Section 4.02. Use of Leased Premises.**

4.02.01 AIRLINE shall use its Exclusive Use Space, subject to AUTHORITY's Rules and Regulations, for office purposes and the sale of Air Transportation, handling, ticketing including electronic ticketing machines, billing, and manifesting of passengers, baggage, cargo, property, and mail in the conduct of its Air Transportation business or on behalf of any other Air Transportation company with which AUTHORITY has an agreement.

4.02.02 AIRLINE shall use the Joint Airline Use Space for purposes designated in Exhibit C or such other purposes as from time to time designated by the Executive Manager.

4.02.03 Conditional Airline Use Ticket Counter Positions. Given the limited ticket counter space in the terminal and in light of the public interest, ticket counter positions designated on Exhibit C as Exclusive Use Space shall be Conditional Airline Use space. If the use of these ticket counter positions is required to accommodate the requirements of another Signatory Airline and AIRLINE's utilization of these ticket counter positions is consistently less than the average daily utilization at the Airport for all ticket counter positions for the previous six



months, AUTHORITY may assign (following timely consultation with AIRLINE and other affected parties) another Signatory Airline use of a portion of these ticket counter positions, beginning with Conditional Airline Use ticket counter positions that have the lowest average utilization, and considering the proximity of the ticket counter positions to the required location, as follows:

A. **Shared Use.** AUTHORITY may assign one or more other Signatory Airlines to use all or a portion of AIRLINE's Conditional Airline Use ticket counter positions for designated periods of time when AIRLINE is not using these ticket counter positions, subject to the other Signatory Airline(s) indemnifying AIRLINE for liability arising from such use. If the Conditional Airline Use ticket counter positions are shared with another Signatory Airline, the other Signatory Airline shall pay AIRLINE an average daily rate (calculated as the monthly rental divided by the number of days in the month) for any and each day such counter positions are used. If other Signatory Airlines are assigned to use AIRLINE's Conditional Airline Use ticket counter positions, on a shared use basis, AIRLINE's obligation to pay rent on the affected ticket counter positions will continue. AIRLINE shall be entitled to recover a pro rata portion of the rent plus no more than fifteen percent (15%) for administration from other Signatory Airlines using the affected ticket counter positions.

B. **Reassignment.** Authority may assign one or more other Signatory Airlines to use all or a portion of AIRLINE's Conditional Airline Use ticket counter positions on an exclusive basis, for an indefinite period of time, subject to the conditions set forth in this Section 4.02(C). If AIRLINE's Conditional Airline Use ticket counter positions are reassigned in this manner, AIRLINE's obligation to pay rent on the affected ticket counter position ceases upon the effective date of such reassignment.

**4.02.04 Assignment of Common-Use Ticket Counter Positions.** To achieve maximum flexibility in obtaining the highest and best use of available ticket counter positions, the AUTHORITY shall allocate the Common-Use Ticket Counter Space to airlines on the basis of the monthly schedule of Aircraft Arrivals and departures submitted by airlines sixty-five (65) days in advance of each quarter of the Fiscal Year. Sixty (60) days prior to the beginning of each quarter during the Fiscal Year, AUTHORITY shall provide AIRLINE with a schedule presenting the ticket counter positions assigned to AIRLINE.

**Section 4.03. Assignment of Loading Bridge.**

Passenger loading bridges and aircraft parking positions are, and will continue to be, owned and operated by AUTHORITY and not exclusively used by any airline. To achieve maximum flexibility in obtaining the highest and best use of available Loading Bridge Positions, AIRLINE will submit to AUTHORITY a monthly schedule of Aircraft Arrivals and departures sixty-five (65) days in advance of each quarter of the Fiscal Year. AUTHORITY will determine which of the available Loading Bridge Positions will be used for each Aircraft Arrival and departure.

**4.03.01** Sixty (60) days prior to the beginning of each quarter during the Fiscal Year, AUTHORITY shall provide AIRLINE with a schedule presenting the number of Loading Bridge Positions allocated to AIRLINE , and the resulting assignment of Aircraft Arrivals and

departures.

4.03.02 In the event that AIRLINE's submitted schedule of Aircraft Arrivals and departures does not indicate a need for the total number of AIRLINE's allocated Loading Bridge Positions, the unassigned Loading Bridge Positions shall be available for use by other airlines as determined by the AUTHORITY. In addition, AIRLINE's allocated Loading Bridge Positions shall be available for use by other airlines during those times of day when AIRLINE's allocated Loading Bridge positions are not required for AIRLINE's scheduled Aircraft Arrivals and departures, provided, however, that such use by other airlines shall not at any time preclude AIRLINE's use of its allocated Loading Bridge Positions for AIRLINE's scheduled operations.

4.03.03 AIRLINE's allocated Loading Bridge Positions and associated Apron Area shall be available to AIRLINE for use to stage and store its ground service equipment in areas designated by AUTHORITY. AIRLINE shall cooperate with other users of Loading Bridge Positions to relocate its parked ground service equipment as may be reasonable and necessary to provide adequate space and clearance for the maneuvering of other users' ground support equipment in servicing such other users' aircraft operations at the Loading Bridge Position. In the event of conflict in the use of designated areas for parking, ground service equipment, AIRLINE will comply with AUTHORITY's determination.

4.03.04 Other Airlines shall be allocated priority in the assignment of Loading Bridge Positions according to Other Airlines' share of airline traffic at the Airport, as determined by AUTHORITY. AUTHORITY shall determine the assignment of Loading Bridge Positions for the scheduled Aircraft Arrivals and departures of Other Airlines, based on the allocated number of Loading Bridge Positions.

4.03.05 Accommodation of Excess Scheduled Flights. In the event that AIRLINE's submitted schedule of Aircraft Arrivals and departures indicates a need for more than the number of AIRLINE's allocated Loading Bridge Positions, either (1) AIRLINE's excess scheduled flights will be assigned to allocated Loading Bridge Positions not scheduled for use by other airlines, as determined by the AUTHORITY, or (2) in the event that no unscheduled Loading Bridge Positions are available, AIRLINE's excess scheduled flights will be assigned to other available aircraft parking positions at the Airport.

Following is the order of priorities for assignment of excess scheduled flights:

A. AIRLINE will be given priority in the assignment of Loading Bridge Positions based on the size of the aircraft scheduled for operation. Widebody aircraft will have priority over narrowbody aircraft, excluding charter, non-scheduled, and extra-section flights.

B. Signatory Airlines will have priority in the assignment of Loading Bridge Positions over nonsignatory airlines.

C. Scheduled flights will have priority in the assignment of Loading Bridge Positions over nonscheduled flights.

D. Originating and through flights will have priority in the assignment of Loading Bridge Positions over terminating flights.

E. Stated airline gate preferences will be given consideration in the assignment of Loading Bridge Positions, and AUTHORITY will use commercially reasonable efforts to assign Loading Bridge Positions in proximity to AIRLINE's ramp-level operations space to the extent such assignment does not conflict with other provisions of this Section 4.03.

**4.03.06 Use of Assigned Loading Bridge Positions.** The following rules shall apply to the use of assigned Loading Bridge Positions (not in order of priority):

A. Originating widebody aircraft flights shall occupy the Loading Bridge Position for a maximum of one and one half (1-1/2) hours prior to the scheduled time of departure.

B. Originating narrowbody aircraft flights shall occupy the Loading Bridge Position for a maximum of forty-five (45) minutes prior to the scheduled time of departure.

C. Through flights and turnaround flights shall occupy the Loading Bridge Position for a maximum of two (2) hours.

D. Terminating widebody aircraft flights shall occupy the Loading Bridge Position for a maximum of forty-five (45) minutes after the scheduled time of arrival.

E. Terminating narrowbody aircraft flights shall occupy the Loading Bridge Position for a maximum of thirty (30) minutes after the scheduled time of arrival.

F. Aircraft exceeding the maximum times listed in items A through E above may be subject to repositioning or additional fees, at the sole option of the AUTHORITY, if a requirement for the occupied Loading Bridge Position exists. In the event that both affected flights are AIRLINE's flights, AIRLINE may at its option maintain said aircraft at the assigned Loading Bridge Position and subject AIRLINE's other aircraft to repositioning.

G. Flight delays of more than twenty (20) minutes from the scheduled time of departure or arrival may result in reassignment or loss of the assigned Loading Bridge Position or other aircraft parking position, if a requirement for the Loading Bridge Position or other aircraft parking position exists.

**4.03.07** Although the above preferred priority ranking is hereby established, conditions at the time of assignment of Loading Bridge Positions or other aircraft parking position may necessitate deviation from the listed factors to enable more effective use of available aircraft parking positions, provided however, AUTHORITY will use commercially reasonable efforts to ensure the preferred priority ranking is adhered to at all times.

In the event that the application of the priorities in this Section 4.03 is not sufficient to remove all scheduling conflicts, AUTHORITY, working with the airlines, will resolve such conflicts, considering the priorities in this Section 4.03.

AUTHORITY shall allocate aircraft parking positions that do not have Loading Bridges to Signatory Airlines and Air Transportation companies operating aircraft weighing less than 100,000 pounds Maximum Certificated Gross Takeoff Weight.

**Section 4.04. Reassignment of Leased Premises.**

From time to time during the term of this Agreement, it may become necessary for the Executive Manager to reassign, allocate, or relocate all or part of AIRLINE's premises referred to in Exhibit C subject to the following conditions:

A. The Executive Manager shall have the right to reassign, reallocate, or relocate all or part of the premises referred to in Exhibit C; provided however, that only in the event of the occurrence of the following extraordinary circumstances may the Executive Manager make such reassignment, reallocation, or relocation:

1. To comply with a rule, regulation, or order of any federal, territorial, or other governmental agency that has jurisdiction over AUTHORITY in its capacity as operator of the Airport.

2. To implement a Capital Improvement at the Airport that has undergone review pursuant to Section 5.01.

B. If it becomes necessary to make adjustments in AIRLINE's Exclusive or Joint Airline Use Space, the Executive Manager shall arrange for all parties holding affected space to discuss reassignment, reallocation, or relocation of their space among themselves. If the parties do not reach agreement within thirty (30) days from the time the Executive Manager requests such discussions, the Executive Manager is authorized to make such decisions regarding reassignment, reallocation, or relocation for each of the parties (including AIRLINE). If the Executive Manager makes decisions (which shall be provided to all parties in writing) regarding reassignment, reallocation, or relocation of AIRLINE's leased premises, AIRLINE shall not be required to:

1. Incur any expense to relocate its operation to other premises that it does not agree to incur.

2. Accept premises not reasonably adequate based upon conditions at the Airport from either a competitive standpoint or an operational standpoint.

3. Pay at its new location rental rates in excess of that amount that it would have been required to pay in its original leased premises.

C. If AUTHORITY is to reassign, reallocate, or relocate AIRLINE's leased premises, the Executive Manager will give AIRLINE notice of its intent to modify all or portions of AIRLINE's leased premises. Within thirty (30) days, AIRLINE will be given an opportunity to meet with the Executive Manager to show cause why the reassignment, reallocation, or relocation should not be made.

D. If AIRLINE does not elect to meet with the Executive Manager, or if the Executive Manager elects to proceed with the reassignment, reallocation, or relocation after meeting with AIRLINE, AUTHORITY shall:

1. Give AIRLINE forty-five (45) days notice of the reassignment, reallocation, or relocation.
2. Reimburse AIRLINE the undepreciated book value of AIRLINE's improvements funded by AIRLINE in the space vacated.
3. Provide new or reconfigured space similar in design and finish to the vacated space subject to reassignment, for which the cost of necessary improvements shall not be the responsibility of AIRLINE.
4. Reassign or reallocate the space to another airline or hold the space without lease commitment or relocate AIRLINE's leased premises.

**Section 4.05. AIRLINE Relinquishment of Exclusively Leased Space.**

From time to time during the term of this Agreement, it may become necessary for AIRLINE to relinquish exclusively leased space to AUTHORITY. In the event AIRLINE wishes to relinquish exclusively leased space, it will give AUTHORITY notice of its intent to relinquish such space. The notice will identify the specific exclusively leased space to be returned to AUTHORITY. The space identified in AIRLINE's notice will be deemed to be automatically excluded from AIRLINE's leasehold on September 30th in the Fiscal Year in which notice is received by AUTHORITY. AIRLINE will be responsible for the payment of rent through September 30th in the Fiscal Year in which notice is received by AUTHORITY, unless the relinquished space shall be relet or reassigned prior to September 30th, in which case AIRLINE shall only be required to pay rent on that space through the date such lease or assignment is effective or any new tenant occupies the relinquished space.

**Section 4.06. Surrender of the Premises.**

AUTHORITY shall give no notice to quit possession at the expiration date of the term of this Agreement. AIRLINE covenants and agrees that on expiration of the term of this Agreement, or on earlier termination as hereinafter provided, or on reassignment of the premises to others as hereinafter provided, it will peaceably surrender possession of the premises leased hereunder in good condition, reasonable wear and tear, acts of God, fire, and other casualties not caused by AIRLINE or by its agents, employees or invitees excepted, and AUTHORITY shall have the right to take possession of said premises.

AIRLINE shall have the right, on expiration or termination and within thirty (30) days thereafter, to remove all trade fixtures, equipment, and other personal property installed or placed by it at its expense, in, on, or about the Airport, except that (a) AIRLINE shall not remove fixtures, equipment, and other personal property for which AUTHORITY is to reimburse AIRLINE pursuant to Section 4.04; and (b) AIRLINE's right shall be subject to any valid lien

that AUTHORITY may have thereon for unpaid rents or fees. AIRLINE shall not abandon any of its movable personal property on the premises without the prior written consent of the Executive Manager.

Any and all movable personal property not removed by AIRLINE within the thirty (30) day period shall thereupon, at the option of AUTHORITY, become a part of the land on which it is located, and title thereto shall vest in AUTHORITY. All AUTHORITY property damaged by, or as the result of, the removal of AIRLINE's property shall be restored by AIRLINE, at its own expense, to the condition existing prior to such damage.

**Section 4.07. Employee Parking Facilities.**

AIRLINE shall have the right to the use of reasonably adequate vehicular parking facilities for its employees, administrative staff, and management at the Airport in common with other employees. Such facilities shall be located in an area designated by the Executive Manager. AUTHORITY shall provide up to four (4) automobile parking positions for use by senior airline management on a 24-hour per day basis in the terminal area. AUTHORITY reserves the right to assess a reasonable charge for such employee parking facilities, based on the cost of providing, operating, and maintaining the facilities.

**Section 4.08. Access.**

4.08.01 Subject to the provisions hereof, the Rules and Regulations, and such restrictions as AIRLINE may impose with respect to its Exclusive Use Space, AUTHORITY hereby grants to AIRLINE for itself and its agents, suppliers, employees, contractors, subcontractors, passengers, guests, and invitees, the unrestricted and unencumbered right and privilege of access, ingress to, and egress from (1) the leased premises, (2) those areas and facilities designated herein for use by AIRLINE, and (3) Public Areas and public facilities of the Airport. This right shall extend to aircraft, vehicles, machinery, and equipment used by or for the benefit of AIRLINE in its Air Transportation business; provided, however, that AUTHORITY may impose a charge upon AIRLINE's suppliers or furnishers of services in an amount sufficient to recover the costs incurred in the reasonable regulation by AUTHORITY of such suppliers or furnishers of services in the exercise by them of the foregoing right of ingress and egress.

4.08.02 The ingress and egress provided for in Section 4.08(A) shall not be used, enjoyed, or extended to any person engaging in any activity or performing any act or furnishing any service for or on behalf of AIRLINE that AIRLINE is not authorized to engage in or perform under the provisions hereof unless expressly authorized by the Executive Manager.

4.08.03 AUTHORITY shall have the right at any time or times to close, relocate, reconstruct, change, alter, or modify any such means of access provided for AIRLINE's use pursuant to this Agreement or otherwise, either temporarily or permanently, provided that reasonable notice to AIRLINE and a reasonably convenient and adequate alternative means of access, ingress, and egress shall exist or be provided in lieu thereof. AUTHORITY shall suffer no liability by reason thereof, and such action shall in no way alter or affect any of AIRLINE's obligation under this Agreement.

**Section 4.09. Transportation Security Administration Space.**

AUTHORITY will endeavor to negotiate the payment of rent by the Transportation Security Administration (TSA) for space it occupies on an exclusive use basis. Any space leased or occupied by the TSA will not be included in the Exclusive Use Space.

**ARTICLE 5. CAPITAL IMPROVEMENTS**

**Section 5.01. Capital Improvements.**

5.01.01 On or before July 1 of each Fiscal Year, the Executive Manager shall report to the Signatory Airlines the purchase price, design and construction cost, or lease cost of Capital Improvements to be programmed and included in the Annual Budget for the ensuing Fiscal Year and the debt service and/or amortization, or lease payment schedule to be added to the rents and fees, pursuant to Article 7, for those Capital Improvements.

The report shall include, for Capital Improvements, the following:

- A. A description of the proposed Capital Improvement, together with cost estimates and any available preliminary drawings.
- B. A statement of the need for such Capital Improvement.
- C. A statement of the benefits to be derived from such Capital Improvement.
- D. The preferred means of financing (including the terms of any loans and projected interest rate).
- E. The allocation of the cost thereof within the Airport Cost Centers and the estimated effect on airline rents and fees.

5.01.02 Within a reasonable time, but no sooner than fourteen (14) days after distribution of the report, the Executive Manager shall convene a meeting of the Signatory Airlines to discuss the proposed Capital Improvements and the preferred means of financing their costs. Each Capital Improvement that sixty percent (60%) of the Signatory Airlines in number who pay more than sixty percent (60%) of the rents and fees (during the prior twelve (12) month period) do not disapprove of in writing within thirty (30) days following the meeting (or the date any supporting documentation for the proposed Capital Improvements is provided by AUTHORITY) are deemed to be concurred with and may be implemented at any time following the meeting.

5.01.03 For each Capital Improvement which sixty percent (60%) of the Signatory Airlines in number who pay more than sixty percent (60%) of the rents and fees disapprove, the Executive Manager shall convene a second meeting of the Signatory Airlines no sooner than thirty (30) days following the first meeting at which the Executive Manager will respond to questions raised during the first meeting, and provide the Signatory Airlines with the requested

information concerning the Capital Improvement(s). If, within thirty (30) days after the second meeting, sixty percent (60%) of the Signatory Airlines in number who pay more than sixty percent (60%) of the rents and fees notify AUTHORITY that they disapprove of said Capital Improvement(s), the Capital Improvement(s) shall be deferred until the next ensuing Fiscal Year. In such ensuing Fiscal Year, if AUTHORITY decides to proceed to implement such Capital Improvement(s) AUTHORITY may do so without further meeting or approval, and will disclose the Capital Improvement(s) (subject to the provisions of Sections 5.01 (E) and (F)) in the Annual Budget and include the amortization, debt service (including coverage), or loan payments for such Capital Improvement(s) in the rents and fees of the Signatory Airlines.

5.01.04 If any proposed Capital Improvement is disapproved, AUTHORITY may include the amortization, debt service (including coverage), or loan payments for such Capital Improvement in the calculation of Signatory Airline rents and fees if AUTHORITY determines that such Capital Improvement is necessary or prudent to ensure compliance with a rule, regulation, or order of any governmental agency that has jurisdiction over the operation of the Airport.

5.01.05 AUTHORITY may also implement any proposed Capital Improvement if the amortization, debt service (including coverage), or loan payments for such Capital Improvement are not to be included in Signatory Airline rents and fees.

5.01.06 Other than as recited in Section 5.01(E), AUTHORITY may not acquire, purchase or construct any Capital Improvement having a cost in excess of ten million dollars (\$10,000,000) if concurrence of such improvement is specifically withheld by sixty percent (60%) of Signatory Airlines in number who pay more than sixty percent (60%) of the Signatory Airline rents and fees.

## **ARTICLE 6. RENTS AND FEES**

### **Section 6.01. Consideration.**

The consideration that AIRLINE agrees to provide AUTHORITY for leasing Exclusive Use Space and Joint Airline Use Space, and using the Airfield Area, Apron Area, Terminal Area, and other Buildings and Areas and exercising the other rights and privileges under this Agreement is (1) providing regularly scheduled Air Transportation to and from the Airport, and (2) paying the rents and fees described in this Agreement. Failure to provide regularly scheduled Air Transportation to and from the Airport for a period of sixty (60) days (except as a result of governmental action, during periods of labor disputes, or as a result of damage or destruction of facilities in accordance with Section 10.01) will permit AUTHORITY to terminate this Agreement on thirty (30) days advance written notice. If AIRLINE resumes regularly scheduled Air Transportation to and from the Airport within this period, the Agreement shall continue in full force and effect. Unless this Agreement is terminated in whole or in part by AUTHORITY, AIRLINE shall pay to AUTHORITY rents and fees hereunder for the term of this Agreement. In the event AUTHORITY terminates this Agreement pursuant to this Section 6.01, AIRLINE shall have no further liability to AUTHORITY hereunder except for liabilities incurred prior to the termination date.



**Section 6.02. Terminal Building Rents.**

6.02.01 During the term of this Agreement, AUTHORITY shall charge AIRLINE Terminal Building rents as set forth herein. Terminal Building rents shall be paid on the first day of each month in advance without notice, demand or invoicing.

The Terminal Building rental rates shall be recalculated annually in accordance with Section 7.04.

Annually, following calculation of any adjustments to the rents and fees, the Executive Manager shall provide AIRLINE with a statement as to the monthly rental payments required for the ensuing year.

A. Exclusive Use Space--AIRLINE shall pay to AUTHORITY, for Exclusive Use Space as set forth in Exhibit C, the annually calculated exclusive space rent.

B. Joint Airline Use Space--AIRLINE shall pay to AUTHORITY, for all Joint Airline Use Space, excluding the Departure Facilities, Arrivals Facilities, and Immigration Inspection Facilities, prorated on the basis of the Joint Airline Use Formula, as set forth in Exhibit C, the annually calculated joint use space rent.

**Section 6.03. Departure Fees.**

6.03.01 Departure Fee. During the term of this Agreement, the Departure Fee shall be paid monthly, on the fifteenth (15<sup>th</sup>) day of each month for the preceding month (based upon Departing Passengers for that preceding month), without notice, demand, or invoice. The Departure Fee shall be recalculated annually in accordance with Section 7.05, and shall cover the use of the Joint Airline Use Space Departure Facilities by AIRLINE. Annually, following calculation of any adjustments to the rents and fees, the Executive Manager shall provide AIRLINE with a statement as to the Departure Fee for the ensuing Fiscal Year.

6.03.02 Common Use Departure Fee. Signatory Airlines using the Common-Use Ticket Counter Space designated in Exhibit C shall pay a Common Use Departure Fee. During the term of this Agreement, the Common Use Departure Fee shall be paid monthly, on the fifteenth (15th) day of each month for the preceding month (based upon Enplaned Passengers for that preceding month), without notice, demand, or invoice. The Common Use Departure Fee shall be recalculated annually in accordance with Section 7.13, and shall cover the use of the Common-Use Ticket Counter Space by AIRLINE. Annually, following calculation of any adjustments to the rents and fees, the Executive Manager shall provide AIRLINE with a statement as to the Common Use Departure Fee for the ensuing Fiscal Year.

**Section 6.04. Arrival Fees.**

6.04.01 during the term of this Agreement, each Arrival Fee payment is due by the fifteenth (15th) day of each month for the preceding month without notice, demand, or invoice. The Arrival Fee shall be recalculated annually in accordance with Section 7.06, and shall cover

the use of the Arrivals Facilities by AIRLINE. Annually, following calculation of any adjustments to the rents and fees, the Executive Manager shall provide AIRLINE with a statement as to the Arrival Fee for the ensuing Fiscal Year.

**Section 6.05. Immigration Inspection Fee.**

6.05.01 During the term of this Agreement, the Immigration Inspection Fee payment is due by the fifteenth (15th) day of each month for the preceding month (based upon international Deplaned Passengers for the preceding month) without notice, demand, or invoice. The Immigration Inspection Fee shall be recalculated annually in accordance with Section 7.07, and shall cover the use of the Immigration Inspection Facilities by AIRLINE. Annually, following calculation of any adjustments to the rents and fees, the Executive Manager shall provide AIRLINE with a statement as to the Immigration Inspection Fee for the ensuing Fiscal Year.

**Section 6.06. Loading Bridge Use Fees.**

6.06.01 During the term of this Agreement, the Loading Bridge Use Fee payment is due by the fifteenth (15th) day of each month for the preceding month without notice, demand or invoice. The Loading Bridge Use Fee shall be recalculated annually in accordance with Section 7.08 and shall cover the use by AIRLINE of the passenger Loading Bridge Positions provided by AUTHORITY. Annually, following calculation of any adjustments to the rents and fees, the Executive Manager shall provide AIRLINE with a statement as to the Loading Bridge Use Fee for the ensuing Fiscal Year.

**Section 6.07. Apron Use Fees.**

6.07.01 During the term of this Agreement, the Apron Use Fee payment is due by the fifteenth (15th) day of each month for the preceding month without notice, demand or invoice. The Apron Use Fee shall be recalculated annually in accordance with Section 7.09 and shall cover the use by AIRLINE of the Apron Area, including gate positions, aircraft parking positions, and associated apron. Annually, following calculation of any adjustments to the rents and fees, the Executive Manager shall provide AIRLINE with a statement as to the Apron Use Fee for the ensuing Fiscal Year.

**Section 6.08. Landing Fees.**

6.08.01 Following the effective date of this Agreement, rents and fees for the use of the other facilities, rights, licenses, and privileges granted to AIRLINE under Article 3, except as provided elsewhere herein, shall be combined in and represented by a monthly landing fee (hereinafter referred to as the "Landing Fee"), subject to adjustment pursuant to Section 7. 10. During the term of this Agreement, AUTHORITY shall charge AIRLINE a Landing Fee not less than zero cents (\$0.00) per one-thousand (1,000) pounds of Maximum Certificated Gross Takeoff Weight. The Landing Fee shall be calculated and determined as follows: A Landing Fee rate per one-thousand (1,000) pounds of Maximum Certificated Gross Takeoff Weight shall be multiplied by the Maximum Certificated Gross Takeoff Weight of all AIRLINE's Aircraft Arrivals for the month. Each Landing Fee payment is due by the fifteenth (15th) day of each

month for the preceding month. Annually, following calculation of any adjustments to the Landing Fee, the Executive Manager shall provide AIRLINE with a statement as to the Landing Fee for the ensuing Fiscal Year.

**Section 6.09. Payments to AUTHORITY.**

6.09.01 AIRLINE agrees to pay AUTHORITY all rents, fees, or other charges without notice or demand, and without deduction or setoff, for the use of the leased premises, facilities, rights, licenses, and privileges granted hereunder.

6.09.02 AIRLINE shall furnish to the Executive Manager on or before the first (1st) day of each month a check delivered or mailed in payment of Terminal Building rents, for AIRLINE's operations at the Airport during the ensuing month, and a report described in Section 6.09 (C) below.

6.09.03 Said report, in the form of Exhibit E, shall include, but shall not be limited to: (1) AIRLINE's total number of Aircraft Arrivals, by type of aircraft and Maximum Certificated Gross Takeoff Weight of each type of aircraft; (2) the total number of Enplaned Passengers and Deplaned (Arriving and in-transit) Passengers; (3) the total number of Loading Bridge Uses; (4) the total weight of cargo and mail for such month; (5) the total number of Departing Passengers using the Common Use Ticket Counters; and (6) for the prior month, the number, dates and times of all aircraft parked at the gate and remaining overnight. Airline shall furnish to the Executive Manager on or before the 15<sup>th</sup> day a check in payment of Departure Fees, Arrival Fees, Immigration Inspection Fees, Loading Bridge Use Fees, Apron Use Fees, and Landing Fees for AIRLINE's operations at the Airport during the preceding month. The Executive Manager may but shall not be required to transmit to AIRLINE a memo invoice for the Departure Fee, Arrival Fee, Loading Bridge Use Fee, Apron Use Fee, and Landing Fee.

6.09.04 If AIRLINE fails to furnish the Executive Manager with the activity report and payments of fees required by Section 6.09.02 and Section 6.09.03, AIRLINE's fees shall be determined as follows: (1) AIRLINE's Departure Fee, Common Use Departure Fee, and Arrival Fee shall be determined by assuming that the Enplaned Passengers and Arriving Passengers for AIRLINE during the preceding month were one hundred ten percent (110%) of AIRLINE's Enplaned Passengers and Arriving Passengers during the most recent month for which such figure is available for AIRLINE; (2) AIRLINE's Immigration Inspection Fees shall be determined by assuming that the international Deplaned Passengers for AIRLINE during the preceding month were one hundred ten percent (110%) of AIRLINE's international Deplaned Passengers during the most recent month for which such figure is available for AIRLINE; (3) AIRLINE's Loading Bridge Use Fee shall be determined by assuming that the Loading Bridge Uses for AIRLINE during the preceding month were one hundred ten percent (110%) of AIRLINE's Loading Bridge Uses during the most recent month for which such figure is available for AIRLINE; (4) AIRLINE's Apron Use Fee shall be determined by assuming that the Aircraft Arrivals for AIRLINE during the preceding month were one hundred ten percent (110%) of AIRLINE's Aircraft Arrivals during the most recent month for which such figure is available for AIRLINE; (5) AIRLINE's Landing Fees shall be determined by assuming that the takeoff weight for AIRLINE during the preceding month was one hundred ten percent (110%) of

AIRLINE's takeoff weight during the most recent month for which such figure is available for AIRLINE.

AUTHORITY will then invoice AIRLINE for its fees from the date the fees were due. This invoice is due and payable within fifteen (15) days after the date it is mailed. Any necessary adjustment in such fees shall be calculated after delivery of an accurate report to the Executive Manager by AIRLINE for the month in question, and resulting surpluses or deficits shall be applied to AIRLINE's fees for the next succeeding month.

6.09.05 Any and all payments due shall be paid by AIRLINE, by check payable to the Guam International Airport Authority, which shall be delivered or mailed, postage prepaid, to Guam International Airport Authority, Tamuning, Guam, 96931, or such other place as may hereafter be designated by AUTHORITY.

The acceptance by AUTHORITY of any payment made by AIRLINE shall not preclude AUTHORITY from verifying the accuracy of AIRLINE's report, submitted to AUTHORITY as provided in Section 6.09(C), or from recovering any additional payment actually due from AIRLINE.

AIRLINE shall not have any right of set-off or to withhold payments due to any breach by AUTHORITY or for any claim against AUTHORITY.

#### **Section 6.10. Additional Rent.**

AUTHORITY, after due notice to AIRLINE, may, but is not obligated to, cure any default on AIRLINE'S part in fulfilling AIRLINE's covenants and obligations under this Agreement. Any amounts paid or costs incurred by AUTHORITY to cure any such default by AIRLINE are hereby agreed on and declared to be additional rent. Unless otherwise provided herein, all additional rent shall be due and payable with the next succeeding installment of monthly rent due under this Agreement.

#### **Section 6.11. Additional Passenger Fees and Charges.**

6.11.01 Legislation and regulations have been enacted that permit AUTHORITY to levy PFCs on AIRLINE's passengers using the Airport (Federal Aviation Regulations 14 CFR Part 158). This Agreement is subject and subordinate to such legislation and regulation, and AUTHORITY reserves the right to enact such fee. AUTHORITY currently levies a PFC (as approved by the FAA), and AIRLINE agrees to cooperate with the collection of such PFC amounts in accordance with FAA regulations. AUTHORITY reserves the right to implement such other similar fees or charges as may be authorized by cognizant governmental authorities having jurisdiction over AUTHORITY in its capacity as operator of the Airport.

6.11.02 Airline shall hold the net principal amount of all PFCs that are collected by Airline or its agents on behalf of AUTHORITY pursuant to 49 U.S.C. § 40117 and the rules and regulations thereunder (14 C.F.R. Part 158, herein, the "PFC Regulations") (such net principal amount, "PFC Revenue") in trust for AUTHORITY. For purposes of this section, net principal amount shall mean the total principal amount of all PFCs that are collected by Airline

or its agents on behalf of AUTHORITY, reduced by all amounts that Airline is permitted to retain pursuant to Section 158.53(a) of the PFC Regulations.

**Section 6.12. Fees for Other Commercial Activities.**

Notwithstanding any other provision of this Agreement, AUTHORITY expressly reserves the right to establish charges and fees for other commercial activities except AIRLINE's Air Transportation activities at the Airport. Such commercial activities may include, but not be limited to, merchandising (both duty free and duty paid), food, beverage, insurance, rental car, currency exchange, parking, category sales, and other concession operations that are available to the public. In addition, the following specific provisions may apply to AIRLINE:

6.12.01 Should AIRLINE purchase in-flight meals for consumption aboard its aircraft or other prepared foodstuffs for consumption within AIRLINE's Exclusive Use Space from any supplier other than a food concessionaire on the Airport, AUTHORITY may impose a percentage fee upon such supplier no greater than the percentage fee paid for similar sales by any inflight food concessionaire authorized at the Airport. It is understood that AUTHORITY will not impose a percentage fee on in-flight meals prepared in flight kitchens operated by AIRLINE (including a subsidiary of AIRLINE) for consumption in flight by AIRLINE's passengers.

6.12.02 Should AIRLINE contract with a third party (other than another Signatory Airline) to provide maintenance and service upon its aircraft or to furnish ground services that might otherwise be performed by AIRLINE under this Agreement, such third party (other than another Signatory Airline) shall be deemed to be conducting a business at the Airport and must, at all times while so engaged, meet the requirements of and have an agreement with AUTHORITY. AUTHORITY may impose charges, rents, and fees upon such third party for facilities use and for services provided for all Airport tenants.

6.12.03 Any ground transportation commercial carrier regularly transporting persons or their baggage to and from the Airport, any contractor or supplier who is requested by AIRLINE to supply goods and services on the Airport, and all parties who are requested by AIRLINE to go beyond the roads furnished for the public at the Airport shall first secure and thereafter hold a valid license or other agreement with AUTHORITY for the right to perform such acts and shall pay AUTHORITY fees in amounts no less than the cost of issuing and administering such licenses and agreements, plus ten percent (10%) of such cost. In addition, any ground transportation commercial carrier regularly transporting persons except as provided in Section 3.02. (C) hereof or their baggage to and/or from the Airport shall first agree in writing to pay AUTHORITY such rents, fees, or percentage of the fares or charges for such ground transportation as AUTHORITY and such carrier may establish in a written agreement. All such ground transportation shall be conducted and be subject to the Rules and Regulations.

**Section 6.13. Aircraft Storage Fee.**

AIRLINE shall pay AUTHORITY for the storage of AIRLINE's aircraft on designated storage aprons (not at AIRLINE's parking positions) at reasonable rates fixed by AUTHORITY from time to time in the Rules and Regulations and Airport Tariff Schedule, where aircraft storage shall be defined to occur at any time after AIRLINE's aircraft has been parked at the

Airport for longer than forty-eight (48) continuous hours.

**Section 6.14. No Other Fees and Charges.**

Except as expressly provided for herein, no further rents, fees, or charges shall be levied against or collected from AIRLINE, its passengers, shippers, and receivers of freight and express nor its suppliers of material, contractors, or furnishers of services by AUTHORITY for the premises, facilities, rights, licenses, and privileges granted to AIRLINE under this Agreement. However, AUTHORITY expressly reserves the right to assess and collect reasonable fees from parties other than AIRLINE for inflight catering, vending, ground transportation, and other services provided to AIRLINE. Also, AUTHORITY expressly reserves the right to assess and collect a PFC in accordance with Section 6.12.

Anything in this Agreement to the contrary notwithstanding, this section shall not be interpreted or understood as contracting away AUTHORITY's governmental authority.

**Section 6.15. Interest on Overdue Payments.**

Any payment (including the remittance of PFC proceeds) not received from AIRLINE within five (5) business days after written notice of delinquency shall accrue interest at the rate of one percent (1%) each month from the due date until paid in full. AIRLINE shall have the right to make payment under protest and if protest is made, then AIRLINE shall have all rights and remedies available at law or equity, or under the terms of this Agreement.

**Section 6.16. Endorsement of Checks.**

AIRLINE agrees not to endorse or issue checks with statements similar to the following: "Processing this check constitutes full settlement of amounts owed to the AUTHORITY." If AIRLINE does endorse or issue checks in this manner, AUTHORITY and AIRLINE hereby agree that AUTHORITY may process checks for payment without loss of rights to collect full payment of all money owed AUTHORITY by AIRLINE, unless otherwise agreed to by the parties.

**Section 6.17. Timely Issuance of Reports.**

AIRLINE shall issue required activity reports, including the Daily Flight Activity Report and the Monthly Revenue Report to AUTHORITY in a timely manner.

**Section 6.18. Excess Time on Loading Bridge Position.**

AIRLINE shall pay AUTHORITY the fee set forth in Section 4.03.07(F) for any aircraft remaining on Loading Bridge Positions in excess of the maximum times listed in Section 4.03.07 A through E. Such fee shall be paid on within fifteen (15) days of receipt of an invoice for such fees.

## **ARTICLE 7. ADJUSTMENT OF AIRLINE RENTS AND FEES**

### **Section 7.01. Effective Date of Adjustments.**

The Terminal Building rental rates, Departure Fee, Arrival Fee, Immigration Inspection Fee, Loading Bridge Use Fee, Apron Use Fee, and the Landing Fee rate shall be adjusted annually during the term of this Agreement as hereinafter set forth. Such adjustments shall be effective on the first day of the Fiscal Year for which they apply.

### **Section 7.02. AUTHORITY Records.**

7.02.01 AUTHORITY has an Airport accounting system and shall maintain accounting records that document the following items for each Airport Cost Center:

- A. Annual revenues.
- B. Annual Operation and Maintenance Expenses, including administrative expenses.
- C. Documented expenses of AUTHORITY incurred for the improvement, renovation, expansion, or enhancement of facilities in each Airport Cost Center.

7.02.02 AUTHORITY shall further maintain records evidencing the allocation of capital funds to each Airport Cost Center obtained from the proceeds of Bonds or other capital fund sources. Included in the allocation to each Airport Cost Center shall be its proportionate share of the expenses of any Bond issuance, capitalized interest, and funding of reserve funds, determined with reference to the allocation of costs funded through securities or other capital fund sources. All federal moneys received by AUTHORITY with respect to any project or improvement of the Airport shall be deposited in the appropriate fund or funds.

### **Section 7.03. Annual Budget.**

Each year AUTHORITY shall adopt an Annual Budget for the Airport and establish Terminal Building rental rates, a Departure Fee, an Arrival Fee, an Immigration Inspection Fee, a Loading Bridge Use Fee, an Apron Use Fee and a Landing Fee rate. It is the intent of this Section 7.03 to provide a meaningful consultation process in which (1) AUTHORITY can review its Annual Budget with AIRLINE, and (2) AIRLINE will have an opportunity to comment on the Annual Budget prior to the Annual Budget being adopted by the AUTHORITY. AUTHORITY will give due consideration to AIRLINE input and comments on the Annual Budget received during the consultation process. The following is the Annual Budget review process:

7.03.01 On or before May 1 of each Fiscal Year, AIRLINE shall submit to the Executive Manager a written estimate of the Maximum Certificated Total Gross Takeoff Weight for AIRLINE for the succeeding Fiscal Year.

7.03.02 On or before July 1 of each Fiscal Year, AUTHORITY shall submit to

AIRLINE its proposed Annual Budget for the succeeding Fiscal Year, including:

- A. Estimated Operation and Maintenance Expenses.
- B. Annual Debt Service, if any, and any fund deposits required pursuant to the Bond Indenture.
- C. Amortization of AUTHORITY funded assets.
- D. A statement of estimated revenue from all sources other than Signatory Airline Terminal Building rents, Departure Fees, Common Use Departure Fee, Arrival Fees, immigration inspection Fees, Loading Bridge Use Fees, Apron Use Fees, and Landing Fees for the succeeding Fiscal Year.
- E. A schedule of the Capital Improvements to the Airport proposed to be undertaken by AUTHORITY during the succeeding Fiscal Year.
- F. A preliminary calculation of the Terminal Building rental rates, Departure Fee, Common Use Departure Fee, Arrival Fee, Immigration Inspection Fee, Loading Bridge Use Fee, Apron Use Fee, and the Landing Fee rate for the succeeding Fiscal Year, calculated in accordance with Sections 7.04 through 7.10.
- G. Within thirty (30) days after distribution of the report required under Section 7.03(B), the Executive Manager shall convene a meeting of the Signatory Airlines to discuss the Annual Budget.

If the Signatory Airlines request additional information concerning the Annual Budget, the Executive Manager shall convene a second meeting of the Signatory Airlines to discuss such additional information. Upon notice by the Executive Manager, the second meeting shall be held within thirty (30) days after the first meeting. At the second meeting, the Executive Manager shall respond to questions raised during the first meeting and provide the Signatory Airlines with the requested information concerning the Annual Budget. If, after the second meeting, the Signatory Airlines do not concur with said Annual Budget and so notify the Executive Manager within ten (10) days after the second meeting, the Executive Manager will at the request of the Signatory Airlines schedule a meeting between the Signatory Airlines and AUTHORITY.

If, for any reason, the Annual Budget has not been adopted as of the first day of any Fiscal Year, the rents and fees in effect during the preceding Fiscal Year shall continue in effect until the new Annual Budget has been adopted by AUTHORITY and AUTHORITY has calculated the rents and fees in accordance therewith. The new rents and fees shall then be made effective retroactive to the first day of such Fiscal Year, or upon agreement of Signatory Airlines and AUTHORITY the total amount of the uncollected rents and fees accrued since the beginning of the Fiscal Year may be combined with the rents and fees to be collected over the remainder of the Fiscal Year and the new rental rates and other charges adjusted accordingly.

The Executive Manager shall promptly furnish AIRLINE with a copy of a report



containing such adopted Annual Budget together with the calculation of Terminal Building rental rates, the Departure Fee, Common Use Departure Fee, the Arrival Fee, the Immigration Inspection Fee, the Loading Bridge Use Fee, the Apron Use Fee, and the Landing Fee rate that shall be effective from and after the beginning of the Fiscal Year for which the Annual Budget is adopted.

H. AUTHORITY retains the responsibility and expressly reserves the right to make all final decisions with respect to the Annual Budget, and any subsequent amendment thereof. Such decisions shall be consistent with and pursuant to the terms and conditions of this Agreement including Article 5 hereof.

**Section 7.04. Calculation of Terminal Building Rental Rates.**

Terminal Building rental rates shall be adjusted annually in the following manner. Whenever the adjustment calculation involves an estimate or allocation, the estimate or allocation of the Executive Manager shall be used. Such estimate or allocation shall be made in accordance with and pursuant to, and be consistent with, the terms of this Agreement.

7.04.01 Each year the Executive Manager shall calculate the Terminal Building Requirement for the succeeding Fiscal Year by totaling the following amounts, as set forth in AUTHORITY's Annual Budget:

A. The total of direct and allocated indirect estimated operation and Maintenance Expenses allocated to the Terminal Building.

B. An amount 1.25 times the pro rata portion of Airport Annual Debt Service, if any, allocated to the Terminal Building, or such other amount as may be required by the Bond Indenture.

C. The pro rata portion of the annual requirement of any subordinate security or other loans allocated to the Terminal Building.

D. The pro rata portion of the estimated amount, if any, for other deposits required by the Bond Indenture or this Agreement and allocated to the Terminal Building.

E. The total amount or the pro rata portion of the annual amortization allocated to the Terminal Building of any Capital Improvements placed in service by AUTHORITY prior to or after the date of this Agreement and prior to the beginning of the Fiscal Year for which the rates and fees are being determined, which have been financed by AUTHORITY from its own resources. Such annual amortization is to be calculated and based on the economic life for each capital item determined by AUTHORITY in accordance with generally accepted accounting principles at an interest rate equal to the average interest rate on outstanding AUTHORITY Bonds for the preceding calendar year or at such other rate as to which the Signatory Airlines and AUTHORITY may agree. In performing the calculations under this Section 7.04(A), no amortization charges shall be included on capital expenditures that have been financed with grants-in-aid or the proceeds of AUTHORITY Bonds or other securities, the debt service for which has been included elsewhere in this Section 7.04(A).

F. The estimated amount of any assessment, judgment, or charge (net of insurance proceeds) to become payable by AUTHORITY relating directly to the Airport or its operation and allocated to the Terminal Building.

G. Any estimated deficit or credit for the operation of the Terminal Building during the then-current Fiscal Year or any adjustment carried over from preceding Fiscal Years to reflect any difference between actual versus estimated expenses.

H. A credit equal to the allocated portion of the balance in the Other Available Moneys Coverage Subaccount.

I. The Terminal Building rental rate shall then be calculated by dividing the Net Terminal Building Requirement computed pursuant to Section 7.04(A) by the Usable Space.

This Terminal Building rental rate (as calculated above) shall be multiplied by the total square footage of Exclusive Use and Joint Airline Use Space (excluding Departure Facilities, Arrival Facilities and Immigration Inspection Facilities, the cost of which shall be recovered through the Departure Fee, Arrival Fee and Immigration Inspection Fee) leased by all airlines to determine the annual portion of the Terminal Building Requirement to be recovered through airline Terminal Building space rentals.

#### **Section 7.05. Calculation of Departure Fee.**

Departure Fees shall be adjusted annually in the following manner. Whenever the adjustment calculation involves an estimate or allocation, the estimate or allocation of the Executive Manager shall be used. Such estimate or allocation shall be made in accordance with and pursuant to, and be consistent with, the terms of this Agreement, the Departure Facilities (as set forth in Exhibit C) by the average annual Terminal Building rental rate calculated in Section 7.04 above.

7.05.01 Each year the Executive Manager shall calculate the Departure Fee requirement for the succeeding Fiscal Year by multiplying the total square footage of the Departures Facilities (as set forth in Exhibit C) by the average annual Terminal Building rental rate calculated in Section 7.04 above.

7.05.02 The Departure Fee is calculated by dividing the Departure Fee requirement by the estimated number of Signatory Airline Enplaned Passengers at the Airport for the succeeding Fiscal Year as projected by the Executive Manager. The Executive Manager will give consideration to estimates of numbers of passengers provided by the Signatory Airlines. The Departure Fee is payable monthly in accordance with Sections 6.03 and 6.09 hereof.

#### **Section 7.06. Calculation of Arrival Fee.**

Arrival Fees shall be adjusted annually in the following manner. Whenever the adjustment calculation involves an estimate or allocation, the estimate or allocation of the Executive Manager shall be used. Such estimate or allocation shall be made in accordance with

and pursuant to, and be consistent with, the terms of this Agreement.

7.06.01 Each year the Executive Manager shall calculate the Arrival Fee requirement for the succeeding Fiscal Year by multiplying the total square footage of the Arrivals Facilities (as set forth in Exhibit C) by the average annual Terminal Building rental rate calculated in Section 7.04 above.

7.06.02 The Arrival Fee is calculated by dividing the Arrival Fee requirement by the estimated number of Signatory Airline Arriving Passengers at the Airport for the succeeding Fiscal Year as projected by the Executive Manager. The Executive Manager will give consideration to estimates of numbers of passengers provided by the Signatory Airlines. The Arrival Fee is payable monthly in accordance with Sections 6.04 and 6.09 hereof.

**Section 7.07. Calculation of Immigration Inspection Fee.**

The Immigration Inspection Fee shall be adjusted annually in the following manner. Whenever the adjustment calculation involves an estimate or allocation, the estimate or allocation of the Executive Manager shall be used. Such estimate or allocation shall be made in accordance with and pursuant to, and be consistent with, the terms of this Agreement.

7.07.01 Each year, the Executive Manager shall calculate the Immigration Inspection Fee requirement for the succeeding Fiscal Year by multiplying the total square footage of the Immigration Inspection Facilities (as set forth in Exhibit C) by the average annual Terminal Building rental rate calculated in Section 7.04 above.

7.07.02 The Immigration Inspection Fee is calculated by dividing the Immigration Inspection Fee requirement by the estimated number of Signatory Airline international Deplaned Passengers at the Airport for the succeeding Fiscal Year as projected by the Executive Manager. The Executive Manager will give consideration to estimates of numbers of passengers provided by the Signatory Airlines. The Immigration Inspection Fee Requirement is payable monthly in accordance with Sections 6.05 and 6.09 hereof.

**Section 7.08. Calculation of Loading Bridge Use Fee.**

Loading Bridge Use Fees shall be adjusted annually in the following manner. Whenever the adjustment calculation involves an estimate or allocation, the estimate or allocation of the Executive Manager shall be used. Such estimate or allocation shall be made in accordance with and pursuant to, and be consistent with, the terms of this Agreement.

7.08.01 Each year the Executive Manager shall calculate the Loading Bridge Use Fee requirement for the succeeding Fiscal Year by totaling the following amounts, as set forth in AUTHORITY's Annual Budget:

A. The total of direct estimated Operation and Maintenance Expenses allocated to the Loading Bridges.

B. An amount 1.25 times the pro rata portion of Airport Annual Debt Service, if any, allocated to the Loading Bridges, or such other amount as may be required by the Bond Indenture.

C. The pro rata portion of the annual requirement of any subordinate security or other loans allocated to the Loading Bridges.

D. The pro rata portion of the estimated amount, if any, for other deposits required by the Bond Indenture or this Agreement and allocated to the Loading Bridges.

E. The total amount or the pro rata portion of the annual amortization allocated to the Loading Bridges, of any Capital Improvements placed in service by AUTHORITY prior to or after the date of this Agreement and prior to the beginning of the Fiscal Year for which the rates and charges are being determined, which have been financed by AUTHORITY from its own resources. Such annual amortization is to be calculated and based on the economic life for each capital item determined by AUTHORITY in accordance with generally accepted accounting principles at an interest rate equal to the average interest rate on outstanding AUTHORITY Bonds for the preceding calendar year or at such other rate as to which the Signatory Airlines and AUTHORITY may agree. In performing the calculations under this Section 7.08(A), no amortization charges shall be included on capital expenditures that have been financed with grants-in-aid or the proceeds of AUTHORITY Bonds or other securities, the debt service for which has been included elsewhere in this Section 7.08(A).

F. The estimated amount of any assessment, judgment, or charge (net of insurance proceeds) to become payable by AUTHORITY relating directly to the Airport or its operation and allocated to the Loading Bridges.

G. Any estimated deficit or credit for the operation of the Loading Bridges during the then-current Fiscal Year or any adjustment carried over from preceding Fiscal Years to reflect any difference between actual versus estimated expenses.

7.08.02 The Loading Bridge Use Fee is calculated by dividing the Loading Bridge Use Fee requirement by the estimated number of Signatory Airline Loading Bridge Uses for the succeeding Fiscal Year as projected by the Executive Manager. The Loading Bridge Use Fee is payable monthly in accordance with Sections 6.05 and 6.09 hereof.

#### **Section 7.09. Calculation of Apron Use Fee.**

The Apron Use Fee shall be adjusted annually in the following manner. Whenever the adjustment calculation involves an estimate or allocation, the estimate or allocation of the Executive Manager shall be used. Such estimate or allocation shall be consistent with and pursuant to the terms and conditions of this Agreement.

7.09.01 Each year the Executive Manager shall calculate the Apron Area requirement for the succeeding Fiscal Year by totaling the following amounts, as set forth in AUTHORITY's Annual Budget:

A. The total of direct and allocated indirect estimated Operation and Maintenance Expenses allocated to the Apron Area.

B. An amount 1.25 times the pro rata portion of Airport Annual Debt Service, if any, allocated to the Apron Area, or such other amount as may be required by the Bond Indenture.

C. The pro rata portion of the annual requirement of any subordinate security or other loans of AUTHORITY allocated to the Apron Area.

D. The pro rata portion of the estimated amount, if any, for other deposits required by the Bond Indenture or this Agreement and allocated to the Apron Area.

E. The total amount or the pro rata portion of the annual amortization allocated to the Apron Area of any Capital Improvements placed in service by AUTHORITY prior to or after the date of this Agreement and prior to the beginning of the Fiscal Year for which the rates and charges are being determined, which have been financed by AUTHORITY from its own resources. Such annual amortization is to be calculated and based on the economic life for each capital item determined by AUTHORITY in accordance with generally accepted accounting principles at an interest rate equal to the average interest rate on outstanding AUTHORITY Bonds for the preceding calendar year or at such other rate as to which the parties may agree. In performing the calculations under this Section 7.09 (A), no amortization charges shall be included on capital expenditures that have been financed with grants-in-aid or the proceeds of AUTHORITY Bonds or other securities, the debt service for which has been included elsewhere in this Section 7.09(A).

F. The estimated amount of any assessment, judgment, or charge (net of insurance proceeds) to become payable by AUTHORITY relating directly to the Airport or its operation and allocated to the Apron Area.

G. Any estimated deficit or credit for operation of the Apron Area during the then-current Fiscal Year or any adjustment carried over from the preceding Fiscal Years to reflect any difference between actual versus estimated expenses.

7.09.02 The Apron Use Fee is calculated by dividing the Apron Area requirement by the estimate of the Total Takeoff Weight of all Signatory Airline Aircraft Arrivals at the Airport for the succeeding Fiscal Year as projected by the Executive Manager based in part on the estimates provided by the Signatory Airlines. The Apron Use Fee is payable monthly in accordance with Sections 6.07 and 6.09 hereof.

#### **Section 7.10. Calculation of Landing Fee Rate.**

The Landing Fee rate shall be adjusted annually in the following manner. Whenever the adjustment calculation involves an estimate, the estimate of the Executive Manager shall be used.

7.10.01 During the term of this Agreement, the Landing Fee rate shall be not less

than zero cents (\$0.00) per one-thousand (1,000) pounds of Maximum Certificated Gross Takeoff Weight.

**7.10.02** Each year, the Executive Manager shall calculate the Airport Requirement for the succeeding Fiscal Year by totaling the following amounts, as set forth in AUTHORITY's Annual Budget:

A. The total of the direct and indirect estimated Operation and Maintenance Expenses of AUTHORITY.

B. An amount 1.25 times Airport Annual Debt Service, or such other amount as may be required by the Bond Indenture.

C. The estimated amount of the annual requirement of any subordinate security or other loans pertaining to the Airport.

D. The estimated amount, if any, for other deposits required by the Bond Indenture or this Agreement.

E. The annual amortization allocated to the Terminal Building, Apron Area, Airfield Area, and Loading Bridges of the total amount of any Capital Improvements placed in service by AUTHORITY prior to or after the effective date of this Agreement and prior to the beginning of the Fiscal Year for which rates and charges are being determined, which have been financed by AUTHORITY from its own resources. Such annual amortization is to be computed based on the economic life for each capital item determined by AUTHORITY in accordance with generally accepted accounting principles at an interest rate equal to the average interest rate on outstanding AUTHORITY Bonds for the preceding calendar year or at such other rate as to which the Signatory Airlines and AUTHORITY may agree. In performing the calculations under this Section 7.10(B), interest only will be charged for land acquisition, and no amortization charges shall be included on capital expenditures that have been financed with grants-in-aid or the proceeds of AUTHORITY Bonds or other securities, the debt service for which has been included elsewhere in this Section 7A 0(B).

F. The estimated amount of any assessment, judgment, or charge (net of insurance proceeds) to become payable by AUTHORITY relating directly to the Airport or its operation.

G. Any overpayment or underpayment estimated for operation of the Airport during the then-current Fiscal Year or any adjustment carried over from preceding Fiscal Years, to reflect any difference between actual versus estimated revenues or expenses.

**7.10.03** The Landing Fee requirement for the succeeding Fiscal Year shall be calculated by subtracting the following Landing Fee credits from the Landing Fee requirement calculated pursuant to Section 7.10(B).

A. The revenue estimated to be derived by AUTHORITY in the succeeding Fiscal Year from Airport concessions, rents, fees, and charges from other than Signatory

Airlines, service fees (excluding Passenger Facility Charges and FAA grants-in-aid), and use fees.

B. The unrestricted investment income estimated to be earned by AUTHORITY in the succeeding Fiscal Year from all funds and accounts except the Construction Fund and the Capital Improvement Fund.

C. The total of all Terminal Building rents, Departure Fees, Common Use Departure Fees, Arrival Fees, Immigration Inspection Fees, Loading Bridge Use Fees, and Apron Use Fees estimated to be paid by the Signatory Airlines during the succeeding Fiscal Year.

D. A credit equal to the balance in the Other Available Moneys Coverage Subaccount.

7.10.04 The Landing Fee rate for the succeeding Fiscal Year shall be calculated by dividing the Landing Fee requirement computed pursuant to Section 7.10(C) by the composite estimate of the total Maximum Gross Certificated Takeoff Weight of all Signatory Airline Aircraft Arrivals at the Airport for the succeeding Fiscal Year as projected by the Executive Manager based in part on the estimates provided by the Signatory Airlines pursuant to Section 7.03(A).

**Section 7.11. Special Increases in Landing Fee Rate.**

If the total Landing Fee requirement during any Fiscal Year is reasonably expected to vary by more than ten percent (10%) from the projected total Landing Fees requirement for such Fiscal Year, the Landing Fee rate may, if deemed necessary by the Executive Manager after consultation with the Signatory Airlines, which consultation may be by telephone, be revised (increased or decreased) resulting in an adjusted Landing Fee effective April 1 of such Fiscal Year for the balance of such Fiscal Year by an amount equal to the difference between projected and revised total Landing Fee requirement divided by the estimated Total Takeoff Weight of all Signatory Airlines during the balance of such Fiscal Year. Such revision would occur no more than once in any Fiscal Year.

**Section 7.12. Extraordinary Adjustments of Rents and Fees.**

Notwithstanding any other provisions hereof, if, at any time during any Fiscal Year hereof, the revenues of the Airport are not sufficient to pay, when due, all items included in the reports by AUTHORITY prepared pursuant to this Article 7, or to pay any reasonable obligation or expense or cost incidental or necessary to, or arising out of, the operation of the Airport, including, without limitation, emergency repairs or expenses, the reasonably necessary cost of defending, settling, or satisfying any litigation or threatened litigation that relates to the Airport, or any aspect thereof, or to compensate for the loss of revenue by reason of any labor dispute, AUTHORITY may, upon notice to and consultation with the Signatory Airlines, adjust (pursuant to Sections 7.04 through 7.10) Terminal Building rents, Departure Fees, Arrival Fees, Immigration Inspection Fees, Loading Bridge Use Fees, Apron Use Fees, and the Landing Fee rate to such amounts as are sufficient to assure AUTHORITY that all such items, expenses, and costs shall be paid in full, solely from revenues of the Airport, provided AUTHORITY has used

its commercially reasonable best efforts to reduce its operating costs and budget for the then-current Fiscal Year before adjusting such rents and fees.

**Section 7.13. Calculation of Common Use Departure Fee.**

Common Use Departure Fees shall be adjusted annually in the following manner. Whenever the adjustment calculation involves an estimate or allocation, the estimate or allocation of the Executive Manager shall be used. Such estimate or allocation shall be made in accordance with and pursuant to, and be consistent with, the terms of this Agreement.

7.13.01 Each year the Executive Manager shall calculate the Common Use Departure Fee requirement for the succeeding Fiscal Year by multiplying the total square footage of the Common Use Ticket Counter Space (as set forth in Exhibit C) by the average annual Terminal Building rental rate calculated in Section 7.04 above.

7.13.02 The Common Use Departure Fee is calculated by dividing the Common Use Departure Fee requirement by the estimated number of Signatory Airline Departing Passengers at the Airport for the succeeding Fiscal Year as projected by the Executive Manager that utilize the Common Use Ticket Counter Space. The Executive Manager will give consideration to estimates of numbers of passengers provided by the Signatory Airlines. The Common Use Departure Fee is payable monthly in accordance with Sections 6.03 and 6.09 hereof.

**ARTICLE 8. BOND INDENTURE AND FLOW OF FUNDS**

**Section 8.01. Subordination to Bond Indenture.**

8.01.01 This Agreement and all rights of AIRLINE hereunder are expressly subordinated and subject to the lien and provisions of any pledge, transfer, hypothecation, or assignment made at any time by AUTHORITY pursuant to the terms, covenants, and conditions of present and future Bond Indentures, which are incorporated here by reference.

8.01.02 In the event of conflicts between this Agreement and the Bond Indenture, the Bond Indenture shall govern.

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

8.01.04 AUTHORITY shall not enact any Bond Indenture or subsequently amend a Bond Indenture so as to require a change in the method of calculation of rents and fees payable hereunder or so as to materially adversely affect the rights of AIRLINE hereunder.

**Section 8.02. Flow of Funds.**

8.02.01 Subject to the terms and provisions of the Bond Indenture, it is mutually understood and agreed that, as long as any Bonds secured by the Bond Indenture are outstanding,



all Airport Revenue and PFC proceeds shall be deposited, maintained, and paid as set forth in the Bond Indenture.

8.02.02 All revenues derived from the Airport in each Fiscal Year shall be deposited in the Revenue Fund and used and applied in the following priority:

8.02.03 To the Operation and Maintenance Fund, an amount sufficient to increase the balance in the fund to at least the amount in the Annual Budget for Operation and Maintenance Expenses. Amounts shall be paid out of the Operation and Maintenance Fund from time to time by AUTHORITY for the necessary expenses for the operation, maintenance, repairs, and ordinary replacement and reconstruction of the Airport.

8.02.04 To the Bond Fund held by the Trustee, an amount equal to the aggregate annual amount of principal, interest, and Sinking Fund Requirement on any outstanding Bonds payable from annual Airport Revenue. Amounts shall be paid out of the Bond Interest, Principal and Sinking Fund Accounts from time to time as necessary to pay required interest and principal and the Sinking Fund Requirement due on any Bonds outstanding and payable from Airport Revenue.

8.02.05 To the Bond Reserve Fund held by the Trustee, an amount, if any, required to maintain a balance at least equal to the maximum Annual Bond Debt Service on all outstanding Bonds issued by AUTHORITY. Amounts shall be paid out of the Bond Reserve Fund, from time to time as necessary, to pay interest and principal due on any Bonds outstanding and payable from Airport Revenue to the extent that other moneys are not available within the Bond Fund.

8.02.06 To the Subordinate Securities Fund held by the Trustee, an amount, if any, necessary to pay the annual requirements on any Subordinate Securities or other obligations of the Airport payable from Airport Revenue. Amounts shall be paid out of the Subordinate Securities Fund, from time to time as necessary, to pay any Subordinate Securities or other obligations payable from Airport Revenue.

8.02.07 To the Operation and Maintenance Reserve Fund, an amount, if any, required to increase the amount in the Operation and Maintenance Reserve Fund to equal one-fourth (1/4) of the total Operation and Maintenance Expenses budgeted by AUTHORITY, pursuant to the Annual Budget, as revised, filed in accordance with Section 7.03, for the then-current Fiscal Year.

8.02.08 To the Renewal and Replacement Fund, an amount, if any, needed to increase the amount in the Renewal and Replacement Fund to equal the greater of one million dollars (\$1,000,000) or such other amount as may be established by AUTHORITY consistent with the Bond Indenture.

8.02.09 To the Capital Improvement Fund, the balance remaining in the Revenue Fund after the foregoing deposits have been made. Deposits to the Capital Improvement Fund will be held in the following accounts and made in the following priority:

A. PFC Capital Account: An amount equal to the net PFC proceeds in excess of that amount used to fund debt service on Bonds, the proceeds of which were used to finance PFC projects, plus interest on PFC funds.

B. Capital Improvement Account: All remaining balances after all required deposits have been made to each of the foregoing funds and accounts shall be allocated between and deposited to Capital Improvements Subaccount and Other Available Moneys Coverage Subaccount, as follows:

(1) Other Available Moneys Coverage subaccount: The lesser of (a) fifty percent (50%) of the deposit to the Capital Improvement Account or (b) debt service coverage for such Fiscal Year, to be carried forward in the Other Available Moneys Coverage Subaccount and applied in each succeeding Fiscal Year during the term of this Agreement in the priority identified in Section 8.02.02 and as the basis for determining credits to rents and fees as provided in Sections 7.04 and 7.10.

(2) Capital Improvements Subaccount: All remaining amounts in the Capital Improvement Account, to pay the eligible costs of improving, constructing or otherwise acquiring any enlargements, expansions, extensions of, or any other improvements to the Airport, or to provide for the early retirement of Airport revenue bonds or other debt obligations.

If, at the end of any Fiscal Year in which Bonds or other debt obligations payable from Airport Revenue remain outstanding, the balance in the Capital Improvement Subaccount not programmed or encumbered pursuant to Article 5 exceeds the greater of (a) forty million dollars (\$40,000,000) or (b) the sum of annual deposits to the Capital Improvement Subaccount for the three (3) most recent Fiscal Years for which such data are available, then such excess shall be transferred as soon as possible to the Bonds Fund and be used to provide for: (i) the early retirement of such Bonds, (ii) refinancing of outstanding bonds, or (iii) other obligations at such time as AUTHORITY determines market conditions to be favorable for such purpose.

If, within two (2) years of the date of such transfer, AUTHORITY has not used such funds for such purpose, the funds will be transferred to the Other Available Moneys Coverage Subaccount.

## **ARTICLE 9. MAINTENANCE, REPAIR, ALTERATIONS, AND IMPROVEMENTS**

### **Section 9.01. AIRLINE's Responsibilities.**

It is understood and agreed that AIRLINE and AUTHORITY shall have the following maintenance and repair obligations:

9.01.01 AIRLINE agrees that, at the effective date that Exclusive Use Space is included in AIRLINE's Agreement with AUTHORITY, such space is in good and tenantable condition.

9.01.02 AIRLINE, except as hereinafter provided, shall not call on AUTHORITY for any of the following janitorial services or nonstructural repairs to its Exclusive Use Space, and AIRLINE shall, at its sole expense and in a manner reasonably acceptable to AUTHORITY:

A. Maintain its Exclusive Use Space in the conditions prevailing at the effective date that Exclusive Use Space is included in AIRLINE's Agreement with AUTHORITY, subject to reasonable wear and tear.

B. Pay as Additional Rent to AUTHORITY the cost to AUTHORITY of providing in AIRLINE's Exclusive Use Space such water, sewer service, electricity, heating and air conditioning and other utilities which exceed that which is normally provided in first class office space. The cost to AIRLINE shall be determined, at the option of AUTHORITY, by meter or by a flat rate, calculated according to the proportion of the utility service used by AIRLINE and in the same manner as such flat rate is calculated for other utility users on the Airport.

C. Perform, at its sole expense, ordinary preventive maintenance and ordinary upkeep and nonstructural repair of all facilities, personal property, and equipment in its Exclusive Use Space, including all AIRLINE installed electrical work, plumbing, appliances, and fixtures located within its Exclusive Use Space, as well as all of AIRLINE's facilities, property, and equipment in non-exclusive areas. AUTHORITY, at its own expense, shall maintain the exterior portions of the walls and roof of the Exclusive Use Space and all central mechanical distribution systems in good repair and condition.

D. Immediately repair any damage in any other space at the Airport occasioned by the fault or negligence of AIRLINE, its employees, agents, suppliers, or invitees and not covered by insurance carried by AUTHORITY.

9.01.03 When using the Joint Use Apron Area, AIRLINE will use its best efforts to keep the area in a neat, clean, and orderly condition, free from litter, debris, refuse, petroleum products, or grease that may result from activities of its employees, agents, suppliers, or invitees; and remove all oil and grease spillage that is attributable to AIRLINE's aircraft or equipment from its aircraft parking positions.

9.01.04 AIRLINE expressly agrees that AUTHORITY shall not be liable to AIRLINE, its employees, agents, suppliers, or invitees, for bodily injury or for any loss or damage to real or personal property occasioned by flood, fire, earthquake, lightning, windstorm, hail, explosion, riot, strike, civil commotion, smoke, vandalism, malicious mischief, or acts of civil authority and not caused by the negligence or willful acts or omissions of AUTHORITY.

9.01.05 If AIRLINE fails to perform its obligations under this Article 9, AUTHORITY may do so after reasonable notice and recover its entire cost including all fines and penalties plus a fifteen percent (15%) administrative charge from AIRLINE as Additional Rent on the next rent date.

## **Section 9.02. AUTHORITY's Responsibilities.**

9.02.01 AUTHORITY, during the term of this Agreement, shall keep in good repair, or arrange for the operation, maintenance, and good repair of, the Airport, including, but not limited to, the Public Areas and the Joint Airline Use Space of the Terminal Building, AUTHORITY-installed and owned baggage equipment, passenger loading bridges, and common use equipment, vehicular parking areas, runways, airfield lighting, taxiways, aprons, roadways,

and all appurtenances, facilities, and services now or hereafter connected with the foregoing. AUTHORITY, to the extent within its jurisdiction, also shall keep the Airport free from obstruction, including, without limitation, vegetation, stones, and other foreign matter, as reasonably necessary, from the runways, ramp area, taxiways, roadways, vehicular parking areas, and aircraft parking areas for the safe, convenient, and proper use of the Airport by AIRLINE.

9.02.02 AUTHORITY shall keep, or make appropriate arrangements to keep, the Public Areas, holdrooms, and Joint Airline Use Space of the Terminal Building adequately and attractively equipped, furnished, decorated, clean, and presentable. AUTHORITY shall use its best efforts to provide and supply in such areas of the Terminal Building signs, heat, electricity, light, power, air conditioning, wastewater disposal, water, and janitorial services, including rubbish removal. Interruptions or the lack of services shall not constitute a breach of this Agreement by AUTHORITY, but AUTHORITY shall use its best efforts to restore such service after interruption.

9.02.03 AUTHORITY shall only be called upon by AIRLINE to provide, in AIRLINE's Exclusive Use Space, structural maintenance, general plumbing and maintenance of light fixtures. AIRLINE will relamp and provide general plumbing maintenance (for AIRLINE installed plumbing) in AIRLINE Exclusive Use Space.

9.02.04 The undertakings by AUTHORITY under this Section 9.02 do not relieve AIRLINE of its duties to maintain its Exclusive Use Space and to use Joint Airline Use Space with due care.

9.02.05 From time to time, the Authority and the Signatory Airlines may agree to re-assign capital undertakings and/or maintenance responsibilities for Authority-owned airline terminal equipment, including, but not limited to, passenger loading bridges, baggage handling systems, and common use equipment under this Agreement. Such agreement shall in no way provide for exclusive rights for any particular Signatory Airline(s). Such re-assignment may be made at the request of the Authority or any Signatory Airline and must be by mutual written agreement of the Authority and all Signatory Airlines

**Section 9.03. AUTHORITY's Right to Inspect and Make Repairs.**

AUTHORITY, by its authorized officers, employees, agents, contractors and subcontractors, and other representatives, shall have the right (at such times as may be reasonable under the circumstances and with as little interruption of AIRLINE's operations as is reasonably practicable and upon notice to AIRLINE) to enter AIRLINE's Exclusive Use Space and Joint Airline Use Space for the following purposes:

9.03.01 To inspect such space to determine whether AIRLINE has complied and is complying with the terms and conditions of this Agreement.

9.03.02 To accomplish repairs or replacements by AUTHORITY pursuant to Section 9.02, or in any case where AIRLINE is obligated to make repairs or replacements and has failed to do so, after notice, make such repairs or replacements on AIRLINE's behalf.

9.03.03 In the exercise of AUTHORITY's police powers. No such entry by or on behalf of AUTHORITY upon any Exclusive Use Space leased to AIRLINE shall cause or constitute a termination of the letting thereof or be deemed to constitute an interference with the possession thereof by AIRLINE.

**Section 9.04. Alterations and Improvements.**

AIRLINE shall make no alterations, additions, improvements to, or installations on the space leased under this Agreement without the prior written approval of the Executive Manager. The Executive Manager may require plans, specifications, and other such related information for approval.

**ARTICLE 10. DAMAGE OR DESTRUCTION, INSURANCE, INDEMNIFICATION,  
AND RELEASE OF LIABILITY**

**Section 10.01. Damage or Destruction.**

Should the premises used by AIRLINE hereunder or portions thereof or buildings or structures of which portions of such premises may be a part be damaged by fire or other casualty, and if the damage is repairable within a reasonable time from the date of the occurrence, the premises shall be repaired with due diligence by AUTHORITY, and in the meantime the rental allocable to the particular building, rooms or other portion of the premises rendered untenable, for the period from the occurrence of the damage to the Completion of the repairs, shall be abated in the same proportion that the untenable portion thereof bears to the whole thereof, or, if the damage or destruction has rendered the entire building untenable, said rental shall be abated entirely.

Should the premises used by AIRLINE hereunder or portion thereof or buildings or structures of which portions of such premises may be a part be completely destroyed by fire or other casualty, or should they be damaged to such an extent that the damage cannot, in the opinion of AUTHORITY, be repaired within a reasonable time after the occurrence, AUTHORITY or AIRLINE shall have the option to terminate this Agreement to the extent that it shall apply to the particular building, rooms or other portions of the premises so rendered untenable, on sixty (60) days written notice effective as of any date not more than ninety (90) days after the occurrence. In the event that this paragraph shall become applicable, the parties shall advise each other within thirty (30) days after the happening of any such damage whether they have elected to continue this Agreement in effect as to the portions of the premises damaged or destroyed, or to terminate it. If the parties shall elect to continue this Agreement, AUTHORITY shall commence and prosecute with due diligence any work necessary to restore or repair the premises and will exert its best efforts to provide AIRLINE with temporary substitute space while the repairs are being completed. If either party shall fail to notify the other party of its election within said thirty (30) day period, AUTHORITY shall be deemed to have elected to terminate this Agreement as to the portions of the premises damaged or destroyed, and this Agreement shall automatically terminate as to such portions ninety (90) days after the occurrence of the damage. For the period from the occurrence of any damage to the premises to the date of completion of the repairs to the premises (or to the date of termination of the Agreement as to such portions of the premises if AUTHORITY does not restore them), the rental

allocable to the particular building, rooms or other portion of the premises involved shall be abated in the same proportion as the untenable portion thereof bears to the whole thereof, or, if the damage has rendered the entire building untenable, said rental shall be abated entirely, and upon termination of the Agreement as to such damaged or destroyed premises, AIRLINE shall have no further obligation to pay the rental allocable thereto. If temporary substitute space is furnished by AUTHORITY, a reasonable rental may be charged therefor.

**Section 10.02. Insurance.**

10.02.01 AIRLINE shall purchase and maintain in force the following insurance coverage as appropriate:

A. Comprehensive airline liability insurance, including coverage for premises, products, hangarkeepers legal liability and liquor liability, for claims of property damage, bodily injury, or death allegedly resulting from AIRLINE's activities into, on, and leaving any part of the Airport, in an amount not less than four hundred fifty million dollars (\$450,000,000).

B. Automobile liability insurance in an amount adequate to cover vehicles operating on the Airport in an amount not less than four million dollars (\$4,000,000).

10.02.02 AUTHORITY, in operating the Airport, will carry and maintain Airport liability insurance in accordance with the Bond Indenture in such amounts as would normally be maintained by public bodies engaged in carrying on similar activities.

10.02.03 The parties understand and agree that the minimum limits of the insurance herein required may become inadequate during the term of this Agreement, and AIRLINE and AUTHORITY agree that each will increase such minimum limits by reasonable amounts on request of the other party. Increases in coverage will be consistent with minimum limits at other airports similarly situated.

10.02.04 All policies of insurance required herein shall be in a form and with a company or companies reasonably satisfactory to AUTHORITY and shall name AUTHORITY as additionally insured to the extent of the liability assumed by AIRLINE in Section 10.04 herein. Each such policy shall provide that such policy may not be materially changed, altered, or cancelled by the insurer during its term without first giving at least sixty (60) days written notice to AUTHORITY.

10.02.05 Policies or certificates of required coverages shall be delivered to AUTHORITY.

10.02.06 Before the expiration of any then-current policy of insurance, AIRLINE shall deliver to AUTHORITY evidence showing that such insurance coverage has been renewed. Within fifteen (15) days after the date of written notice from the insurer of cancellation or reduction in coverage, AIRLINE shall deliver to AUTHORITY certificate of insurance evidencing that the required coverage has been reinstated or otherwise provided.

10.02.07 The insurance coverage described above is a material condition of this Agreement. If at any time AIRLINE shall fail to obtain or maintain in force the insurance required herein, the Executive Manager may suspend AIRLINE's right to operate at the Airport.

10.02.08 If any claim for damages is filed with AIRLINE or if any lawsuit is instituted against AIRLINE, AIRLINE shall give prompt and timely notice thereof to AUTHORITY, provided that claims and lawsuits subject to such notice are only those that arise out of, or are in any way connected with AIRLINE's use of the leased premises or AIRLINE's operations or activities in regard to the Airport and that in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect AUTHORITY. Notice shall be deemed prompt and timely if given within thirty (30) days following the date of receipt of a claim or thirty (30) days following the date of service of process of a lawsuit. Accident or property damage claims in an amount less than ten thousand dollars (\$10,000) shall be excluded from the requirements of this Section 10.02(H).

10.02.09 If any claim for damages is filed with AUTHORITY or if any lawsuit is instituted against AUTHORITY, AUTHORITY shall give prompt and timely notice thereof to AIRLINE, provided that claims and lawsuits subject to such notice are only those that arise out of or are in any way connected with the operation of the Airport by AUTHORITY and that directly affect AIRLINE. Notice shall be deemed prompt and timely if given within thirty (30) days following the date of receipt of a claim or thirty (30) days following the date of service of process of a lawsuit.

10.02.10 The time limitations set forth in Sections 10.02(H) and (I) are discretionary. If the notice required to be given by these sections is late, that is, if notice is not given within the time period set forth therein, the party is not precluded from establishing that the notice actually given was prompt and timely under the circumstances of the particular claim or lawsuit, unless by the failure to give such notice within the applicable time period, the other party has been prejudiced in its ability to consider such claim or to respond or to properly defend such lawsuit, if the other party is so prejudiced by a late notice, then the late notice shall not be deemed to be prompt and timely.

### **Section 10.03. Indemnification.**

AIRLINE shall protect, defend, and hold AUTHORITY and its officers, directors, employees, agents and representatives harmless from and against all liabilities, losses, suits, claims, judgments, fines, or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court costs, and expert fees), of any nature whatsoever arising out of the use, occupancy or operations of AIRLINE at or about, the Airport or the acts or omissions of AIRLINE's officers, agents, employees, contractors, subcontractors, licensees, or invitees, regardless of where the injury, death, or damage may occur, unless such injury, death, or damage is caused by the negligence of AUTHORITY. The Executive Manager shall give to AIRLINE prompt notice of any such claims or actions. The provisions of this section shall survive the expiration or early termination of this Agreement with respect to matters arising before such expiration or early termination.

Subject to the limitations of Territory law, AUTHORITY shall protect, defend, and hold AIRLINE and its officers and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines, or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court costs, and expert fees), of any use or occupancy of any nature whatsoever to the extent not caused by the negligence of AUTHORITY.

**Section 10.04. Release of Liability re: Certain Damages.**

AUTHORITY shall not be liable for, and is hereby released from, all liability to AIRLINE, to AIRLINE's insurance carrier, or to anyone claiming under or through AIRLINE for any loss or damage whatsoever to the property or effects of AIRLINE resulting from the discharge of water or other substances from pipes, sprinklers, or conduits, containers or appurtenances thereof or fixtures thereto, or for any damage resulting from the discharge or failure of electric current, regardless of cause or origin, except for such damage as may be primarily caused by reason of the negligence of AUTHORITY, its employees, or agents. The provisions of this Section 10.04 shall not be construed as a limitation of AUTHORITY's rights pursuant to Section 10.03, but are additional to the rights and exclusions from liability provided in Section 10.03.

**ARTICLE 11. ASSIGNMENT OF SPACE, MERGER, AND BANKRUPTCY**

**Section 11.01. Assignment and Subletting.**

As a condition of this Agreement, AIRLINE shall not assign this Agreement, or any part hereof, or transfer any interest herein, in any manner whatsoever or sublet the premises or any part thereof or any of the privileges recited herein, except to a wholly owned subsidiary or a parent company with a controlling interest. AIRLINE will provide the AUTHORITY with any and all assignment documents in form and substance satisfactory to the AUTHORITY, sixty (60) days prior to any assignments.

**Section 11.02. Nonwaiver of Responsibility.**

No assignment, transfer, conveyance, sublease, or granting a nonexclusive license by AIRLINE shall relieve AIRLINE of its responsibility for payment of rent and performance of all other obligations provided in this Agreement, without specific written consent of the Executive Manager to such relief.

**Section 11.03. Relinquishment of Space.**

If AIRLINE desires to relinquish any of its Exclusive Use Space or any rights to Joint Airline Use Space, AIRLINE may notify the Executive Manager of the space available, and the Executive Manager shall use his or her best efforts to reassign the space to another airline. No reassignment by the Executive Manager, nor any assignment, transfer, conveyance, or sublease by AIRLINE shall relieve AIRLINE of its primary responsibility for payment of rent and performance of all other obligations provided in this Agreement, without specific written consent



by the Executive Manager to such relief.

**Section 11.04. Ground Handling Agreements.**

In the event AIRLINE agrees to ground handle any portion of the operations of another certificated Air Transportation company providing service at the Airport, AIRLINE shall provide the Executive Manager 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, (1) AIRLINE may not ground handle such other Air Transportation company without the prior written permission of the Executive Manager if such Air Transportation company does not have in force an agreement with AUTHORITY, and (2) ground handling services are subject to the gross receipts tax of the Government of Guam. Such tax proceeds are revenue to the Government of Guam and are not Airport Revenue.

**Section 11.05. Merger.**

Section 11.01 shall not prevent the assignment of this Agreement to any corporation with which AIRLINE may merge or consolidate, or which may succeed to the business of AIRLINE pursuant to a merger or consolidation, but due notice of any such assignment shall be given to the Executive Manager upon any merger, consolidation, or succession, including a copy of documents related to such merger, consolidation, or succession which are a matter of public record.

**Section 11.06. Security Deposit.**

If AIRLINE is delinquent in the payment of its rents, landing fees and other fees due in accordance with the terms and conditions of this Agreement, and has failed to cure such delinquency as stipulated in Section 6.16 hereof, for three (3) months out of any Fiscal Year, the Executive Manager may require that within thirty (30) days, AIRLINE shall remit to AUTHORITY a security deposit which amount shall be based upon (a) AIRLINE's estimated Landing Fees for two (2) months (as determined on the basis of AIRLINE's published flight schedule as of that date times the actual Landing Fee rate effective as of that date), (b) AIRLINE's estimated Exclusive and Joint Airline Use Space rents for two (2) months (as determined on the basis of AIRLINE's actual leased space as of that date times the actual rental rates effective as of that date, using activity data for the most recent calendar month to allocate Joint Airline Use Space costs), (c) AIRLINE's estimated Arrival Fee for two (2) months (as determined on the basis of AIRLINE's published flight schedule as of that date times the actual Arrival Fee effective as of that date), (d) AIRLINE's estimated Loading Bridge Use Fees for two (2) months (as determined on the basis of AIRLINE's published flight schedule as of that date times the actual Loading Bridge Use Fee effective as of that date), and (e) AIRLINE's estimated Apron Use Fees for two (2) months (as determined on the basis of AIRLINE's published flight schedule as of that date times the actual Apron Use Fee effective as of that date). The security deposit may be adjusted by AUTHORITY as AIRLINE's flight activity, passenger activity, and space rental commitment increases or decreases.

If AIRLINE is a new entrant to the Airport, or if AIRLINE was previously a non-

signatory to this Agreement, then the Executive Manager will require AIRLINE to remit to AUTHORITY a security deposit equivalent to two (2) months of the rents, estimated landing fees and other fees set out above. This security deposit may be returned at such time that the Executive Manager determines that the AIRLINE has demonstrated fiscal responsibility.

Such deposit shall be in the form of an irrevocable letter of credit, or other security satisfactory to AUTHORITY, in a form approved by the Executive Manager. If AUTHORITY accepts cash deposits, the interest on cash deposits shall be retained by AUTHORITY and used in the calculation of rents and fees.

Document(s) evidencing this deposit must provide that the same shall be periodically renewed until the beginning of the month of October following termination or cancellation of this Agreement as is herein provided.

If payments required by AIRLINE under the terms of this Agreement are not made in accordance with the payment provisions set forth in Article 6, AUTHORITY shall have the right to forfeit, take, and use so much of such security deposit as may be necessary to make such payment in full and to exercise any other legal remedies to which it may be entitled. In this event, AIRLINE shall, within thirty (30) days, remit to AUTHORITY such amount as is required to restore AIRLINE's security deposit to the required balance.

#### **Section 11.07. Bankruptcy.**

Section 11.01 shall not apply to any valid assumption or assignment of this Agreement, the leased space, or any part thereof, by a trustee, or AIRLINE as a debtor in possession under Section 365 of the Bankruptcy Code of 1978, as amended, provided that adequate assurance of future performance as provided by Section 365 of the Bankruptcy Code of 1978, as amended, for the purposes of the assumption or assignment of this Agreement shall include, but shall not be limited to:

11.07.01 Adequate assurance of the reliability of the proposed source for the rents due under this Agreement on the assumption or assignment of this Agreement.

11.07.02 Adequate assurance that all other consideration due under this Agreement shall be forthcoming after the assumption or assignment of this Agreement.

11.07.03 The procurement of a bond from a financially reputable surety covering any costs or damages incurred by AUTHORITY in the event that AUTHORITY, within one (1) year following the assumption or assignment of this Agreement, becomes entitled to and exercises any right to reassign the leased space covered by this Agreement under Section 4.02 of this Agreement.

#### **Section 11.08. Consent.**

Consent by the Executive Manager to any type of transfer provided for by this Article 11 shall not in any way be construed to relieve AIRLINE from obtaining further consent for any

subsequent transfer or assignment of any nature whatsoever.

## **ARTICLE 12. DEFAULT**

### **Section 12.01. Default.**

If AIRLINE fails to (1) pay rent or another payment past due hereunder within ten (10) days after receipt of written notice of the due date; (2) commence immediately to keep and perform any of its other covenants and agreements within twenty (20) days after receipt of written notice; or (3) continue to complete any of its covenants and agreements after performance is commenced, or after the filing of any petition, proceedings, or action by, for, or against AIRLINE under any insolvency, bankruptcy, or reorganization act of law; then after notice and at the election of AUTHORITY:

12.01.01 After terminating this Agreement, AUTHORITY may reenter the space and alter, modify, improve and relet all or any part of it to others, for the account of AIRLINE, including costs of renovation and fifteen percent (15%) administrative fee to be paid to AUTHORITY for all sublease rents received, and AIRLINE shall promptly reimburse AUTHORITY for any deficiency in rents or other payments received under such subletting, as compared with AIRLINE's obligations hereunder.

12.01.02 At any time before or after a reentry and reletting as provided in Section 12.01(A), AUTHORITY may terminate AIRLINE's rights under this Agreement, and AUTHORITY may reenter and take possession of all space, and terminate all rights and privileges granted to AIRLINE hereunder, without any restriction on recovery by AUTHORITY for past due rents and other obligations of AIRLINE.

12.01.03 In the event of default by AIRLINE which is not cured in accordance with this Article 12, AUTHORITY is entitled to the following:

A. To recover reasonable attorneys' fees, consultant fees, or other expenses associated with the default together with any court cost and the cost of removing and storing any property of AIRLINE, and

B. To place a lien on all nonflight, property and equipment of AIRLINE for the amount owed to the extent that such lien does not violate any other lawful agreement covering such nonflight property and equipment that AIRLINE is party to, and

C. In the event AUTHORITY must remove and store property of AIRLINE, AIRLINE agrees to reimburse AUTHORITY reasonable storage fees plus fifteen percent (15%) for administration costs, and

D. In the event AUTHORITY must store AIRLINE property and the property remains unclaimed, AUTHORITY will post notice for thirty (30) days, during this notice period, AUTHORITY will publish notice three (3) times in the local daily newspaper. At the end of the notice period, AUTHORITY will sell such property by "private power of sale".

12.01.04 As used in this Section 12.01, receipts shall mean (1.) two days after date of mailing by Certified Mail to proper address set forth in this Agreement, or (2) upon actual receipt of notice upon delivery to AIRLINE's office on Guam and receipt of the notice by a supervisory or management employee of AIRLINE. As to personal services or delivery, AUTHORITY shall use its best efforts to ensure that any notice is actually received. AUTHORITY will make a best effort to obtain from a management employee a confirmation of receipt.

**Section 12.02. Additional Rights of AUTHORITY.**

In the event of a breach or default or threat of breach or default by AIRLINE of any of the covenants or provisions hereof, AUTHORITY shall have the right to seek an injunction and the right to invoke any remedy allowed by law or in equity as if re-entry, summary proceeding and other remedies were not herein provided for. Mention in this Agreement of any particular remedies shall not preclude AUTHORITY from any other remedy, in law or in equity.

AUTHORITY shall have all additional rights and remedies as may be provided to landlords by law.

**ARTICLE 13. RULES AND REGULATIONS, COMPLIANCE WITH LAW,  
NONDISCRIMINATION**

**Section 13.01. Rules and Regulations.**

13.01.01 AIRLINE shall not use or permit the use of any Airport facilities by its officers, employees, or any other persons over whom it has control for any purpose or use other than those specifically authorized by this Agreement, and such other purposes or uses as may be mutually agreed upon in writing.

13.01.02 At its sole cost and expense, AIRLINE shall comply with and shall require its officers and employees and any other persons over whom it has control to comply with such Policies and Procedures and Rules and Regulations governing the use of Airport facilities pursuant to this Agreement as may from time to time be adopted and promulgated by AUTHORITY including, but not limited to, health, safety, environmental concern, sanitation, and good order, and with such amendments, revisions, or extensions thereof as may from time to time be adopted and promulgated by AUTHORITY. AUTHORITY shall not adopt or promulgate Policies and Procedures and Rules and Regulations that conflict with this Agreement.

13.01.03 AIRLINE's right of access to the Airport shall be subject to all local and federal laws or regulations and. all Airport rules, regulations, and ordinances now in effect or hereinafter adopted or promulgated.

13.01.04 AIRLINE shall, at all times, maintain its Exclusive Use Space in compliance with any and all present and future laws, ordinances, and general rules or regulations of any public or governmental authority now or at any time during the term of this Agreement in force relating to environment, sanitation, or public health, safety, or welfare.

13.01.05 Nothing herein contained shall be construed to prevent AIRLINE from contesting the validity, reasonableness, or applicability of any federal or local law, regulation, or ordinance now in effect or hereinafter adopted or promulgated and AIRLINE shall not be deemed to be in default of any requirement of this Agreement so long as such contest is diligently prosecuted in an appropriate forum by AIRLINE or any other party to a similar agreement having interests consistent with those of AIRLINE, or until thirty (30) days following the entry of a final judgment contrary to AIRLINE's position. However, should AIRLINE contest the validity or applicability of any tax or fee, the payment of which might constitute a lien on Airport facilities, AUTHORITY may require the posting of a bond or placing in escrow of the amount of such tax or fee pending the outcome of such contest in order to avoid the imposition of such lien.

**Section 13.02. Compliance with Law.**

13.02.01 AIRLINE shall not use its Exclusive Use Space, Joint Airline Use Space or any part thereof, or permit the same to be used by any of its employees, officers, agents, subtenants, invitees, or licensees for any illegal purposes and shall, at all times during the term of this Agreement, with respect to exercise of its rights hereunder, comply with all applicable ordinances, laws, and Rules and Regulations of AUTHORITY (subject to Section 13.01 above) and of the Government of Guam, or any city or governmental agency, or of the U.S. Government, that may have jurisdiction to pass laws or ordinances or to make and enforce rules or regulations with respect to the uses hereunder or the Exclusive Use Space, Joint Airline Use Space, or any part thereof.

13.02.02 At all times during the term of this Agreement, AIRLINE shall, in connection with its activities and operations on the Airport:

A. Comply with and conform to all existing and future statutes and ordinances, and the rules and regulations promulgated thereunder, of all federal, Territorial, and other governmental bodies of competent jurisdiction that apply to or affect, either directly or indirectly, AIRLINE or AIRLINE's operations and activities under this Agreement.

B. Make, at its own expense, all nonstructural improvements, repairs, and alterations to its Exclusive Use Space, equipment, and personal property that are required to comply with or conform to all Laws, ordinances, and rules and regulations of federal, Territorial, and other governmental bodies of competent jurisdiction that apply to AIRLINE or AIRLINE's operation on the AIRPORT.

C. Be and remain an independent contractor with respect to all installations, construction, and services performed by or at the request of AIRLINE hereunder.

13.02.03 Security Compliance. Airline shall comply with and conform its use of the Premises to AUTHORITY's Airport Security Program, Security Directives and Emergency Amendments in addition to TSA and FAA regulations (collectively, "Security Requirements"). Airline shall require all persons, including without limitation its agents, employees, or invitees, entering the Airport, including without limitation, surrounding facilities,

parking lots, and runways, (collectively the "Airport Premises") to comply with the Security Requirements and the Airport Rules and Regulations. Airline agrees to pay, indemnify and save Authority harmless from and against any and all fines and penalties imposed or assessed on Authority and/or Airline for any breach of the Security Requirements by Airline, its agents, employees, or invitees, whether intentional, non-intentional, or through negligence occurring on the Airport Premises during the term, or any extended term, of this Agreement.

**Section 13.03. Nondiscrimination.**

13.03.01 Airline shall comply with the provisions of Exhibit F, as interpreted from time to time by the United States Department of Transportation ("USDOT") or the FAA.

13.03.02 Airline further agrees to comply with all provisions of Public Law 101-336, as well as 28 C.F.R. Part 35 and 29 C.F.R. Part 1630 (Americans with Disabilities Act), as amended from time to time during the term of this Agreement. Such law prohibits discrimination on the basis of disability by private entities in places of public accommodation and requires that all new places of public accommodation and commercial facilities be designed and constructed so as to be readily accessible to and usable by persons with disabilities.

**ARTICLE 14. COVENANT NOT TO GRANT MORE FAVORABLE TERMS**

**Section 14.01. Covenant Not to Grant More Favorable Terms.**

14.01.01 AUTHORITY covenants that it will not enter into any lease, contract, or any other agreement: with any other Air Transportation company containing materially more favorable terms than this Agreement, or to grant to any tenant engaged in Air Transportation, rights or privileges with respect to the Airport that are not accorded AIRLINE hereunder, unless the same rights, terms, and privileges are concurrently made available to AIRLINE. This covenant shall not extend to any carrier only operating aircraft less than fifty thousand (50,000) pounds Maximum Certificated Gross Take-Off weight.

14.01.02 If any aircraft operator shall undertake any operations at the Airport for the carriage for compensation or hire of passengers, cargo, or mail by air, AUTHORITY shall require, to the extent legally permissible, such other aircraft operator to execute and deliver an agreement, permit, license, lease, or contract with AUTHORITY providing for:

A. The payment of Landing Fees at rates and on such other terms and conditions as are not more favorable to the other party than those rates or terms and conditions then in effect for AIRLINE.

B. The payment of rents for any space leased from AUTHORITY in the Terminal Building at rates not less than those rental rates then payable by AIRLINE for similar space.

C. The payment for use by such aircraft operator of all Joint Airline Use Space and operating costs of all baggage handling or other passenger service systems, calculated and billed to such party as in the case of AIRLINE.

## **ARTICLE 15. TERMINATION**

### **Section 15.01. Events Permitting Termination of Agreement by AIRLINE.**

AIRLINE may terminate this Agreement and terminate all of its future obligations hereunder at any time that AIRLINE is not in default in its payments or other obligations to AUTHORITY here under, by giving the Executive Manager sixty (60) days advance written notice if (a) AUTHORITY is in default of any material and substantive portion of this Agreement, or (b) any act occurs that deprives AIRLINE permanently of the rights, power, and privileges necessary for the proper conduct and operation of its Air Transportation business at the Airport.

### **Section 15.02. Events Permitting Termination of Agreement by AUTHORITY.**

In addition to other events described in this Agreement permitting AUTHORITY to terminate this Agreement, this section identifies other material events permitting termination of this Agreement by AUTHORITY.

15.02.01 AUTHORITY, at its option, may declare this Agreement terminated on the happening of any one or more of the following events, and may exercise all rights of entry and re-entry on AIRLINE's Exclusive Use Space:

A. If the rents and fees, or other money payments that AIRLINE herein agrees to pay, or any part hereof, shall be unpaid on the date same becomes due, in accordance with Article 6.

B. If any act occurs that deprives AIRLINE permanently of the rights, power, and privileges necessary for the proper conduct and operation of its Air Transportation business.

C. If AIRLINE (a) ceases the conduct of scheduled air service at the Airport for a period of sixty (60) consecutive days in accordance with Section 6.01 or (b) fails to operate scheduled passenger service departures each week from the Airport, for a period of ninety (90) days or more (except by reason of strikes or causes beyond the control of AIRLINE).

D. If AIRLINE abandons and fails to use its Exclusive Use Space for a period of thirty (30) consecutive days, except when such abandonment and cessation are due to fire, earthquake, labor dispute, strike, governmental action, default of AUTHORITY, or other cause beyond AIRLINE's control.

E. If AIRLINE uses or permits the use of its Exclusive Use Space at any time for any purpose for which the use thereof at that time is not authorized by this Agreement, or by a subsequent written agreement between the parties, or permits the use thereof in violation of any law, rule, or regulation to which AIRLINE has agreed in this Agreement to conform.

F. If AIRLINE is in violation of any provision of this Agreement and has not begun remedy within thirty (30) days notice thereof of such violation.

15.02.02 Termination by AUTHORITY shall not be effective unless and until at least thirty (30) days have elapsed after written notice to AIRLINE specifying the date upon which such termination shall take effect and the cause for which it is being terminated has not been cured or if AIRLINE commences to cure the cause of such termination within said thirty (30) day period, so long as AIRLINE continues diligently and in good faith to cure such cause.

**Section 15.03. Possession by AUTHORITY.**

In any of the aforesaid events, AUTHORITY may take possession of the leased premises upon thirty (30) days advance written notice and remove AIRLINE's effects, without being deemed guilty of trespassing or conversion. On said default, AUTHORITY shall have and reserve all of its available remedies at law as a result of said breach of this Agreement.

Failure of AUTHORITY to declare this Agreement terminated on default of AIRLINE for any of the reasons set forth herein shall not operate to bar, destroy, or waive the right of AUTHORITY to terminate this Agreement by reason of any subsequent violation of the terms hereof.

**ARTICLE 16. NOTICES**

**Section 16.01. Delivery of Notice.**

16.01.01 Notices required herein shall be in writing and served personally or sent by registered or certified mail, postage prepaid. Any such notice mailed pursuant to this paragraph shall be presumed to have been received by the addressee seventy-two (72) hours 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 its notices are to be received. Until any such change is made, notices shall be addressed and delivered as follows:

**A. AUTHORITY**

Antonio B. Won Pat International Airport Authority, Guam  
P.O. Box 8770  
Tamuning, Guam 96931

**B. AIRLINE**

[INSERT NAME]  
[INSERT ADDRESS]

16.01.02 If notice is given in any other manner or at any other place, it will also be given at the place and in the manner specified in Section 16.01(A).

**ARTICLE 17. MISCELLANEOUS**



**Section 17.01. Successors and Assigns Bound.**

This Agreement shall be binding on and inure to the benefit of the successors and assigns of the parties hereto.

**Section 17.02. Governing Law Choice of Forum.**

This Agreement and all disputes arising hereunder shall be governed by the laws of the Territory of Guam. Any disputes relating to this Agreement must be resolved in accordance with the provisions of this Agreement in conjunction to laws of Guam, including, but not limited to, the Government Claims Act. In addition, the parties to this Agreement agree and consent to the exclusive jurisdiction of the courts of Guam for any lawsuits which may arise pursuant to this Agreement.

**Section 17.03. Noninterference with Operation of the Airport.**

AIRLINE, by accepting this Agreement, expressly agrees for itself, its successors, and assigns that it will not make use of the leased premises in any manner that might interfere with the landing and taking off of aircraft at the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, upon reasonable notice to AIRLINE and opportunity to cure, AUTHORITY reserves the right to enter upon the premises hereby leased and cause the abatement of such interference at the expense of AIRLINE. AUTHORITY shall maintain and keep in good condition and repair the Airport landing areas, including taxiways, and shall have the right to direct and control (consistent with the Federal Aviation Regulations) all activities of AIRLINE in this regard.

**Section 17.04. Severability.**

If one or more clauses, sections, or provisions of this Agreement shall be held to be unlawful, invalid, or unenforceable, it is agreed that the remainder of this Agreement shall not be affected thereby.

**Section 17.05. Quiet Enjoyment.**

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

**Section 17.06. Taxes.**

17.06.01 AIRLINE shall pay, but such payment shall not be considered part of Airport Revenue, all taxes (including any possessory interest tax), assessments, and charges of a like nature, if any, which at any time during the term of this Agreement may be levied against AIRLINE or become a lien by virtue of any levy, assessment, or charge against AIRLINE by the federal government, the Territory of Guam, AUTHORITY(acting in its governmental capacity), any municipal corporation (having jurisdiction over the Airport), any local government entity, any government successor in authority to the foregoing, or any other tax or assessment levying bodies, in whole or in part, upon or in respect to any of the space leased under this Agreement or such facilities of the Airport as are made available for use by AIRLINE hereunder, or upon or in respect to any personal property belonging to AIRLINE situated on the space leased under this Agreement. Payment of such taxes, assessments, and charges, when and if levied or assessed, shall be made by AIRLINE directly to the taxing or assessing authority charged with collection thereof.

17.06.02 AIRLINE may, at its own expense, contest the amount or validity of any tax or assessment, or the inclusion of the space leased under this Agreement as taxable or assessable property, directly against the taxing or assessing authority.

17.06.03 On any termination of this Agreement, all lawful taxes then levied or a lien upon any such property or taxable interest therein shall be paid in full by AIRLINE forthwith, or as soon as a statement thereof has been issued by the tax collector if termination occurs during the interval between attachment of the lien and issuance of a statement.

**Section 17.07. Liens.**

AIRLINE shall cause to be removed promptly any and all liens of any nature arising out of or because of any construction performed by AIRLINE or any of its contractors or subcontractors upon Exclusive or Joint Airline Use Space or arising out of or because of the performance of any work or labor by or for it or them at said premises, reserving the right to contest in court the validity of any such liens. AIRLINE shall have the right to post an appropriate bond to cover its obligations pursuant to this paragraph.

In the event any person or corporation shall attempt to assert a mechanic's lien against the leased premises for improvements made by AIRLINE, AIRLINE shall hold AUTHORITY harmless from such claim, including the cost of defense.

Nothing in this section shall prevent AIRLINE from contesting the validity of liens placed upon its Exclusive or Joint Airline Use Space. If AIRLINE contests a lien, it will do so in a prompt and expeditious manner.

**Section 17.08. Obtaining Federal Funds.**

AUTHORITY shall use its best efforts to obtain appropriate grants from federal agencies or other sources, when consistent with prudent management of the Airport.

**Section 17.09. Nonliability of AUTHORITY's or AIRLINE's Officers, Agents, and Employees.**

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

**Section 17.10. Subordination to Agreements with the U.S. Government.**

This Agreement is subject and subordinate to the provisions of any agreements heretofore or hereafter made between AUTHORITY and the United States, relative to the operation or maintenance of the Airport, or to the expenditure of federal funds for the improvement or development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, the Federal Aid to Airports Act, the Airport and Airway Development Act of 1970, and the Airport and Airway Improvement Act of 1982, as such acts have been amended from time to time. As of the effective date of this Agreement, the Executive Manager is not aware of any conflicts with the foregoing.

In the event that the FAA requires, as a condition precedent to the granting of funds for the improvement of the Airport, modifications or changes to this Agreement, AIRLINE agrees to consent to such amendments, modifications, revisions, supplements, or deletions of any of the terms, conditions, or requirements of this Agreement as may be required to enable AUTHORITY to obtain such grant of funds. These modifications or changes shall only be made after consultation with the Signatory Airlines and must be consistent with the tenets of sound airport management, and also must be consistent with prudent operator requirements under Section 17.33.

**Section 17.11. Incorporation of Exhibits.**

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

**Section 17.12. Incorporation of Required Provisions.**

AUTHORITY and AIRLINE incorporate herein by this reference all provisions lawfully required to be contained herein by any governmental body or agency.

**Section 17.13. Price Level Adjustments.**

The fixed dollar amounts contained in this Agreement may be adjusted each year pursuant to the Bond Indenture or otherwise in proportion to the changes in the Implicit Price Deflator index published by the U.S. Department of Labor, Bureau of Labor Statistics, using as a base the latest published index available as of January 1, 2004.

**Section 17.14. Entire Agreement.**

This Agreement, together with all exhibits-attached hereto, constitutes the entire agreement between the parties hereto, and all other representations or statements heretofore made, verbal or written, are merged herein, and this Agreement may be amended only in writing, and executed by duly authorized representatives of the parties hereto.

**Section 17.15. Nonwaiver of Rights.**

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

**Section 17.16. Force Majeure.**

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

**Section 17.17. Headings.**

The headings of the several articles and sections of this Agreement are inserted only as a matter of convenience and for reference and do not define or limit the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

**Section 17.18. Nonexclusive Rights.**

It is understood and agreed that nothing herein contained shall be construed to grant to AIRLINE any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act for the conduct of any activity on the Airport, except that, subject to the terms and provisions hereof, AIRLINE shall have the right to exclusive possession of the Exclusive Use Space leased to AIRLINE under the provisions of this Agreement.

**Section 17.19. Inspection of Books and Records.**

Each party hereto, at its expense and on reasonable notice, shall have the right from time to time to inspect and copy the books, records, and other data of the other party relating to the provisions and requirements hereof, provided such inspection is made during regular business hours.

17.19.01 AIRLINE shall maintain and keep current, to AUTHORITY's satisfaction,

proper books and records (relating to AIRLINE's activities at the Airport) according to good accounting standards and principles. Further, AIRLINE shall maintain and keep current, to AUTHORITY's satisfaction, detailed information, materials, books, and records on its passengers and flights at the Airport, including but not limited to records on the number of passengers arriving and departing on each flight, the number of flights, loading bridge use, apron use, and details of each flight. AUTHORITY shall have the right to demand and AIRLINE shall provide any and all information, records, books, and materials to enable AUTHORITY to determine the correct rents, charges and fees due under this Agreement. AIRLINE shall provide copies of any and all information, records, books, and materials requested by AUTHORITY. All such information, materials, books, and records must and shall be in the form and substance to AUTHORITY's satisfaction and shall be kept by AIRLINE for a period of at least three (3) years. Such information, materials, books, and records shall be kept on the island of Guam, and shall be made available to AUTHORITY within three (3) business days for examination.

17.19.02 AUTHORITY may, at any time, cause an audit of the business of AIRLINE to be made by an accountant to be selected by AUTHORITY, and if such audit discloses that any statement, information, material, books, and records as provided by AIRLINE concerning the rents, fees, and charges due to AUTHORITY has resulted in an understatement of the rents, fees, and charges due to AUTHORITY by more than three percent (3%), then AIRLINE shall immediately pay the cost of any such audit (provided that such audit was performed by a private or nongovernment auditor or accountant) as well as the additional rent payable by AIRLINE to AUTHORITY, together with interest at the rate of two percent (2%) per month on the understated amount due from the date such rent, fees, or charges were actually or originally due to the date of payment; otherwise, the cost of such audit shall be paid by AUTHORITY.

Specifically, AUTHORITY may, at its own discretion, request that AIRLINE provide audited data on Enplaned Passengers and Deplaned Passengers for a specific time period, in order to confirm such passenger data supporting the AIRLINE payments made in Sections 6.04, 6.05 and 6.06.

17.19.03 AUTHORITY's acceptance of any monies paid pursuant to a completed statement or report furnished by AIRLINE shall not be an admission of the accuracy of said statement and AUTHORITY shall be entitled at any time after the receipt of any such rent, fees, and charges to require proof of the accuracy of such statement to the satisfaction of AUTHORITY.

For the purpose of enabling AUTHORITY to check the accuracy of such statement, AIRLINE shall, after submission to AUTHORITY of such statements, keep safe and intact all of AIRLINE's records, information, materials, books, accounts, tax returns, and other data which, as determined by AUTHORITY, may in any way bear upon or are required to establish in detail AIRLINE's rents, fees, and charges due, and AIRLINE shall, within three (3) days after request of AUTHORITY or its agents deliver the same to AUTHORITY or its agents, for examination by AUTHORITY.

**Section 17.20. Generally Accepted Accounting Principles.**

Whenever any report or disclosure referred to in this Agreement consists, either in whole or in part, of financial information, such report or disclosure shall be prepared in accordance with generally accepted accounting principles, except as specifically provided to the contrary in this Agreement.

**Section 17.21. General Interpretation.**

Insofar as this Agreement grants, permits, or contemplates the use of space or facilities or the doing of any other act or thing at the Airport by AIRLINE, such use or the doing of such act or thing is to be in connection with the operation of AIRLINE's Air Transportation business for the carriage by aircraft of persons, baggage, property, cargo, and mail on scheduled or nonscheduled flights, whether as a common carrier, a contract carrier, a private carrier, or otherwise. Each of the parties, however, has entered into this Agreement solely for its own benefit; and (without limiting the right of either party to maintain suits, actions, or other proceedings because of breaches of this Agreement) the Agreement does not grant to any third person (excepting a successor party to AUTHORITY or AIRLINE) a right to claim damages or bring any suit, action, or other proceeding against either AUTHORITY or AIRLINE because of any breach hereof. Nothing in this Agreement shall restrict AUTHORITY's authority to enact ordinances affecting the Airport.

**Section 17.22. Holding Over.**

If AIRLINE remains in possession of the leased premises after the expiration of this Agreement without any written renewal thereof, such holding over shall not be deemed as a renewal or extension of this Agreement, but shall create only a tenancy from month to month that may be terminated on thirty (30) days advance written notice by AUTHORITY. Such holding over shall otherwise be upon the same terms and conditions as set forth in this Agreement.

**Section 17.23. Consent Not to be Unreasonably Withheld.**

Whenever consent or approval is required herein by either AUTHORITY or AIRLINE, such consent or approval shall not be unreasonably withheld.

**Section 17.24. Authority of Executive Manager.**

All rights and obligations of AUTHORITY under this Agreement may be exercised by the Executive Manager or the Executive Manager's designee, unless specifically provided otherwise or required by law.

**Section 17.25. Invalid Provision.**

If any covenant, condition, or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition, or provision shall in no way affect any other covenant, condition, or provision herein contained, provided that the

invalidity of any such covenant, condition, or provision does not materially prejudice either party hereto in its respective rights and obligations contained in the valid covenants, conditions, or provisions in this Agreement.

**Section 17.26. Amendments.**

This Agreement may be amended in whole or in part without further consideration upon mutual written consent of AUTHORITY and AIRLINE.

**Section 17.27. Payment of Utility Charges.**

AIRLINE shall pay promptly for all utilities and utility services used by AIRLINE at or in AIRLINE's Exclusive Use Space in excess of those utility services specifically provided by AUTHORITY.

**Section 17.28. Vending Machines.**

AIRLINE shall ensure that no amusement, vending (excluding self ticketing machines and vending machines for AIRLINE's employees), public pay phones, or other machines operated by coins, tokens, or credit cards are installed or maintained in or at AIRLINE's Exclusive Use Space except with the prior written permission of the Executive Manager.

**Section 17.29. Public Address System.**

AIRLINE agrees that the use of AUTHORITY's public address system will be in accordance with AUTHORITY's written public address system policy. AIRLINE shall not install, cause to be installed, or use any other public address system at the Terminal Building without the prior written approval of the Executive Manager.

**Section 17.30. Employees of AIRLINE.**

AIRLINE shall require all of its employees, subcontractors, or independent contractors hired by AIRLINE working in view of the public and about the Terminal Building to wear clean and neat attire including appropriate footwear and to display appropriate identification.

**Section 17.31. Removal of Disabled Aircraft.**

AIRLINE shall promptly remove any of its disabled aircraft from any part of the Airport (including, without limitation, runways, taxiways, aprons, and gate positions) and place any such disabled aircraft in such storage areas as may be designated by the Executive Manager. AIRLINE may store such disabled aircraft only for such length of time and on such terms and conditions as may be established by AUTHORITY. If AIRLINE fails to remove any of its disabled aircraft promptly, the Executive Manager may, but shall not be obligated to, cause the removal of such disabled aircraft, provided, however, the obligation to remove or store such disabled aircraft shall not be inconsistent with federal laws and regulations and AIRLINE agrees to reimburse AUTHORITY for all costs of such removal, and AIRLINE further hereby releases AUTHORITY from any and all claims for damage to the disabled aircraft or otherwise arising

from or in any way connected with such removal by AUTHORITY unless caused by the negligence or recklessness of AUTHORITY.

**Section 17.32. Licenses, Fees, and Permits.**

AIRLINE shall obtain and pay for all licenses, fees, permits, or other authorization or charges as required under federal, territorial, or local laws and regulations insofar as they are necessary to comply with the requirements of this Agreement and the privileges extended hereunder.

**Section 17.33. Prudent Operator.**

AUTHORITY agrees to operate the Airport in a prudent manner and to maximize non-airline revenue consistent with its obligations as a public airport sponsor.

**Section 17.34. Airport Access License/Permit.**

AUTHORITY reserves the right to establish a licensing or permit procedure for vehicles requiring access to the Airport operational areas and to levy directly against AIRLINE or its suppliers a reasonable regulatory or administrative charge (to recover the cost of any such program) for issuance of such Airport access license or permit.

**Section 17.35. Energy Conservation.**

AIRLINE shall comply with AUTHORITY Rules and Regulations pertaining to energy conservation and management to the extent that such Rules and Regulations do not infringe on the rights and privileges granted herein.

**Section 17.36. Compliance with Part 77, Title 14, CFR.**

AIRLINE agrees to comply with the notification and review requirements covered in Part 77, Title 14, Code of Federal Regulations, FAA Regulations, in the event future construction of a building is planned for the leased premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the leased premises.

**Section 17.37. Reservations re: Airspace and Noise.**

There is hereby reserved to AUTHORITY, 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 leased premises.

**Section 17.38. Attorneys' Fees.**

In any litigation involving AUTHORITY on one hand and AIRLINE on the other, the party prevailing in such litigation shall be entitled to recover the cost of such litigation including reasonable attorneys' fees and court costs from the party not prevailing.



**Section 17.39. Apron Area Aircraft Servicing.**

AIRLINE may perform, while its aircraft are parked upon the Apron Area, customary fueling and servicing of aircraft preparatory to the loading and takeoff or immediately following landing and unloading. AIRLINE shall not do or perform any major repair or maintenance work upon its aircraft while parked upon the Apron Area or at the Loading Bridge Position nor shall there be any storage of aircraft upon the Apron Area in a manner to restrict the loading and unloading of passengers. As used herein, "major" is defined to be work that normally requires more than one hour to complete.

**Section 17.40. National Emergency.**

This Agreement and all the provisions hereof shall be subject to whatever right the U.S. Government now has, or in the future may have or acquire, affecting the control, operation, regulation, and taking over of said Airport or the exclusive or nonexclusive use of the Airport by the United States during the time of war or national emergency.

**Section 17.41. Time is of the Essence.**

Time is of the essence in this Agreement.

**Section 17.42. Informal Dispute Resolution.**

In the event of any dispute between AUTHORITY and AIRLINE, either party shall make best effort to resolve the dispute initially through informal channels. Specifically, the agencies that either party should call upon to aid dispute resolution shall be in the order of (1) Executive Manager and (2) Airport Board. In the event these informal channels do not resolve the dispute, AIRLINE or AUTHORITY may avail itself of all legally available remedies.

**Section 17.43. Authority to Enter Into Contract.** AIRLINE warrants and represents that it has the right, power, and legal capacity to enter into, and perform its obligations under this Agreement, and no approvals or consents of any persons are necessary in connection with it. The execution, delivery, and performance of this Agreement by AIRLINE have been duly authorized by all necessary corporate action of AIRLINE, and this Agreement will constitute a legal, valid, and binding obligation of AIRLINE, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or affecting creditors, rights generally, and general principles of equity.

**Section 17.44. Counterparts; Facsimile or .PDF Signatures; Electronic Signatures.**

This Agreement may be executed in one or more counterparts, each of which is deemed an original, but all of which together shall constitute one and the same agreement. A facsimile, .PDF or other reproduction of this Agreement may be executed by one or more parties, and an executed copy of this Agreement and electronic signatures may be delivered by one or more parties by facsimile, email, or similar instantaneous electronic transmission device under which the signature of or on behalf of such party can be seen, and such execution and delivery is to be considered valid, binding and effective for all purposes. At the request of any party, the parties agree to execute an original of this Agreement as well as any facsimile, .PDF or other reproduction hereof.

[Signature Page Follows]

**ANTONIO B. WON PAT  
INTERNATIONAL AIRPORT  
AUTHORITY, GUAM**

**[AIRLINE]**

By: \_\_\_\_\_  
**CHARLES H. ADA II**  
EXECUTIVE MANAGER

By: \_\_\_\_\_  
[NAME]  
[TITLE]

**CONCURRED:  
ANTONIO B. WON PAT  
INTERNATIONAL AIRPORT  
AUTHORITY, GUAM  
BOARD OF DIRECTORS**

**Attest:**

By: \_\_\_\_\_  
**RICARDO C. DUENAS**  
CHAIRMAN

By: \_\_\_\_\_  
[NAME]  
[TITLE]

APPROVED AS TO FORM:

CALVO FISHER & JACOB LLP

By: \_\_\_\_\_

Attorney for GIAA

**Exhibit A**

**Airport Layout Plan**

**See attached**

**Exhibit B**

**Terminal Layout Plan**

**See Attached**

**Exhibit C**

## Terminal Building Leased Space

	<b><u>Square Feet</u></b>	<b><u>Exhibit</u></b> (See Attached)
<b><u>Exclusive Use Space</u></b>		
[Ticket Counter - United only]		
Ticket Office		
Office Space		
Operations		
Baggage Office		
Clubrooms		
Unenclosed Ramp Operations		
<b><u>Joint Airline Use Space</u></b>		
<b>Departure Facilities</b>		
Departure Lounge (holdrooms)		
Ticket Counters		
Baggage Make-up		
ATO Corridor		
Security		
Other		
<b>Arrivals Facility</b>		
Customs		
Baggage Handling		
Baggage Claim		
<b>Immigration Inspection Facilities</b>		
Immigration Hall		

**Exhibit D**

**Daily Flight Activity Log**

**Exhibit E**

**Monthly Revenue Report Form**



## **Exhibit F**

### **Federal Aviation Administration Required Provisions**

- A. **Civil Rights - General.** Airline agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If Airline transfers its obligation to another, the transferee is obligated in the same manner as Airline.

This provision obligates Airline for the period during which the Premises is owned, used or possessed by Airline and AUTHORITY remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

- B. **Civil Rights - Title VI Assurances - Compliance with Nondiscrimination Requirements.**

1. **Compliance with Regulations:** Airline (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Non-discrimination:** Airline, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Airline will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by Airline for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Airline of Airline's obligations under this Agreement and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. **Information and Reports:** Airline will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by AUTHORITY or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of Airline is in the exclusive possession of another who fails or refuses to furnish the information, Airline will so certify to AUTHORITY or the Federal Aviation Administration, as appropriate, and will set forth

what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of Airline's noncompliance with the non-discrimination provisions of this contract, AUTHORITY will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- (a) Withholding payments to Airline under the Agreement until Airline complies; and/or
- (b) Cancelling, terminating or suspending the Agreement, in whole or in part.

6. **Incorporation of Provisions:** Airline will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. Airline will take action with respect to any subcontract or procurement as AUTHORITY or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Airline becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, airline may request AUTHORITY to enter into any litigation to protect the interests of AUTHORITY. In addition, Airline may request the United States to enter into the litigation to protect the interests of the United States.

7. **Civil Rights - Title VI Clauses for Use/Access to Real Property.** Airline for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises or the Airport, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Airline will use the premises in compliance with all other requirements imposed by or pursuant to the List of Pertinent Nondiscrimination Acts And Authorities in Paragraph C below.

In the event of breach of any of the above nondiscrimination covenants, AUTHORITY will have the right to terminate the Agreement and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Agreement had never been made or issued.

- C. **Title VI List of Pertinent Nondiscrimination Acts and Authorities.** During the performance of this Agreement, Airline, for itself, its assignees, and successors in interest (hereinafter referred to as "Airline") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

1. **Title VI of the Civil Rights Act of 1964** (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. **49 CFR part 21** (Non-discrimination in Federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964);
3. **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970** (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
4. **Section 504 of the Rehabilitation Act of 1973** (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
5. **The Age Discrimination Act of 1975**, as amended (42 USC § 6101 *et seq.*), (prohibits discrimination on the basis of age);
6. **Airport and Airway Improvement Act of 1982** (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
7. **The Civil Rights Restoration Act of 1987** (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
8. **Titles II and III of the Americans with Disabilities Act of 1990**, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 - 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
9. **The Federal Aviation Administration’s Nondiscrimination statute** (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. **Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations**, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
11. **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency**, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency

(LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

**Title IX of the Education Amendments of 1972**, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

**ANTONIO B. WON PAT  
INTERNATIONAL AIRPORT AUTHORITY, GUAM  
BOARD OF DIRECTORS  
EXECUTIVE SUMMARY**

**INVITATION FOR BID  
GLASS WINDOW CLEANING SERVICES  
IFB NO. GIAA-001-FY19**

December 3, 2018

**Purpose**

Board action is requested to approve the bid award of the Glass Window Cleaning Services under the Invitation For Bid No. GIAA-001-FY19.

**Background**

The bid is for the provision of Glass Window Cleaning Services at the Antonio B. Won Pat International Airport for a contract term of three (3) years.

**Procurement Background**

The solicitation announcement was advertised through the local newspapers during October 9, 11, 17, 23, and 31, 2018. The bid submission deadline and bid opening took place on November 8, 2018.

Thirteen (13) firms/individuals purchased or downloaded the bid package and four (4) firms submitted bids before the submission deadline. The firms were evaluated and four (4) were determined to be acceptable. As required by the Procurement Rules and Regulations, the bids were publicly opened and read aloud in the presence of the bidders.

The submitted bids are presented below in the order it was received and opened:

<b>Bidder/Firm's Name</b>	<b>Amount:</b>
Guam Cleaning Masters	\$418,422.72
Maids to Order, Inc. dba MTO Maintenance	\$104,400.00
General Pacific Services, LLC. dba Pacific Waste Systems, LLC.	\$345,000.00
JJ Global Services	\$165,000.00

The lowest total bid amount was in the amount of \$104,400.00 from MTO Maintenance. However, the bidder failed to submit a bid security in the amount of not less than fifteen percent (15%) of the amount of their Total Bid Price. Therefore, pursuant to Section 15 of the Instruction to Bidders, the bidder was deemed non-responsive due to failure to comply with the Invitation For Bid.

The second to the lowest bidder, JJ Global Services failed to submit the Acknowledgement Receipt form provided in Required Forms of the IFB documents. As this mistake is immaterial and does not prejudice other bidders, having a negligible effect on price, quantity, quality, delivery, or contractual conditions, a written determination to waive this minor informality is made part of the procurement record.

#### **Legal Review**

Upon approval of awards, the contract will be processed through issuance of Purchase Orders in conformance with the Government of Guam Procurement Regulations.

#### **Financial Review**

The total contract award for this bid is \$165,000.00. Funding for this bid is available under the Operations O&M budget.

#### **Recommendation**

Management recommends the contract award in the total amount of **\$165,000.00** to **JJ Global Services**, who has been determined to have met the standards of responsibility and responsiveness outlined in Guam Procurement Law and Regulations.

November 27, 2018

**MEMORANDUM**

**TO:** Charles H. Ada II  
Executive Manager

**FROM:** Henry M. Cruz  
Buyer Supervisor, Acting

**SUBJECT:** Bid Evaluation and Recommendation – Invitation for Bid  
Glass Window Cleaning Services  
IFB No. GIAA-001-FY19

**Procurement Background:**

The above referenced Invitation For Bid was publicly announced through the local newspaper on October 9, 11, 17, 23, and 31, 2018. The bid submission deadline and bid opening took place on November 8, 2018 at 2:00 p.m.

Thirteen (13) firms/individuals purchased or downloaded the bid package and four (4) firms submitted a bid prior to the bid submission deadline. The bid submittal was opened in the presence of the bidders and several GIAA representatives. The bid offer was read aloud by the Buyer Supervisor and tabulated by a member of the Procurement staff.

The results of the bid price submittals are as follows in the order it was received and opened:

Bidder/Firm's Name	Amount:
Guam Cleaning Masters	\$418,422.72
MTO Maintenance	\$104,400.00
General Pacific Services, LLC.	\$345,000.00
JJ Global Services	\$165,000.00

**Bid Analysis and Evaluation:**

Pursuant to Section 9 of the Instructions to Bidders, the contract is to be awarded to the lowest responsible, responsive bidder, provided their bid is reasonable and it is in the best interest of the GIAA to accept it. To determine the responsibility of bidders, the bid package specified the required documents that bidders must submit with their bid packages. The attached abstract illustrates the inventory of required documents and bidders' submittals.

***Guam Cleaning Masters:*** The firm submitted a total bid price in the amount of \$418,422.72. The submitted Bidder's Qualification Statement form included lists of projects from 2005-2018 with resumes attached. The bidder submitted a copy of their current Guam Business License #1914955. All other required documents are complete and in conformance with the Invitation for Bid.

***Maids to Order, Inc. dba MTO Maintenance:*** The firm submitted a total bid price of \$104,400.00. The submitted Bidder's Qualification Statement form included lists of projects from 2013-2018. The bidder submitted a copy of their current Guam Business License #1901575. The bidder failed to submit a bid security in the amount of not less than fifteen percent (15%) of the amount of their Total Bid Price. With a total bid price of \$104,400.00, Maids to Orders, Inc.'s bid security should have been, at a minimum, in the amount of \$15,660.00; a minimum of fifteen percent (15%) of their total bid price amount. The bidder submitted their bid security in the form of a certified check in the amount of \$5,500.00.00

Therefore, pursuant to Section 15 of the Instruction to Bidders, the bidder was deemed non-responsive due to failure to comply with the Invitation for Bid.

***General Pacific Services LLC dba Pacific Waste Systems, LLC:*** The firm submitted a total bid price of \$345,000.00. The submitted Bidder's Qualification Statement form included lists of projects from 2011-2018 with resumes attached. The bidder submitted a copy of their current Guam Business License #191506. All other required documents are complete and in conformance with the Invitation for Bid.

***JJ Global Services:*** The firm submitted a total bid price of \$165,000.00. The bidder submitted a copy of their current Guam Business License #1910860. The bidder failed to submit the Acknowledgement of Receipt form provided in the Required Forms of the IFB documents. It is recommended that the Executive Manager waive the minor informality in JJ Global Services' bid submission in failing to submit the Acknowledgment of Receipt form, as this mistake is immaterial and does not prejudice the other bidders; having a negligible effect on price, quantity, quality, delivery, or contractual conditions.

**Recommendation:**

Pursuant to the guidelines in Item 9 of the Instruction to Bidders, the award of contract will be made to the **lowest responsible, responsive bidder**. JJ Global Services is the apparent lowest responsible, responsive bidder with a Total Bid Price of \$165,000.00.



If the minor informality in their bid submission noted above is waived, it is recommended that **JJ Global Services** be awarded the contract in the amount of **\$165,000.00** for this project.

Should you have any questions or concerns, I am available at your request.



**Henry M. Cruz**  
Buyer Supervisor

**APPROVED:**

  
**CHARLES H. ADA II**  
Executive Manager

Attachment

cc: Admin/Proc/Eng

**AFFIDAVIT DISCLOSING OWNERSHIP and COMMISSIONS**

CITY OF Tamuning )  
 ) ss.  
 \_\_\_\_\_ )

A. I, the undersigned, being first duly sworn, depose and say that I am an authorized representative of the offeror and that *[please check only one]*:

☒ The offeror is an individual or sole proprietor and owns the entire (100%) interest in the offering business.

☐ The offeror is a corporation, partnership, joint venture, or association known as *[please state name of offeror company]*, and the persons, companies, partners, or joint venturers who have held more than 10% of the shares or interest in the offering business during the 365 days immediately preceding the submission date of the proposal are as follows *[if none, please so state]*:

<u>Name</u>	<u>Address</u>	<u>% of Interest</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

B. Further, I say that the persons who have received or are entitled to receive a commission, gratuity or other compensation for procuring or assisting in obtaining business related to the bid or proposal for which this affidavit is submitted are as follows *[If none, please so state]*:

<u>Name</u>	<u>Address</u>	<u>Compensation</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

C. If the ownership of the offering business should change between the time this affidavit is made and the time an award is made or a contract is entered into, then I promise personally to update the disclosure required by 5 GCA §5233 by delivering another affidavit to the government.

*[Signature]*

Signature of one of the following:

Offeror, if the bidder is an individual:

Partner, if the offeror is a partnership;

Officer, if the offeror is a corporation.

Subscribed and sworn to before me this day 25th  
 of Oct, 2018.

NOTARY PUBLIC

My commission expires Dec 20, 2018.

**THIS AFFIDAVIT MUST BE COMPLETED AND RETURNED IN THE ENVELOPE CONTAINING THE BID.**




**BARBARA C. SALAS**

**NOTARY PUBLIC**

In and for Guam, U.S.A.

My Commission Expires: DEC 20 2018  
 P.O. Box 20162 Barrigada, Guam 96921

COPY

INVITATION NUMBER: GIAA-001-FY19		<div></div> <div>Antonio B. Won Pat International Airport Authority, Guam BID ABSTRACT</div>															Page <u>1</u> of <u>1</u> pages					
GLASS WINDOW CLEANING SERVICES																	Opening Date: 8-Nov-19		No. of Invitation Issued: 13			
																	Opening Time: 2:15 P.M.		No. of Bids Received:			
DESCRIPTION OF SUPPLIES OR SERVICES: BIDDER TO PROVIDE GLASS WINDOW CLEANING SERVICES AT THE A.B. WON PAT INTERNATIONAL AIRPORT.		Special Reminder to Prospective Bidders	Bid Form	BID SECURITY CC - Cashiers Check LOC - Letter of Credit BB - Bid Bond	Affidavit Disclosing Ownership & Commissions	Affidavit re Non-Collusion	Affidavit re No Gratuities or Kickbacks	Affidavit re Contingent Fees	Affidavit re Ethical Standards	Affidavit re Ethical Standards	DOL Wage Determination	Designation of Subcontractors	Bidder's Qualification Statement	Bidder's Financial Statement	Title VI Solicitation Notice	Acknowledgement Receipt Form	Acknowledgement Addendums A / B / C	Copy of Guam Business License	TOTAL BID PRICE:			
BIDDER'S NAME																						
1	Guam Cleaning Masters	✓	✓	CC 14917/8 BB 15%	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓✓✓		\$418,422.72			
2	MTO Maintenance	✓	✓	CC 338099 BB \$5,500	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓✓✓	✓	\$104,400.00			
3	General Pacific Services	✓	✓	BB \$56,000	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓✓✓	✓	\$345,000.00			
4	JJ Global Services	✓	✓	BB 159/10 BB 223	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Note: Not Sub- mitted with Bid	✓✓✓	✓	\$145,000.00			
5																						
6																						
7																						
8																						
9																						
10																						
I hereby certify that all bids received in response to this invitation were opened under my personal supervision, and that the names of all bidders have been entered hereon.																			BASIS FOR AWARD:			
<div></div> SIGNATURE																			X X LOWEST RESPONSIVE BIDDER		X X TIE BID	
TABULATED BY: <div></div> SIGNATURE																			X X HIGHEST RESPONSIVE BIDDER		X X COMBINED TOTAL	
																			X X OTHER AWARD		X X ITEM PER ITEM	

**ANTONIO B. WON PAT INTERNATIONAL AIRPORT AUTHORITY, GUAM  
BOARD OF DIRECTORS RESOLUTION NO. 19-09**

**RELATIVE TO THE  
EXTENSION OF THE AGREEMENT FOR LEGAL SERVICES –  
CONFLICTS COUNSEL  
WITH FISHER & ASSOCIATES**

**WHEREAS**, an Agreement for Legal Services – Conflicts Counsel (the “Conflicts Counsel Agreement”) was entered into effective as of December 1, 2015, by and between the ANTONIO B. WON PAT INTERNATIONAL AIRPORT AUTHORITY, GUAM (“GIAA”) and Fisher & Associates; and

**WHEREAS**, the Conflicts Counsel Agreement provides for a term of one (1) year with four (4) options to extend for a period of one (1) year each, not to exceed a total contract period of five (5) years with GIAA approval; and

**WHEREAS**, on October 27, 2016, by Resolution No. 17-05, the Board of Directors approved the extension of the Conflicts Counsel Agreement for an additional one year period (1st Option) commencing on December 1, 2016, and expiring on November 30, 2017, under the same terms and conditions as set forth in the Conflicts Counsel Agreement; and

**WHEREAS**, on October 26, 2017, by Resolution No. 18-03, the Board of Directors approved the extension of the Conflicts Counsel Agreement for an additional one year period (2nd Option) commencing on December 1, 2017, and expiring on November 30, 2018, under the same terms and conditions as set forth in the Conflicts Counsel Agreement; and

**WHEREAS**, the Board of Directors has determined that GIAA continues to require the services of conflicts legal counsel and that it is in the best interests of GIAA to extend the term of the Conflicts Counsel Agreement for an additional one (1) year period (3rd Option) commencing on December 1, 2018, and expiring on November 30, 2019, under the same terms and conditions as set forth in the Conflicts Counsel Agreement.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Directors of GIAA hereby extends the term of the Conflicts Counsel Agreement for an additional one (1) year period commencing on December 1, 2018, under the same terms and conditions as set forth in the Conflicts Counsel Agreement.

**DULY AND REGULARLY ADOPTED BY THE BOARD OF DIRECTORS OF THE ANTONIO B. WON PAT INTERNATIONAL AIRPORT AUTHORITY, GUAM AT THE DECEMBER 3, 2018 REGULAR BOARD MEETING.**

---

**RICARDO C. DUENAS, Chairman**

---

**KATHERINE C. SGRO, Vice Chair**

---

**GURVINDER S. SOBTI, Secretary**

---

**ROSALINDA A. TOLAN**

---

**DEEDEE S. CAMACHO**

**ATTEST:**

---

**GURVINDER S. SOBTI, Secretary**

## **AIRLINE ISSUES**

### **UNITED AIRLINES**

Travellers on GUM/MNL flights will now be arriving in Terminal 3 of the Nino Aquino International Airport. Effective Oct. 28, 2018, United moved its Manila operations from Terminal 1 to Terminal 3. Terminal 3 is the newest and largest terminal with new shopping amenities and dining outlets.

## **REGULATORY ISSUES**

### **FAR Part 139 Certification Inspection**

FAA Certification Inspector, William J. Brown from the Honolulu ADO office inspected GIAA's facilities from Oct 29 through Nov 1, 2018. The results? **Zero discrepancies and 100%** compliance with 14 US CFR Part 139. This accomplishment is a milestone for both GIAA and the FAA Honolulu ADO. Never before has an airport received a perfect score in its annual inspection, nor has any achieved this for three years in a row. This is testament to the hard work of employees, tenants and stakeholders and enhances Guam's profile as a safe and efficient airport in the region.

### **USCBP**

USCBP presented GIAA with an introduction to its new simplified travel via facial recognition technology program. 14 airports are now participating in facial technology that improves efficiency of travel while building a database of travellers. Facial technology can be employed from arrival through departure and can replace several systems and programs when fully integrated with all regulatory functions within our terminal. GIAA will continue discussions with USCBP and collaborate with airlines to determine models that will best fit our operation to integrate into this exciting USCBP program.

GIAA Management also met with Mr. Bruce Murley, USCBP Area Port Director out of Honolulu on Nov. 30, 2018, who is visiting the local USCBP office. Discussions centered programs and capital improvement projects ongoing at the Guam International Airport

## **BOND RATINGS**

Standard & Poor's (S&P) upgraded the credit rating on the Antonio B. Won Pat International Airport Authority, Guam's (GIAA) senior-lien general revenue bonds from BBB to a BBB+ with a stable outlook released on September 27, 2018, and again mentioned in S&P's "Year- End Update to S&P Global Ratings' U.S. and Canadian Not for Profit Transportation Infrastructure Enterprises Criteria Implementation" report issued November 28, 2018.

## **LEGISLATIVE ISSUES**

**Public Law 34-133.** An act to add...relative to allowing the use of video teleconferencing ...at meetings of Government boards... to guarantee quorum, for convenience, and to expand eligibility of membership to those community members that may be homebound, and relative to the use of video live streaming at meetings in order to increase transparency in Government.

## **PROCUREMENT ISSUES**

### **IFB: Preventive Maintenance & Repair Services for Main Terminal Generators**

Bid Announcement: Nov. 7, 2018  
Pre-Bid Conference: Nov. 14, 2018 10:00am  
RFI Deadline: Nov. 16, 2018  
Bid Submission Deadline: Nov. 28, 2018 @ 2pm

### **IFB: Airport Ambassador Program & Airport Information Center**

Issue: Nov. 14, 2018  
Pre-Bid Conference: Nov. 18, 2018  
RFI Deadline: Nov. 21, 2018  
Bid Submission Deadline: Dec. 14, 2018 @ 2pm

## **ENVIRONMENTAL ISSUES**

### **Final Wildlife Assessment Report**

GIAA Contractor PCR Environmental completed its yearlong ecological study to document wildlife hazards that occur on and near the airport on October 31, 2018.

The objectives were to:

- identify the abundance and seasonal movements of potential wildlife hazards
- Identify potential wildlife attractants on airport property
- Identify major potential wildlife attractants within 5 miles of the airport
- Analyze past strike history
- Make recommendations.

Summarily, the report details the airport is taking proactive approach to wildlife control by contracting USDA-WS to assist with monitoring, harassment and if necessary lethal wildlife removal. It further reports that Airport staff is dedicated to mitigating wildlife issues on the airfield and annual training and reviews are conducted of the Airport's wildlife hazard management plan.

## **OUTREACH ACTIVITIES**

### **Official Events**

The Airport celebrated Two CIPs last month that included the **“Sneak Peek”** of the first pod of the **International Arrivals Corridor (IAC)** which took place Friday, October 26, 2018 at 10am, and the **“Ground Washing”** event of the new ARFF Facility, which took place on November 1, 2018 at 10am. The Governor, VIPs, Stakeholders and Aviation partners joined us to unveil these significant projects.

Official **Airport Week** events are scheduled for January 14 – 21, 2018, in recognition of the 43<sup>rd</sup> year of the A.B. Won Pat International Airport Authority, Guam as an autonomous agency of Guam.

The annual **Tenant Appreciation Banquet** is scheduled for Dec. 28, 2018 at the Dusit Thani, with an “out of this world” theming.

### **Stakeholder Meeting**

A stakeholder meeting will be held on December 18, 2018 @ 10am to discuss International Arrival Corridor construction impact and operational plans with tenants and airlines. GIAA continues to actively engage tenants, airlines and the public with Terminal Impact notices and stakeholder meetings for proper planning and execution of construction with minimal impact to stakeholders and the travelling public.

### **ANNOUNCEMENTS**

- A **Transition Report** containing the most substantive issues in regard to programs and initiatives, current and future projects, and issues or challenges for review and awareness was transmitted to the Chief of Staff on Monday, November 19, 2018. A meeting is scheduled for 9am, Tuesday, December 4, 2018 with the Infrastructure/Transportation Subcommittee and GIAA Management.
- **SUPER TYPHOON YUTU**  
The Airport deployed two airfield electricians on Nov. 1, 2018 to assist in the recovery of the airfield and terminal electrical systems at Saipan International Airport. They also were flown into Tinian to assess and assist with repair of those electrical systems.
- The Airport kicked off the **2<sup>nd</sup> Annual Deck our Halls and Give** which is a Christmas Tree sponsorship and adoption program within the Terminal. Proceeds from this activity will go to the "One Marianas" organization for recovery assistance to our brothers in the Marianas. This program is twofold, a platform for raising funds for charity and aesthetically enhancing our terminal for the season, which is an auspicious location for corporations who adopt and decorate a tree. Check presentation is scheduled for December 12, 2018 to the organization. CNMI First Lady Diann Torres anticipated to receive the donation. Un Dangkulu Si Yu'us Ma'ase to the following sponsors: United Airlines, Discover Guam, IT&E, First Hawaiian Bank, Bank of Guam, TMG, BME and Sons, SSFM International, Clear Channel, P.H.R. Ken Corp , Lotte Duty Free, HDT, GIAA, GIAAEO, AM Insurance , Burger King, and PacAir Properties.





**FOR IMMEDIATE RELEASE**

**WE'RE  
ON IT 24/7**

**November 30, 2018**

## **Standard & Poor's Upgrades Airport Credit Rating with updated Criteria**

Standard & Poor's (S&P) upgraded the credit rating on the Antonio B. Won Pat International Airport Authority, Guam's (GIAA) senior-lien general revenue bonds from BBB to a BBB+ with a stable outlook released on September 27, 2018, and again mentioned in S&P's "Year-End Update to S&P Global Ratings' U.S. and Canadian Not for Profit Transportation Infrastructure Enterprises Criteria Implementation" report issued November 28, 2018.

The upgraded rating reflects S&P's opinion of the airport's "adequate enterprise risk profile and strong financial risk profile". These assessments included "low industry risk relative to that of other industries and sectors", and the Airport's "adequate management and governance, with detailed financial planning" and "adequate risk management practices and organizational effectiveness." S&P also pointed out the GIAA's adequate financial performance, its strong historical coverage, and very strong debt and liabilities capacity as GIAA continues to pay down its debt.

In its Nov. 28, 2018 release, S&P had reviewed 48 airports, which included the Antonio B. Won Pat International Airport Authority, Guam. Executive Manager Charles Ada II stated, "Under S&P's updated criteria as of March 12, 2018, S&P found the Guam Airport bonds to have improved from a BBB to a BBB+ in its credit rating. This is fantastic, and validates responsible management in place, especially in a period where we are going through massive construction and upgrade to our facility and having lost a key aviation partner in the last fiscal year. "

The official S&P Global Ratings "Year End Update to S&P Global Ratings' US. And Canadian Not-for-Profit Transportation Infrastructure Enterprises Criteria Implementation" report is attached as part of this release. The A.B. Won Pat International Airport Authority's upgrade to its revenue bonds is highlighted on page 15 of this document.

###



*The A. B. Won Pat International Airport Authority, Guam is a self sustaining autonomous government agency, charged with the mission to ensure the safety and security of the traveling public, maintain superior and reliable level of airport services, and support the development of air services and facilities which are integral to the island's economic growth.*

**CONTACT: Rolenda Faasuumalie (Marketing Administrator)**([rolenda@guamairport.net](mailto:rolenda@guamairport.net))

Tel: (671) 642-4645/646-0300 ( Fax: (671) 646-8823( P.O. Box 8770 Tamuning, Guam 96931([www.guamairport.com](http://www.guamairport.com))

November 29, 2018

**MEMORANDUM**

**To:** Mr. Ricardo C. Duenas  
Chairman  
GIAA Board of Directors

**From:** John A. Rios  
Comptroller

**Subject:** Operating Results – Revenues and Expenses as of October 31, 2018

Attached herewith is GIAA's Operating Results Report for the month ending October 31, 2018. This report summarizes the Budgeted versus Actual Revenues and Expenses for the month and year-to-date results ended October 31, 2018.

The key operating results for 1 month(s) of FY2019 ending October 31, 2018 – (in \$000's) are

CATEGORY	Actual FY19 Current Month	YEAR-TO-DATE			FORECAST FOR FULL YEAR- FY19	
		Budget FY19 Y-T-D	Actual FY19 Y-T-D	% Variance Budget vs Actual	Actual Y-T-D FY19 Budget	% Variance Budget vs. Estimate for Full Year
				Y-T-D Current Month		
Total Signatory Revenues	\$ 2,616.6	\$ 2,890.8	\$ 2,616.6	-9.5%	\$ 33,343.5	-0.8%
Total Concession Revenues	\$ 1,551.8	\$ 1,584.1	\$ 1,551.8	-2.0%	\$ 19,349.0	-0.2%
Total PFC's	\$ 451.5	\$ 622.5	\$ 451.5	-27.5%	\$ 7,145.8	-2.3%
Total Other Revenues	\$ 1,445.3	\$ 1,568.7	\$ 1,445.3	-7.9%	\$ 18,754.2	-0.7%
Total Operating Revenues	\$ 6,065.2	\$ 6,666.1	\$ 6,065.2	-9.0%	\$ 78,592.4	-0.8%
Total Operating Expenses	\$ 3,519.7	\$ 4,010.3	\$ 3,519.7	-12.2%	\$ 48,244.6	-1.0%
Net Revenues from Operations	\$ 2,545.5	\$ 2,655.8	\$ 2,545.5	-4.2%	\$ 30,347.8	-0.4%
Non-Operating Expenses	\$ 236.9	\$ 275.0	\$ 236.9	-13.9%	\$ 751.9	-4.8%
Other Available Moneys/other sources of funds	\$ 530.0	\$ 563.3	\$ 530.0	-5.9%	\$ 6,726.8	-0.5%
Net Debt Service Coverage	1.34	1.43	1.34	-6.3%	1.46	-0.5%

Year-to-date Total Signatory Revenues for the month ending October 31, 2018 are below Budgeted revenues by **-9.5%**. Signatory revenue estimates are based on projections submitted by Signatory airlines and adopted in the annual budget.

Year-to-date Total Concession Revenues are **-2.0%** below budget while Passenger Facility Charges are below the budget estimate by **-27.5%**.

Year-to-date Total Other Revenues, inclusive of non-signatory and non-airlines revenues, are below the budget estimate by **-7.9%**.

Year-to-date Total Operating Revenues actual of **\$6.1M** is **-9.0%** below the budget estimate of **\$6.7M**.

Year-to-date Total Operating Expenses are below budget by **-12.2%**. Components of this line item include a **-34.6%** decrease in Personnel Service, a **25.0%** increase in Contractual Services, a **-82.7%** decrease in Materials & Supplies and a **-100.0%** decrease in Equipment/Furnishings from budgeted amounts for these respective categories.

The actual year-to-date Net Revenues from Operations of **\$2.5M** represents a **-4.2%** decrease over the year-to-date budgeted amount of **\$2.7M**.

Finally, our year-to-date results for Debt Service Coverage is at **1.34** versus the requirement of **1.25**.

Should you have any questions, please contact me at your convenience.

#### Attachments

Cc: Board of Directors  
Executive Manager  
Deputy Executive Manager  
Airport Services Manager  
Airport Terminal Manager

**GUAM INTERNATIONAL AIRPORT AUTHORITY**  
**KEY OPERATING RESULTS (\$000's)**  
**As of October 31, 2018**

	CURRENT MONTH				Budget Full Year	YEAR TO DATE				FULL YEAR FORECAST	
	Actual FY2018	Budget FY2019	Actual FY2019	%Var Bud Vs Act'l		Actual FY2018	Budget FY2019	Actual FY2019	%Var Bud Vs Act'l	Actual/Est	%Var Bud Vs Act'l
<b>I. Signatory Airline Rents &amp; Fees</b>											
Terminal Bldg Rentals	325.9	354.8	356.4	0.5%	4,140.8	325.9	354.8	356.4	0.5%	4,142.4	0.0%
Departure Fees	484.0	709.0	605.7	-14.6%	8,333.2	484.0	709.0	605.7	-14.6%	8,230.0	-1.2%
Arrival Fees	483.4	710.3	625.6	-11.9%	8,273.8	483.4	710.3	625.6	-11.9%	8,189.1	-1.0%
Immigration Inspection Fees	164.5	243.2	218.5	-10.1%	2,860.4	164.5	243.2	218.5	-10.1%	2,835.8	-0.9%
Loading Bridge Use Fees	586.4	511.3	470.6	-8.0%	5,661.6	586.4	511.3	470.6	-8.0%	5,620.9	-0.7%
Apron Use Fees	134.3	112.2	101.2	-9.8%	1,347.0	134.3	112.2	101.2	-9.8%	1,336.0	-0.8%
Landing Fees	302.0	250.0	238.6	0.0%	3,000.8	302.0	250.0	238.6	0.0%	2,989.3	0.0%
<b>Total Signatory Revenue</b>	<b>2,480.6</b>	<b>2,890.8</b>	<b>2,616.6</b>	<b>-9.5%</b>	<b>33,617.6</b>	<b>2,480.6</b>	<b>2,890.8</b>	<b>2,616.6</b>	<b>-9.5%</b>	<b>33,343.5</b>	<b>-0.8%</b>
Enplaned Signatory Pax	129,772	157,551	138,002	-12.4%	1,851,871	129,772	157,551	138,002	-12.4%	1,832,321	-1.1%
<b>Cost per Enplaned Pax</b>	<b>\$19.12</b>	<b>\$18.35</b>	<b>\$18.96</b>	<b>3.3%</b>	<b>\$18.15</b>	<b>\$19.12</b>	<b>\$18.35</b>	<b>\$18.96</b>	<b>3.3%</b>	<b>\$18.20</b>	<b>0.2%</b>
<b>Revenues from Sources other than Signatory Airlines Rents &amp; Fees</b>											
Concession Revenues											
Gen Mdse	1,265.8	1,239.4	1,191.2	-3.9%	14,872.3	1,265.8	1,239.4	1,191.2	-3.9%	14,824.1	-0.3%
In-flight Catering	66.3	64.4	74.8	16.0%	837.9	66.3	64.4	74.8	16.0%	848.3	1.2%
Food & Beverage	78.0	82.2	78.8	-4.2%	1,062.4	78.0	82.2	78.8	-4.2%	1,059.0	-0.3%
Rental Cars	117.2	122.9	138.9	13.1%	1,673.7	117.2	122.9	138.9	13.1%	1,689.8	1.0%
Other Concession Rev	69.9	75.2	68.1	-9.5%	935.0	69.9	75.2	68.1	-9.5%	927.9	-0.8%
<b>Total Concession Revenues</b>	<b>1,597.2</b>	<b>1,584.1</b>	<b>1,551.8</b>	<b>-2.0%</b>	<b>19,381.4</b>	<b>1,597.2</b>	<b>1,584.1</b>	<b>1,551.8</b>	<b>-2.0%</b>	<b>19,349.0</b>	<b>-0.2%</b>
Passenger Facility Charges	389.7	622.5	451.5	-27.5%	7,316.7	389.7	622.5	451.5	-27.5%	7,145.8	-2.3%
Other Revenue	1,636.7	1,568.7	1,445.3	-7.9%	18,877.6	1,636.7	1,568.7	1,445.3	-7.9%	18,754.2	-0.7%
<b>Total Operating Revenue</b>	<b>6,104.2</b>	<b>6,666.1</b>	<b>6,065.2</b>	<b>-9.0%</b>	<b>79,193.3</b>	<b>6,104.2</b>	<b>6,666.1</b>	<b>6,065.2</b>	<b>-9.0%</b>	<b>78,592.4</b>	<b>-0.8%</b>
<b>II. Operating Expenses:</b>											
Personnel Services	1,897.4	2,433.6	1,592.6	-34.6%	21,091.0	1,897.4	2,433.6	1,592.6	-34.6%	20,250.0	-4.0%
Contractual Services	1,953.6	1,536.1	1,920.0	25.0%	25,280.4	1,953.6	1,536.1	1,920.0	25.0%	25,664.3	1.5%
Materials & Supplies	73.4	40.6	7.0	-82.7%	2,201.2	73.4	40.6	7.0	-82.7%	2,167.6	-1.5%
Equipment/Furnishings	0.0	0.0	0.0	0.0%	162.8	0.0	0.0	0.0	-100.0%	162.8	0.0%
<b>Total Operating Expenses</b>	<b>3,924.4</b>	<b>4,010.3</b>	<b>3,519.7</b>	<b>-12.2%</b>	<b>48,735.3</b>	<b>3,924.4</b>	<b>4,010.3</b>	<b>3,519.7</b>	<b>-12.2%</b>	<b>48,244.6</b>	<b>-1.0%</b>
<b>Net income from Operations</b>	<b>2,179.9</b>	<b>2,655.8</b>	<b>2,545.5</b>	<b>-4.2%</b>	<b>30,458.1</b>	<b>2,179.9</b>	<b>2,655.8</b>	<b>2,545.5</b>	<b>-4.2%</b>	<b>30,347.8</b>	<b>-0.4%</b>

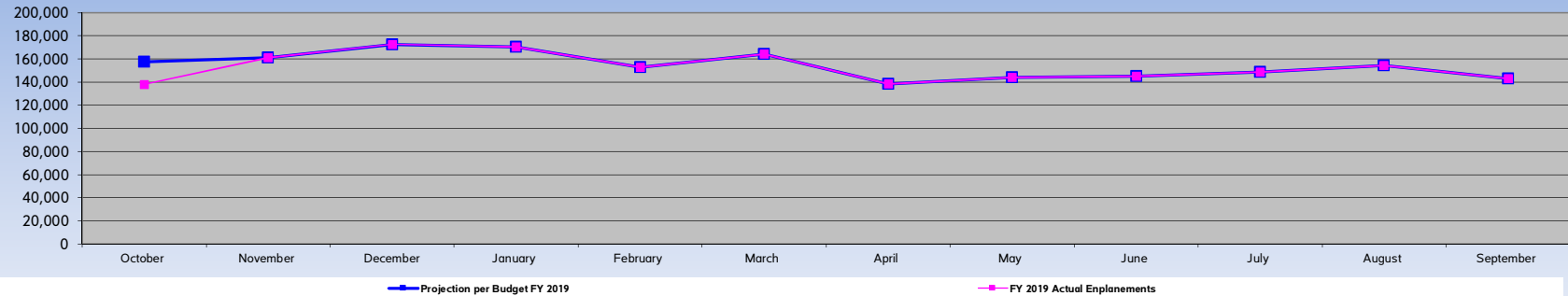
GUAM INTERNATIONAL AIRPORT AUTHORITY  
KEY OPERATING RESULTS (\$000's)  
As of October 31, 2018

	CURRENT MONTH				Budget Full Year	YEAR TO DATE				FULL YEAR FORECAST	
	Actual FY2018	Budget FY2019	Actual FY2019	%Var Bud Vs Act'l		Actual FY2018	Budget FY2019	Actual FY2019	%Var Bud Vs Act'l	Actual/Est	%Var Bud Vs Act'l
III. Other Revenues and Expenses											
Less: Non Operating Expense(Ret/DOI/OHS)	234.9	275.0	236.9	-13.8%	790.0	234.9	275.0	236.9	-13.8%	751.9	-4.8%
Add: Interest on Investments	32.7	84.8	0.0	-100.0%	1,017.5	32.7	84.8	0.0	-100.0%	932.7	-8.3%
<b>Net Revenues</b>	1,977.7	2,465.6	2,308.5	-6.4%	30,685.6	1,977.7	2,465.6	2,308.5	-0.9	30,528.6	-0.5%
Add: Other Sources of Funds	0.0	33.3	0.0	0.0%	400.0	0.0	33.3	0.0	-100.0%	366.7	-8.3%
Add: Other Available Moneys	530.1	530.0	530.0	0.0%	6,360.1	530.1	530.0	530.0	0.0%	6,360.1	0.0%
<b>Net Revenues and Other Available Moneys</b>	<b>2,507.8</b>	<b>3,028.9</b>	<b>2,838.6</b>	<b>-6.3%</b>	<b>37,445.7</b>	<b>2,507.8</b>	<b>3,028.9</b>	<b>2,838.6</b>	<b>-6.3%</b>	<b>37,255.3</b>	<b>-0.5%</b>
Debt Service payments	2,120.5	2,120.0	2,120.0	0.0%	25,440.5	2,120.5	2,120.0	2,120.0	0.0%	25,440.5	0.0%
<b>Debt Service Coverage</b>	<b>1.18</b>	<b>1.43</b>	<b>1.34</b>	<b>-6.3%</b>	<b>1.47</b>	<b>1.18</b>	<b>1.43</b>	<b>1.34</b>	<b>-6.3%</b>	<b>1.46</b>	<b>-0.5%</b>
<b>Debt Service Requirement</b>	<b>1.25</b>	<b>1.25</b>	<b>1.25</b>		<b>1.25</b>	<b>1.25</b>	<b>1.25</b>	<b>1.25</b>		<b>1.25</b>	

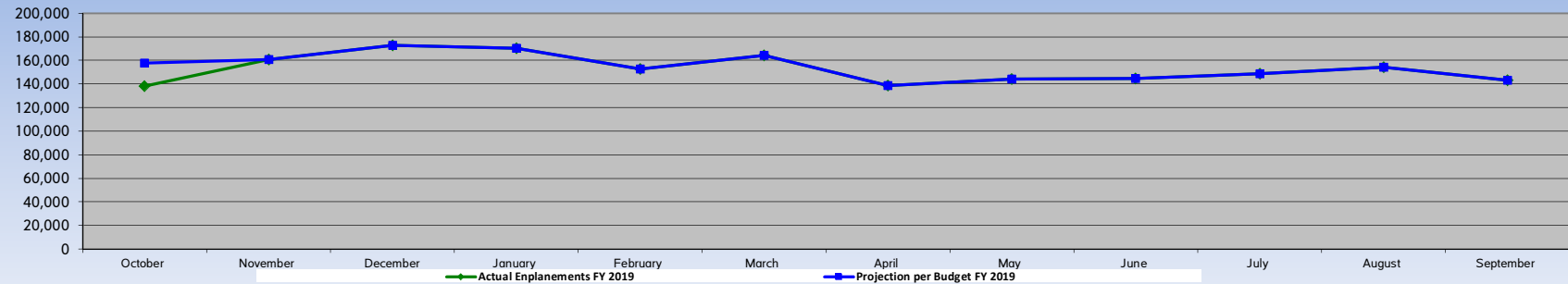
# SUMMARY SIGNATORY AIRLINES

Enplanements	October	November	December	January	February	March	April	May	June	July	August	September	Total
Projection per Budget FY 2019	157,551	160,972	172,607	170,142	152,811	164,175	138,541	144,226	144,896	148,545	154,340	143,065	1,851,871
FY 2017 Actual Enplanements	143,619	148,002	160,544	162,303	143,720	157,735	146,779	150,775	151,974	158,139	169,547	145,108	1,838,245
FY 2018 Actual Enplanements	129,772	145,309	157,750	155,969	145,088	157,932	139,620	142,477	146,720	153,951	162,801	129,698	1,767,087
FY 2019 Actual Enplanements/Projection	138,002	160,972	172,607	170,142	152,811	164,175	138,541	144,226	144,896	148,545	154,340	143,065	1,832,321
FY 2019 versus FY 2018 Monthly%	6.34%	10.78%	9.42%	9.09%	5.32%	3.95%	-0.77%	1.23%	-1.24%	-3.51%	-5.20%	10.31%	3.69%
FY 2019 versus FY 2018 Monthly	8,230	15,663	14,857	14,173	7,723	6,243	-1,079	1,749	-1,824	-5,406	-8,461	13,367	65,234
FY 2019 versus FY 2018 Cumulative	8,230	23,893	38,750	52,923	60,645	66,888	65,810	67,559	65,735	60,329	51,868	65,234	65,234
	6.34%	16.44%	24.56%	33.93%	41.80%	42.35%	47.14%	47.42%	44.80%	39.19%	31.86%	50.30%	3.69%

FY 2017 FY 2019 Signatory Airlines Actual and Projection of Enplanements



Fiscal Year 2019 Actual Enplanements versus Budget



Enplanements	October	November	December	January	February	March	April	May	June	July	August	September	Total
Actual Enplanements FY 2019	138,002	160,972	172,607	170,142	152,811	164,175	138,541	144,226	144,896	148,545	154,340	143,065	1,832,321
Projection per Budget FY 2019	157,551	160,972	172,607	170,142	152,811	164,175	138,541	144,226	144,896	148,545	154,340	143,065	1,851,871
Actual Enplanements Over/(Under) Projection	(19,549)	0	0	0	0	0	0	0	0	0	0	0	(19,549)
Cumulative Total	(19,549)	0	0	0	0	0	0	0	0	0	0	0	-1.1%
Percentage Over/(Under) Forecast	October	November	December	January	February	March	April	May	June	July	August	September	
% Monthly versus Projection	-12.4%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
% Cumulative Total	-12.4%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Month to Month Trend	October	November	December	January	February	March	April	May	June	July	August	September	
Actual Enplanements	138,002	160,972	172,607	170,142	152,811	164,175	138,541	144,226	144,896	148,545	154,340	143,065	
Month to Month Increase/(Decrease)		22,970	11,635	-2,464	-17,332	11,364	-25,633	5,685	670	3,650	5,794	-11,275	
Month to Month Increase/(Decrease) in %		16.6%	7.2%	-1.4%	-10.2%	7.4%	-15.6%	4.1%	0.5%	2.5%	3.9%	-7.3%	
Cost Per Enplanement FY2017 Actual versus Projected	October	November	December	January	February	March	April	May	June	July	August	September	CPE FY18
Forecast Per FY2019 Budget	\$ 18.35	\$ 17.78	\$ 17.67	\$ 17.86	\$ 18.13	\$ 18.19	\$ 18.54	\$ 18.38	\$ 18.18	\$ 18.29	\$ 18.13	\$ 18.53	\$ 18.15
Actual CPE	\$ 18.96												
Variance	\$ (0.61)	\$ 17.78	\$ 17.67	\$ 17.86	\$ 18.13	\$ 18.19	\$ 18.54	\$ 18.38	\$ 18.18	\$ 18.29	\$ 18.13	\$ 18.53	\$ 18.15

6716469402

Calvo Fisher &amp; Jacob LLP

04:34:25 p.m. 11-19-2018

2 / 2

**CALVO FISHER & JACOB LLP**

259 MARTYR STREET, SUITE 100

HAGATÑA, GUAM 96910

P: 671.646.9355 F: 671.646.9403

WWW.CALVOFISHER.COM

writer's direct e-mail:

[jdorian@calvofisher.com](mailto:jdorian@calvofisher.com)**RECOMMENDATION OF COUNSEL**

**TO:** Board of Directors  
**ANTONIO B. WON PAT INTERNATIONAL**  
**AIRPORT AUTHORITY, GUAM**

**CC:** Mr. Charles H. Ada II  
Executive Manager  
**ANTONIO B. WON PAT INTERNATIONAL**  
**AIRPORT AUTHORITY, GUAM**

**FROM:** Janalynn Cruz Damian  
**CALVO FISHER & JACOB LLP**

**DATE:** November 19, 2018

**SUBJECT:** Executive Session

---

Pursuant to 5 GCA § 8111(c)(1), I hereby recommend that the Board of Directors of GIAA conduct an Executive Session at the next regularly scheduled Board meeting to discuss pending or threatened litigation to which GIAA is or may be a party.