

AMENDED AND RESTATED LEASE AND LICENSE AGREEMENT

BETWEEN THE CITY OF LOS ANGELES

AND

TOM BRADLEY INTERNATIONAL TERMINAL EQUIPMENT COMPANY

AT LOS ANGELES INTERNATIONAL AIRPORT

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**AMENDED AND RESTATED LEASE AND LICENSE AGREEMENT BETWEEN
THE CITY OF LOS ANGELES AND
TOM BRADLEY INTERNATIONAL TERMINAL EQUIPMENT COMPANY
AT LOS ANGELES INTERNATIONAL AIRPORT**

THIS AMENDED AND RESTATED LEASE AND LICENSE AGREEMENT (this “Agreement”), dated as of _____, 2016 (“Effective Date”), is made by and between the City of Los Angeles, a municipal corporation, acting by and through the Board of Airport Commissioners (the “Board”) of Los Angeles World Airports, a department of the City of Los Angeles (collectively, “City”), and Tom Bradley International Terminal Equipment Company, a California nonprofit mutual benefit corporation (“TBITEC”).

RECITALS

A. TBITEC and City entered into that certain Los Angeles International Airport Tom Bradley International Terminal Equipment Company Lease and License Agreement LAA-8600 dated September 16, 2011 (the “Original Agreement”), in which TBITEC leased from City, and City leased to TBITEC, certain space in the Tom Bradley International Terminal (“TBIT”) and licensed to TBITEC Aeronautical Equipment, for the purpose of operation and maintenance for the benefit of Member Air Carriers and Non-Member Air Carriers. The Original Agreement was amended by that certain First Amendment to the Los Angeles International Airport Tom Bradley International Terminal Equipment Company Lease and License Agreement dated June 27, 2013 (“First Amendment”), in which City leased to TBITEC, certain space in Terminal 2 (“T2”) and other airport areas and licensed to TBITEC additional Aeronautical Equipment. The Original Agreement was amended further by that certain Second Amendment dated July 9, 2015 (“Second Amendment”), in which City leased to TBITEC certain space in Terminal 3 (“T3”) and other airport areas and licensed to TBITEC additional Aeronautical Equipment, for the purpose of providing services as further described therein. The Original Agreement as amended and modified by the First Amendment and the Second Amendment is referred to herein as the “Prior Agreement”.

B. Pursuant to this Agreement, City and TBITEC hereby desire to amend and restate the Prior Agreement in its entirety on the terms set forth herein, for the period from and after the Effective Date.

C. Under this Agreement, TBITEC desires to lease from City, and City desires to lease to TBITEC, certain space at TBIT, T2 and T3 (collectively, the “Premises”) and other airport areas and license to TBITEC additional Aeronautical Equipment, for the purpose of providing services as further described herein.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

For the period beginning on the Effective Date and continuing thereafter, this Agreement

amends and supersedes the Prior Agreement in its entirety; provided, however, that nothing in this Agreement shall be construed to release or relieve TBITEC from any obligation or liability under the Prior Agreement accruing prior to the Effective Date under this Agreement, and all of such obligations and liabilities of TBITEC under the Prior Agreement shall survive the execution and the Effective Date of this Agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, City and TBITEC agree as follows:

ARTICLE 1 **DEFINITIONS; INTERPRETATION**

1.01. Definitions. All capitalized terms not defined herein shall have the meaning described in the Tariff. The following terms and phrases shall have the following meanings for purposes of this Agreement:

(a) “Additional Member” means an Air Carrier that became or becomes a party to the Member Agreement after the effective date of the Member Agreement.

(b) “Aeronautical Equipment” means, collectively, the Existing Aeronautical Equipment, together with (i) the Replacement Aeronautical Equipment; and (ii) any New Aeronautical Equipment.

(c) “Air Carrier” means an “air carrier” or “foreign air carrier” as such terms are defined in 49 U.S.C. § 1301, as amended, or any successor provision thereto, and which is operating at LAX.

(d) “Airport” means Los Angeles International Airport, located in the City of Los Angeles, State of California, United States of America.

(e) “Airport Engineer” means the Chief Airports Engineer of the Airport from time to time, as successors to that position may be designated (by whatever title).

(f) “Assignment of Service Notification” means the notice utilized by the Chief Executive Officer to assign services to TBITEC under this Agreement.

(g) “Capital Improvement” means any improvement or item or related group of items that, in accordance with generally accepted accounting principles consistently applied, is capitalized by City and costs in excess of the Capital Improvement Floor Amount.

(h) “Capital Improvement Floor Amount” means such amount, if any, as may be adopted by City in its discretion from time to time for the purposes of keeping the accounting records of the Airport, as a threshold below which the cost of items that would otherwise be treated as investment in capital improvements is instead treated as a current expense.

- (i) “Chief Executive Officer” means the Chief Executive Officer of LAWA.
- (j) “City Attorney” means the City of Los Angeles Office of the City Attorney.
- (k) “Company Property” means the equipment, systems, furnishings and fixtures owned by TBITEC or any Air Carrier used in connection with the Aeronautical Equipment, including common use ticketing equipment, boarding pass readers and the interline baggage carousel.
- (l) “Consortium Manager” means an independent contractor selected by TBITEC to manage the Maintenance Operator and TBITEC vendor agreements.
- (m) “Delta Termination and Relocation” means (i) the termination of the lease between City and Delta Airlines, Inc. (Delta) concerning the premises at T5 (as defined below) and T6 (as defined below) and the (2) relocation of Delta to T2 and T3 pursuant to a lease between Delta and City.
- (n) “Effective Date” means the date on which this Agreement has received all required approvals and is fully-executed by TBITEC and City.
- (o) “Equipment Access Agreement” means an agreement between TBITEC and a Handler to allow access to the Aeronautical Equipment by the Handler to provide services to a User.
- (p) “Equipment Use Agreement” means an agreement between TBITEC and any Non-Member Air Carrier desirous of using the Aeronautical Equipment as more particularly described in Section 8.01 below.
- (q) “Existing Aeronautical Equipment” means the equipment, systems, furnishings, and fixtures, listed on Exhibit C attached hereto. The Chief Executive Officer, on behalf of the City, and subject to approval as to form by the City Attorney, and TBITEC may amend Exhibit C from time to time to correct errors or to update Replacement Equipment or New Equipment added from time to time pursuant to the terms hereof, without the prior approval of the Board.
- (r) “Event of Default” shall have the meaning given to it in Section 15.01 of this Agreement.
- (s) “Fees” means the Rent and any and all other charges, fees, and amounts payable by TBITEC to City hereunder.
- (t) “Fiscal Year” means July 1 through June 30.
- (u) “Handler” means any person that: (i) executes an Equipment Access Agreement; and (ii) obtains all necessary approvals and permits from City to perform handling services for one or more Users at the Airport.

(v) “LAX Rules and Regulations” means the “Rules and Regulations Manual for Los Angeles International Airport (LAX)” as may be amended from time to time.¹

(w) “Lease Year” means the fiscal year of City, which is currently the year beginning on July 1 and ending on the following June 30, or any other fiscal year as may from time to time be adopted by City.

(x) “Maintenance Operator” means a qualified and duly licensed independent contractor hired by TBITEC with the written approval of the Chief Executive Officer to operate, maintain and manage the Aeronautical Equipment and to manage TBITEC Vendor Agreements, as specified and agreed from time to time as more particularly described in Section 8.04 below.

(y) “Maintenance Standards” means those standards described on Exhibit R attached hereto, as the same may be updated from time to time by mutual agreement of TBITEC and the Chief Executive Officer, including as appropriate, when New Aeronautical Equipment and Replacement Aeronautical Equipment is added to the Aeronautical Equipment

(z) “Member Agreement” means the Tom Bradley International Terminal Equipment Company Member Agreement (and all amendments or modifications thereto) among TBITEC and the Member Air Carriers pertaining to the allocation of rentals, rates, fees, and charges established pursuant to this Agreement and other expenses of TBITEC, and covering other related issues such as membership, governance, default, withdrawal, insurance, and indemnification as more particularly described in Article 5 below.

(aa) “Member Air Carrier” means an Air Carrier that is a party to the Member Agreement and is a member of TBITEC, including any Additional Member.

(bb) “MSC” means the Midfield Satellite Concourse at the Airport.

(cc) “New Aeronautical Equipment” means any of the equipment, systems, furnishings, or fixtures acquired and installed pursuant to Article 8 hereof and listed on Exhibit D attached hereto.

(dd) “Non-Member Air Carrier” means an Air Carrier that uses the Terminals that is a not party to the Member Agreement and is not a member of TBITEC and that has executed an Equipment Use Agreement.

(ee) “Operating Agreement” means the Maintenance, Operation and Management Services Agreement as in effect from time to time between TBITEC and the Maintenance Operator for the maintenance, operation and management of the Aeronautical Equipment as specified and agreed from time to time as more particularly described in Section 8.04 below.

¹ As of the Effective Date, the LAX Rules and Regulations are available on the LAWA Website at www.lawa.org/airops/rules.cfm.

(ff) “Premises” means the space designated for the use of TBITEC under this Agreement, consisting of approximately the number of square feet reflected on the Basic Information Schedule under the heading “Premises”, located in the Terminals and shown in heavy black outline on the Airport Engineer’s Drawing described on the Basic Information Schedule under the heading “Premises”, a copy of which is attached to this Agreement as Exhibit A.

(gg) “Rate Methodology” means the fees and charges calculated pursuant to the Board-adopted rates and charges methodology attached hereto as Schedule 2.

(hh) “Reimbursement Rate” means, as of any date of determination, the annual rate of interest equal to two per cent (2%) per annum in excess of the fixed rate of interest quoted in The Bond Buyer 25 Revenue Bond Index (or, if that index is no longer published, such successor or replacement index or similar index selected by City) for fixed rate bonds having a term remaining to maturity of one year (with no credit enhancement) and bearing interest that is not excluded from gross income for federal income tax purposes.

(ii) “Rent” means fees paid by TBITEC to City as provided in Article 4 of this Agreement, as calculated and adjusted from time to time as described in Article 4.

(jj) “Rentable Area” means, when applied to any portion of the Terminals, the rentable floor area of the portion of the Terminals, as calculated from time to time by the Airport Engineer in accordance with Section 17.16.

(kk) “Replacement Aeronautical Equipment” means the equipment, systems, furnishings, and/or fixtures acquired and installed by City pursuant to the provisions of Article 8 hereof and listed on Exhibit E attached hereto.

(ll) “Stipulated Rate” means the rate of interest per annum equal to the lesser of (a) twenty percent (20%) and (b) the maximum rate permitted by applicable law.

(mm) “T2” means Terminal 2 at the Airport.

(nn) “T3” means Terminal 3 at the Airport.

(oo) “T5” means Terminal 5 at the Airport.

(pp) “T6” means Terminal 6 at the Airport.

(qq) “Tariff” means the Los Angeles International Airport Passenger Terminal Tariff adopted by the Board, as may be amended from time to time.

(rr) “TBIT” means the Tom Bradley International Terminal at the Airport.

(ss) “TBITEC-Procured Equipment” means the equipment purchased and installed by

TBITEC at its sole cost and expense under Section 8.03(b)(iii) of the Agreement.

(tt) “TBITEC Vendor(s)” means one or more vendors or service providers, engaged by TBITEC to procure Replacement Aeronautical Equipment or parts for the Aeronautical Equipment, or to maintain, repair, or operate the Aeronautical Equipment and Company Property. All such TBITEC Vendors shall be selected in accordance with Section 8.04.

(uu) “TBITEC Vendor Agreement” means an agreement between TBITEC and a TBITEC Vendor pursuant to which TBITEC will provide certain services to the Aeronautical Equipment and Company Property as more particularly described in Section 8.04 below.

(vv) “Tenant Project Approval Process” means the formal review process in place to manage and logically coordinate tenant construction projects at the Airports.

(ww) “Terminal Users” means on any date all passenger air carriers and other non-governmental Persons then leasing space at the Terminals, all passenger air carriers and other Persons occupying space under the Tariff, and all other passenger air carriers and other non-governmental Persons then having other contractual arrangements with City for the use and occupancy of the Terminals, but excluding all itinerant and charter air carriers not leasing space at the Terminals and not signatories to a contractual arrangement with City having substantially the same economic provisions with respect to charges for the use of joint use areas as those contained in the Tariff.

(xx) “Terminal(s)” means one or any combination of the MSC, TBIT, T2, T3 or T5.

(yy) “Usable Area” means collectively the Premises.

(zz) “User” means any Member, Non-Member Air Carrier or Handler that uses the Aeronautical Equipment.

(aaa) “Vertical Areas” means stairs, elevator shafts, flues, pipe shafts, vertical ducts, and the like, and their enclosing walls, serving more than one floor of the Terminals, but does not include stairs, dumb-waiters, lifts, and the like, exclusively serving TBITEC or any other tenant of the Terminals occupying space on more than one floor of the Terminals.

1.02. Interpretation. In this Agreement, unless otherwise expressly indicated:

(a) the terms “hereby”, “herein”, “hereof”, “hereto”, “hereunder” and any similar terms used in this Agreement refer to this Agreement;

(b) all Article and Section references, unless otherwise expressly indicated, are to Sections of this Agreement;

(c) words importing persons shall include firms, associations, partnerships, trusts, corporations and other legal entities, including public bodies, as well as natural persons;

(d) any headings preceding the text of the Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience or reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect;

(e) words importing the singular shall include the plural and vice versa;

(f) all the agreements or instruments herein defined shall mean such agreements or instruments as the same may from time to time be supplemented or amended or the terms thereof waived or modified to the extent permitted by, and in accordance with, the terms thereof;

(g) references to statutes, sections or regulations are to be construed as including all statutory or regulatory provisions consolidating, amending, replacing, succeeding or supplementing the statute, section or regulation referred to;

(h) the words "including," "includes" and "include" shall be deemed to be followed by words "without limitation" or "but not limited to" or words of similar import; and

(i) use of the word "or" in a series such as a, b or c means any one or more of the items in the series.

1.03. Incorporation of Exhibits. The exhibits, attachments, schedules, and addenda referenced herein and attached hereto are hereby made a part of this Agreement.

ARTICLE 2 PREMISES; GRANT OF LICENSE; TERM

2.01. Premises.

(a) Upon and subject to the conditions and limitations set forth in this Agreement, City hereby agrees to lease to TBITEC, and TBITEC hereby agrees to lease from City, the Premises as described and delineated in Exhibit A, upon the terms and conditions set forth in this Agreement, for the purposes of: providing aeronautical services to Member Air Carriers and Non-Member Air Carriers; and acquiring, operating and maintaining the Aeronautical Equipment.

(b) TBITEC has examined and agrees to accept the Premises and the Terminals "as is", in their condition and state of repair existing on the date of the TBITEC's execution and delivery of this Agreement. City makes no representations, express or implied, as to the current condition of the Terminals, the Airport or the Premises, or the equipment and systems serving the Terminals, the Airport or the Premises. To the maximum extent permitted by law, TBITEC waives the right to make repairs at the expense of City and the benefit of the provisions of Sections 1941 and 1942 of the California Civil Code.

(c) Concurrent with the Delta Termination and Relocation and upon no less than

ninety (90) days' advance written notice to TBITEC that outlines the anticipated date of the Delta Termination and Relocation, the Chief Executive Officer shall have the right to remove T2 and T3 (as shown on Exhibit A-2) from the Premises.

(d) If TBITEC provides written notice to the Chief Executive Office of its consent to accept the T5 premises, then, on or after the date of the Delta Termination and Relocation, the Chief Executive Officer shall have the right to add T5 (as shown on Exhibit A-3) to the Premises.

(e) If the Chief Executive Officer provides ninety (90) days' advance written notice to TBITEC that City will lease any of the T5 areas shown on Exhibit A-3 directly to Air Carriers operating in T5, then the Chief Executive Officer shall have the right to delete up to 100,436 square feet of space from the Premises.

(f) Concurrent with the acquisition of the Midfield Satellite Concourse (the “MSC”) baggage handling system and beneficial occupancy of the MSC, the Chief Executive Officer shall have the right to add the MSC (as shown on Exhibit A-4) to the Premises.

(g) Concurrent with the beneficial occupancy of the North Baggage Handling Facility (“NBHF”), the Chief Executive Officer shall have the right to add the NBHF, along with the TBIT North, West, and East Tunnels (the “TBIT Tunnels”) (as shown on Exhibit A-4) to the Premises.

(h) In the event of City's operational needs, City shall have the right, to be exercised by the Chief Executive Officer, to reduce the Premises, in whole or in part, upon one hundred eighty (180) days' written notice (“Taking Notice”) to TBITEC. In the event TBITEC receives a Taking Notice, TBITEC shall have the right to terminate the Agreement by providing City notice (“Termination Notice”) within thirty (30) days of receiving the Taking Notice. The Agreement shall terminate one hundred twenty (120) days after TBITEC provides City the Termination Notice.

(i) In the event the Chief Executive Officer modifies the Premises as set forth above, the Chief Executive Officer shall have the authority, without further action of the Board or City Council, to amend Exhibit A accordingly.

2.02. Grant of License.

(a) In connection with the lease of the Premises, City grants to TBITEC an exclusive license to use the Aeronautical Equipment for the purpose of operation and maintenance, which license shall expire simultaneously with the expiration or earlier termination of the Term.

(b) TBITEC accepts the right to operate and use the Aeronautical Equipment in its “as is” condition with no representation or warranty by the City with respect to the physical condition of the Aeronautical Equipment. CITY MAKES NO AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN,

CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE EQUIPMENT, OR WARRANTY WITH RESPECT THERETO. TBITEC ACKNOWLEDGES THAT CITY IS NOT A CONTRACTOR OR A MANUFACTURER OF THE AERONAUTICAL EQUIPMENT (OR ANY COMPONENT THEREOF) OR A DEALER THEREIN. TBITEC ACCEPTS THE AERONAUTICAL EQUIPMENT AS IS, IT BEING AGREED THAT ALL OF THE AFOREMENTIONED RISKS ARE TO BE BORNE BY TBITEC.

2.03. Term of Agreement. The term of this Agreement ("Term") shall commence on the Effective Date and shall expire on December 31, 2025, subject, however, to earlier termination with or without cause by either party upon one hundred eighty (180) days' advance written notice, and to such earlier termination as herein provided.

(a) Early Termination Option - Rate Agreement. The Air Carriers operating at the Airport, including TBITEC, and City are parties to a rate agreement ("Rate Agreement") governing the rates and charges methodology for space in the terminals at the Airport. As of the Effective Date of this Agreement, the expiration date of the Rate Agreement is December 31, 2022. City shall have the option to terminate this Agreement as of the expiration date of the Rate Agreement by providing TBITEC one hundred eighty (180) days' advance written notice and reimbursing TBITEC the undepreciated balance of any installed TBITEC-Procured Equipment that City has not purchased pursuant to Section 8.03(b)(iii)(G) of this Agreement.

(b) Notwithstanding Subsection 2.03(a) above, City's termination option in Subsection 2.03(a) shall be null and void with no further effect if, prior to City's exercise of the option in Subsection 2.03(a) above, City does not offer TBITEC one of the following: (i) a Board-approved form amendment to the Rate Agreement that is offered to all Air Carriers then operating at the Airport, that extends the term of the Rate Agreement through the then-anticipated term of this Agreement, (ii) a new Board-approved form agreement that is offered to all Air Carriers then operating at the Airport, that establishes the rates and charges methodology for the use of terminals at the Airport and covers the period of the then-anticipated term of this Agreement, or (iii) an agreement that establishes the rates and charges methodology for the then-anticipated term of this Agreement, which agreement is submitted by the Chief Executive Officer or his or her designee to the Board and/or City Council, as appropriate, for approval, and is approved by the applicable governmental body.

2.04. Five-Year Extension Option. If (i) the Agreement is not terminated early pursuant to Section 2.03(a) or 2.03(b), and (ii) TBITEC notifies the Chief Executive Officer in writing on or before June 1, 2025 that it has exercised its option to extend its maintenance agreement with Vanderlande Industries, or such replacement vendor as may be approved by the Chief Executive Officer in writing, then the Agreement shall expire on December 31, 2030. The Chief Executive Officer shall provide written confirmation to TBITEC of the December 31, 2030 termination date if the conditions of this Section 2.04 are met.

ARTICLE 3

USE

3.01. Permitted Uses. TBITEC shall use the Premises and operate the Aeronautical Equipment for Member Air Carriers and Non-Member Air Carriers and to perform any of the assigned services listed in Exhibit B, Potential Consortium Services, attached hereto and incorporated by reference herein, that have been assigned to TBITEC pursuant to the issuance of one or more Assignment of Service Notifications issued by the Chief Executive Officer in accordance with Section 3.01(a) herein. The Chief Executive Officer shall have the authority, without further action of the Board or City Council, to amend Exhibit B to expand the list of Potential Consortium Services and to assign such services to TBITEC. Additionally, TBITEC shall use the Premises in accordance with the Agreement and for the carrying out of activities reasonably necessary or convenient for the purpose of the foregoing.

(a) The Chief Executive Officer will issue an Assignment of Service Notification to implement any service from Exhibit B that City elects for TBITEC to provide. In the Assignment of Service Notification, City may specify certain deliverables to be submitted by TBITEC prior to commencing the service.

(b) The Chief Executive Officer may authorize services that will require direct payment from City to TBITEC. City shall compensate TBITEC for all direct costs for such services, plus a fifteen percent (15%) administrative fee. A separate contract for such services will be entered into between City and TBITEC whenever TBITEC is authorized to provide these services. This authorization may be granted by the Chief Executive Officer so long as it is within the Chief Executive Officer's contracting authority, subject to City Attorney approval.

(c) Relinquishment of Service. City may, at its discretion, require TBITEC to cease performance of services assigned pursuant to Section 3.01(a) and 3.01(b) by providing TBITEC sixty- (60-) days' advance written notice.

3.02. Limitations Upon Use. TBITEC shall not use the Premises or operate the Aeronautical Equipment for purposes other than the purposes specified in Section 3.01 hereof, without prior approval from the Chief Executive Officer. TBITEC shall not do, or cause or permit anything to be done, in connection with the Premises or the Aeronautical Equipment, or bring or keep anything thereon which will increase the risk of fire or explosion on Airport property; or create a nuisance; or in any way obstruct or interfere with the rights of others on Airport property, injure or annoy them; or commit or suffer to be committed any waste in relation to the Premises or the Aeronautical Equipment; or use or allow said Premises or Aeronautical Equipment to be used for any unlawful purposes or to be operated in such a way as to interfere with Airport operations or safety or as to waive any warranties; or do or permit to be done anything in any way tending materially to injure the reputation of the Airport.

3.03. Compliance with Laws and Regulations. TBITEC shall at all times during the term of this Agreement comply with, and cause the Premises and the Aeronautical Equipment, to comply with, all applicable laws, rules and regulations and any amendment thereto, as they now exist or may hereafter be adopted or amended, of any federal, state or local governmental agency

having jurisdiction (collectively, “Laws”). TBITEC further agrees that it will use the Premises and the Aeronautical Equipment for no purpose other than that specified herein, and in accordance with all Airport rules and regulations, including the LAX Rules and Regulations, as they now exist or may hereafter be adopted or amended. TBITEC further agrees to submit such report or reports, or convey information regarding its operations, as the Chief Executive Officer, or his or her designee, may reasonably require. TBITEC shall, at its own expense, use the Premises and operate the Aeronautical Equipment in accordance with reasonably prudent engineering and safety standards, in accordance with all Laws. Without limiting the generality of the foregoing, TBITEC shall assure that the Premises and the Aeronautical Equipment are used in strict compliance with all requirements of the Occupational Safety and Health Act. City shall have no liability for any damage to persons or property as a result of the use or misuse of the Premises or any Aeronautical Equipment, and TBITEC’s indemnity in Section 12.01 hereof shall include any costs, losses, claims, damages, liabilities, and expenses arising out of such use or misuse. TBITEC shall keep current all licenses and permits, whether municipal, county, Airport, state, or federal, required for the conduct of its operations at Airport, and pay all fees promptly when due, subject to their right to contest such fees.

ARTICLE 4 RENT

4.01. Rent. TBITEC shall pay as Rent to City the fees and charges calculated pursuant to the Board-adopted rates and charges methodology for the Tariff (the “Rate Methodology”) and as set forth in this Agreement. The Board-adopted Rate Methodology is attached hereto as Schedule 2. The Rent described in this Section 4.01 is subject to adjustment by the Board by resolution, and TBITEC shall pay the Rent based on the then Board-approved rates. The methodology of calculating the Rent under Article 4 of this Agreement is the methodology that is, as of the Effective Date, the methodology used in the Tariff. The Tariff contains the terms and conditions applicable to all Air Carriers using terminal space at the Airport that do not have a lease. TBITEC acknowledges that the Tariff may be amended from time to time. Upon the amendment of the methodology for calculating rates and charges under the Tariff, TBITEC acknowledges and agrees to be subject to such new methodology for calculating rates and charges and agrees that such new methodology as described and defined under the Tariff shall be incorporated into this Agreement by reference and Article 4 of this Agreement shall be deemed amended without the need for any further action. In addition to the TBITEC’s audit right pursuant to Section 4.02, the City agrees to consult with TBITEC before adopting a replacement methodology for calculating terminal rates and charges and to provide TBITEC with sixty (60) days to provide written comments on such replacement methodology.

4.02. Rate Agreement. TBITEC entered into a Rate Agreement with City, which signed agreement is attached as Schedule 3. TBITEC’s Rent shall be adjusted pursuant to the terms conditions of the Rate Agreement. The current Rent is attached on the Basic Information

Schedule, Schedule 1.

4.03. Terminal Buildings Charge. TBITEC shall pay to City a “Terminal Buildings Charge” for the use of the Premises. The Terminal Buildings Charge is comprised of the Unified Capital Charge and an Operations and Maintenance Charge for the use of the Premises. The Terminal Buildings Charge shall be calculated in an amount equal to the Terminal Buildings Rate under the Tariff multiplied by the square footage of the Premises. The Terminal Buildings Rate in effect as of January 1, 2016 is the amount reflected on the Basic Information Schedule as the “Terminal Buildings Rate.”

4.04. Books and Records; Annual Consultation.

(a) City's Records. City will keep books and records sufficient for the purpose of substantiating for auditing purposes all amounts of the Terminal Buildings Charge. TBITEC may from time to time, but no more often than once during any calendar year, examine (and, in the course of the examination, may copy) and audit City's books and records for the purpose of verifying the amounts of the Terminal Buildings Charge payable by TBITEC (whether or not already paid). TBITEC shall only be permitted to examine and audit City's books and records using a nationally recognized independent accounting firm. The expense of any such examination or audit shall be borne by TBITEC. The conduct of any examination or audit as provided in this Section 4.04(a) shall not affect TBITEC's obligations to pay all amounts due and payable in accordance with the provisions of the Agreement. TBITEC will keep all information obtained from City's books and records confidential, and TBITEC will use good faith efforts to cause TBITEC's agents and employees to keep all information obtained from City's books and records confidential.

(b) Annual Consultation. On at least one occasion during each complete Lease Year during the Term, City will attempt to arrange a meeting with representatives of TBITEC for the purpose of discussing matters relating to the financial aspects of the Agreement. At the request of City or TBITEC, the meeting will include representatives of the other Terminal Users.

(c) Other Sums Deemed Additional Rent. Any sum of money payable by TBITEC to City under any provision of the Agreement, except for the Terminal Buildings Charge, shall be deemed additional rent.

(d) Late Charges. If TBITEC shall fail to pay any installment of the Terminal Buildings Charge or any amount of additional rent within five (5) days after it becomes due, TBITEC will pay to City, in addition to the installment of the Terminal Buildings Charge or amount of additional rent, as the case may be, as additional rent, a sum equal to interest at the Stipulated Rate on the unpaid overdue amount, computed from the date the payment was due to and including the date of payment. If TBITEC shall fail to pay any installment of the Terminal Buildings Charge within five days after it becomes due, in addition to interest at the Stipulated Rate, TBITEC will pay to City a late charge in the amount of two percent (the “Terminal Buildings Charge Late Charge”) of the amount of the delinquent installment of the Terminal Buildings Charge. If TBITEC shall fail to pay any additional rent within ten days after it

becomes due, in addition to interest at the Stipulated Rate, TBITEC will pay to City a late charge in the amount of five percent (the “Additional Rent Late Charge”) of the delinquent additional rent. No Additional Rent Late Charge shall be payable for any item of additional rent that constitutes a late charge or interest. TBITEC acknowledges that the Terminal Buildings Charge Late Charge and the Additional Rent Late Charge are intended to reasonably compensate City for additional expenses incurred by City by reason of TBITEC’s failure to timely pay the Terminal Buildings Charge and additional rent, which expenses are difficult to ascertain, and are not intended to be in the nature of a penalty.

(e) No Counterclaim, Abatement, etc. Except as expressly provided to the contrary in the Agreement, TBITEC will pay the Terminal Buildings Charge and all additional rent payable under the Agreement without notice, demand, counterclaim, setoff, deduction, defense, abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of TBITEC under this Agreement shall in no way be released, discharged or otherwise affected for any reason, whether foreseen or unforeseen. TBITEC waives, to the extent permitted by applicable law, all rights now or hereafter conferred by statute or otherwise to quit, terminate or surrender the Agreement or the Premises or any part thereof, or to any abatement, suspension, deferment, diminution or reduction of the Terminal Buildings Charge and all additional rent payable by TBITEC hereunder. To the extent permitted by applicable law, all payments by TBITEC to City made hereunder shall be final, and TBITEC will not seek to recover any such payment or any part thereof for any reason. In the event of any dispute regarding the amount of the Terminal Buildings Charge or any amount of additional rent payable under Agreement, (a) City’s computation of the amounts due shall be presumed correct, and TBITEC will continue to pay the amounts due as computed by City unless TBITEC shall have obtained a final, unappealable order to the contrary from a court of competent jurisdiction, and (b) to the extent permitted by applicable law, TBITEC waives any right to seek or obtain any provisional remedy before obtaining such a final order. If it is determined by a final, unappealable order of a court of competent jurisdiction that TBITEC was not obligated to pay any amount disputed by TBITEC but nevertheless paid by TBITEC under protest, City will refund to TBITEC the amount of any excess payments, together with interest on the amounts refunded from the time of their payment to City until the time of refund, at an annual rate per annum equal to the Reimbursement Rate.

4.05 No Waiver; Retroactive Payments. The failure by City to timely comply with the provisions of this Article 4 relating to the adjustment of the Terminal Buildings Charge or any item of additional rent shall not be construed as a waiver of City’s right to the adjustment of the Terminal Buildings Charge or to the adjustment of any additional rent. If a determination of the adjusted Terminal Buildings Charge or of any item of additional rent is not completed before any relevant date, TBITEC will continue to pay the amounts applicable to the preceding period, and if the Terminal Buildings Charge or any item of additional rent as of any relevant date is thereafter determined to be an amount greater than that paid by TBITEC, the adjusted amount shall take effect, and shall promptly be paid by TBITEC, retroactively to the date when the payment would have been due absent the failure to timely complete the determination of the appropriate adjustment. If City has substantially complied with the provisions of this Article 4 relating to the adjustment, City shall be entitled to receive, in addition to all amounts of

additional rent becoming retroactively effective, interest on the retroactive amounts from the date of the invoice for the retroactive amount due until the date of payment to City, at an annual rate per annum equal to the Reimbursement Rate.

4.06 Manner of Payment. All payments of the Terminal Buildings Charge and other amounts payable under the preceding provisions of this Article 4 shall be paid in U.S. dollars without setoff or deduction by mailing to the following address:

City of Los Angeles
Los Angeles World Airports
Accounting Revenue Operations
P O Box 54078
Los Angeles, California 90054-0078

City may from time to time designate any other address to which the payments shall be made. As a matter of courtesy, invoices may be sent by City to TBITEC, but notwithstanding any custom of City in sending invoices, the receipt of an invoice shall not be a condition to any payment due to City from TBITEC. All payments, including each payment check and remittance advice, shall include the contract number assigned to the Agreement by City, which is stamped on the first page of the Agreement (but failure to do so shall not constitute a default by TBITEC under the Agreement). No payment by TBITEC or receipt by City of a portion of any sum due under the Agreement shall be deemed to be other than a partial payment on account of the earliest sum next due from TBITEC. No endorsement or statement on any check or any letter accompanying a check or other payment from TBITEC shall be deemed an accord and satisfaction, and City may accept the check or other payment, and pursue any other remedy available under the Agreement. City may accept any partial payment from TBITEC without invalidation of any notice required to be given under the Agreement and without invalidation of any notice required to be given under the provisions of California Code of Civil Procedure Section 1161, et seq.

4.07. Faithful Performance Guaranty and Payment Obligations.

(a) TBITEC agrees that it will maintain a security deposit (a “Faithful Performance Guaranty”) to secure the prompt payment of the amounts due from it each month to City pursuant to this Agreement. The initial amount of the Faithful Performance Guaranty shall be based on the monthly Rent multiplied by three (3) payable by TBITEC to City as of the first month of the Fiscal Year, as shown on Schedule 1. TBITEC covenants and agrees to maintain and cause to be maintained such Faithful Performance Guaranty during the Term.

(b) If TBITEC’s monthly monetary obligation to City under this Agreement is decreased in excess of ten percent (10%), then the Faithful Performance Guaranty to be maintained may be decreased to a sum three (3) times the new monetary obligation, within thirty (30) days after receiving written notice from City.

(c) If TBITEC’s monthly monetary obligation to City under this Agreement is

increased in excess of ten percent (10%), then the Faithful Performance Guaranty to be maintained shall, within thirty (30) days after receiving written notice from City to increase the Faithful Performance Guaranty, correspondingly be increased to a sum three (3) times the new monthly monetary obligation.

(d) The Faithful Performance Guaranty may be in the form of an irrevocable letter of credit which is self-renewing from year to year and subject to termination upon sixty (60) days written notice. TBITEC shall furnish a copy of any irrevocable letter of credit prior to the Effective Date or within thirty (30) days following a notice by City under Sections 4.07(b) or 4.07(c).

(e) If, for any reason, the Faithful Performance Guaranty is not maintained in sufficient amount throughout the Term, City, subject to the notice requirements of Section 17.01, may terminate this Agreement at any time upon giving TBITEC a thirty (30) day advance written notice.

ARTICLE 5 TBITEC MEMBERSHIP, RATES AND CHARGES, OTHER EQUIPMENT USAGE

5.01. Member Agreement. TBITEC has entered into the Member Agreement with the Member Air Carriers. The Member Agreement is attached hereto as Exhibit F. All amendments to the Member Agreement shall be subject to the prior approval of the Chief Executive Officer or his or her designee. TBITEC covenants and agrees that it will vigorously enforce the terms of the Member Agreement and provide written notice to City of any event of default under the Member Agreement with respect to a Member Air Carrier. All Air Carriers shall be eligible to be a Member Air Carrier provided such Air Carrier execute a Member Agreement and agree to be bound by the terms thereof.

5.02. Rates and Charges.

(a) Basis of Rates and Charges to Member Air Carriers and Non-Member Air Carriers. TBITEC will operate the Aeronautical Equipment and will, subject to applicable restrictions or requirements imposed by law, fix, charge and collect such rates, fees and charges, including those payable pursuant to the Member Agreement, for the use of and services provided to the Member Air Carriers and Non-Member Air Carriers for the use of the Aeronautical Equipment which will, together with any available funds, be sufficient to pay TBITEC Expenses and TBITEC Overhead provided that TBITEC Overhead may not exceed fifteen percent (15%) of the TBITEC Expenses.

Notwithstanding the above, TBITEC may recover from Member Air Carriers and Non-Member Air Carriers any TBITEC Overhead that exceeds fifteen percent (15%) of the TBITEC Expenses upon prior written approval by City, which approval shall not be unreasonably withheld. In its request for City's approval to recover such TBITEC Overhead, TBITEC shall provide City documentation of such excess TBITEC Overhead and a written explanation of the basis for

TBITEC's general and administrative overhead costs exceeding fifteen percent (15%) of the TBITEC Expenses. Upon written approval by City for such increase in recovery of the TBITEC Overhead, TBITEC may recover from Member Air Carriers and Non-Member Air Carriers such City-approved TBITEC Overhead in the current Fiscal Year or next Fiscal Year's rates and charges.

"TBITEC Expenses" means, without duplication, the aggregate of those costs and expenses that are incurred by TBITEC in respect of the operation, repair and maintenance of the Aeronautical Equipment, including the following:

- (i) payments for the use of space in the Terminals;
- (ii) payments to the Maintenance Operator under the Operating Agreement;
- (iii) payments to TBITEC Vendors under Vendor Agreements, if any;
- (iv) interest payments on any indebtedness of TBITEC in connection with the purchase of Company Property, if any;
- (v) the cost of preparing the Equipment Assessment and Replacement Plan;
- (vi) the cost of administering the Faithful Performance Guaranty reserve; and
- (vii) the cost of acquiring and installing Aeronautical Equipment at the request of City, if any.

"TBITEC Overhead" means the reasonable general and administrative overhead costs of TBITEC in connection with this Agreement, including the following:

- (i) labor costs of TBITEC employees (including salaries, wages, bonuses, medical, fringe benefits, severance and sick day payments and social security and payroll taxes);
- (ii) TBITEC's cost of general corporate administration, if any, including the cost of administrative office equipment, office utilities, permits, licenses, professional accounting and auditing services, professional legal services incurred in the ordinary course of business (which does not include any litigation costs against City or other extraordinary legal costs), state and federal income, business and franchise taxes; and
- (iii) insurance premiums payments in connection with this Agreement;

(b) **Non-Member Air Carrier Rates and Charges.** TBITEC may fix, charge and collect rates, fees and charges from Non-Member Air Carriers for the use of the Aeronautical Equipment and services provided by TBITEC at an effective rate not to exceed one hundred twenty-five (125%) of the rate charged to any Member Air Carrier prior to any adjustments made pursuant to the Member Agreement; ***provided, however,*** that no Non-Member Air Carrier shall be charged at a rate less than the rate charged to any Member Air Carrier; and ***provided, further,*** that all such charges shall be subject to the prior written approval of the Chief Executive Officer, which approval shall not be unreasonably withheld.

(c) **City Approval.** The rates, fees and charges to be paid by Member Air Carriers,

Non-Member Air Carriers and Handlers, including Member Air Carrier membership fees, shall be submitted to City at least thirty (30) days prior to the beginning of each Fiscal Year, and such rates, fees and charges shall be subject to the prior written approval of the Chief Executive Officer prior to its effectiveness, which approval shall not be unreasonably withheld. If the Chief Executive Officer does not approve such rates, fees and charges, either in whole or in part, City shall provide TBITEC with a written explanation of such disapproval (“City Notice”). TBITEC shall then have thirty (30) days from the receipt of the City Notice to respond. The prior Fiscal Year’s rate, fee or charge shall be in effect until such time the Chief Executive Officer approves any rate, fee or charge to be paid by Member Air Carriers, Non-Member Air Carriers or Handlers.

5.03. City Consent Rights.

(a) The rates, fees and charges to be paid by Member Air Carriers, Non-Member Air Carriers and Handlers, including Member Air Carrier membership fees and TBITEC Expenses and TBITEC Overhead, shall be submitted to City before March 1 of each year of the Term, and such rates, fees and charges shall be subject to the written approval of the Chief Executive Officer prior to their effectiveness, which approval shall not be unreasonably withheld. Such rates, fees, and charges shall detail costs based on assigned services in effect at the time of submittal of rates, fees and charges and shall include all such data that will provide the Chief Executive Officer with sufficient information to determine the reasonableness of such rates, fees and charges. If the Chief Executive Officer does not approve such rates, fees and charges, either in whole or in part, City shall provide TBITEC with a written explanation of such disapproval City Notice within thirty (30) days of receipt from TBITEC. TBITEC shall then have thirty (30) days from the receipt of City Notice to respond and the Parties shall meet to resolve any disputes within thirty (30) days of TBITEC’s response. Should the meeting result in adjustments to rates, fees and charges to be paid by Member Air Carriers, Non-Member Air Carriers and Handlers, TBITEC shall issue revised rates, fees and charges and debit/credit memos to adjust previously collected revenue.

(b) TBITEC covenants and agrees that it will not enter into, materially amend or terminate the Member Agreement, the Operating Agreement or any TBITEC Vendor Agreement without the prior written consent of the Chief Executive Officer. TBITEC further covenants and agrees that it will not materially amend or revise any Equipment Use Agreement, any Equipment Access Agreement, or any similar agreements, without the prior written consent of the Chief Executive Officer. With regard to the Member Agreement, “materially amend” shall mean (i) a change to the initial membership fee or any other fees, or any capital contributions, for members, new members or additional members; (ii) a decision to merge, dissolve or make another organizational change in TBITEC or to terminate the Member Agreement; (iii) a change in the voting rights of the members; (iv) a change in access to the Aeronautical Equipment; (v) a change in the events of default or the remedies therefor; or (vi) a change in the material rights or obligations of TBITEC or any member under the Member Agreement. The Chief Executive Officer shall not unreasonably delay his or her response in any circumstance covered by the preceding sentences.

5.04. Access by Users.

(a) Except as permitted with respect to rules and regulations and fees pursuant to Section 5.02 hereof or as otherwise provided herein, TBITEC covenants and agrees that access to the Aeronautical Equipment and Company Property by all Users shall be allocated in accordance with assignment methodology adopted by TBITEC and approved by the Chief Executive Officer or his or her designee.

(b) City may, as the result of various airport projects, intermittently require Non-Member Carriers to use certain Aeronautical Equipment and may request TBITEC to make available to such Non-Member Air Carriers the use of this Aeronautical Equipment. For such use, TBITEC may recover from the Non-Member Carriers or City the charges at rates that do not exceed Board-approved rates in effect for the same or similar equipment or service.

ARTICLE 6 REPAIR AND MAINTENANCE

6.01. TBITEC Maintenance Responsibilities.

(a) Subject to the provisions of Section 8.04(b) and to City's rights pursuant to Sections 6.06, 13.01(a), and 15.02, or as described on Maintenance Standards Exhibit R attached hereto, TBITEC shall maintain, repair, and replace, as needed, the Aeronautical Equipment, at its sole cost, in accordance with the Maintenance Standards to keep the Aeronautical Equipment operating. Any maintenance, repair or replacement of the Aeronautical Equipment shall be subject to City's construction approval process. Except as may be provided in Sections 13.01(a), 6.06 or 15.02 or on Exhibit R, City shall have no obligation to bear the cost of any Aeronautical Equipment maintenance, repair, or replacement, and TBITEC shall be solely liable therefor. Exhibit R may be updated from time to time by City after consultation with TBITEC and without the prior approval of the Board.

(b) At TBITEC's expense, and to the extent identified on the Maintenance Schedule attached to this Agreement as Schedule 4, TBITEC will maintain the Premises and will make all repairs to the Premises and to all the fixtures, equipment and appurtenances therein as and when needed to preserve them in good working order and good and safe condition. Notwithstanding the foregoing, all damage to the Premises and the fixtures, equipment and appurtenances therein, or the Terminals, in each case requiring structural repairs or requiring repairs that affect the Terminals systems, and all damage or injury to any of the Terminals systems, caused by or resulting from the negligence of TBITEC, its servants, employees, agents, customers, invitees or licensees, shall be repaired by City, at TBITEC's expense, payable within thirty (30) days after City's delivery of an invoice therefor.

6.02. City Maintenance Responsibilities. City will maintain the common areas in the Terminals and will make all repairs to the common areas in the Terminals and to all the fixtures, equipment and appurtenances therein (but excluding TBITEC's property and the property of other tenants of the Terminals), as and when needed to preserve them in good working order and

good and safe condition. City may in its reasonable discretion elect to delegate some or all of its obligations under this Section 6.02 to any Person (including TBITEC and one or more of the other Aeronautical Users), under such terms as City and the Person may agree.

6.03. Inspection and Notification. TBITEC shall, or shall cause its Maintenance Operator and its TBITEC Vendor(s) to periodically inspect and test the Aeronautical Equipment, consistent with industry standards and manufacturer guideline, and maintain a log, open to City inspection at any time, of any and all repairs and maintenance performed or planned to be performed on the Aeronautical Equipment. If and to the extent any such repair is covered by a warranty, TBITEC shall give specific notice to the Airport's Facilities Management Division.

6.04. Inspections by City; Performance by the City upon Failure by TBITEC.

(a) **Inspection.** City shall have the right, without any obligation to do so, at any reasonable time and as often as it considers necessary to inspect the Aeronautical Equipment. In the event City identifies a maintenance or repair need, it shall give written notice thereof to TBITEC.

(b) **TBITEC to Promptly Repair.** City may, by notice to TBITEC, direct TBITEC to perform such maintenance and repair at TBITEC's cost within a reasonable period of time determined by City, which could be immediate if the situation requires, but shall not exceed sixty (60) days unless extended by the Chief Executive Officer or his or her designee. If TBITEC fails to perform such maintenance or repair within the stated repair period, City may, at City's sole option, and at TBITEC's sole cost and expense, perform such maintenance and repair that, in the opinion of the Chief Executive Officer, is required to correct the maintenance or repair deficiencies. If City exercises such option, TBITEC shall pay to City a sum equal to the direct cost of labor and materials expended for said work, plus a surcharge equal to fifty percent (50%) of said direct cost. Payment shall be made within thirty (30) days of City's invoice date.

(c) **Urgent Remediation Situations.** In the event City reasonably believes that there is an Aeronautical Equipment problem that interferes with essential facilities or endangers the safety of operations at the Airport, City may, by written or verbal notice to TBITEC, direct TBITEC to take immediate remedial action to protect such facilities and eliminate such endangerment. If TBITEC cannot or is unable to do so immediately, then City may, at City's sole option, do so, at TBITEC's sole cost and expense. If City exercises such option, TBITEC shall pay to City a sum equal to the direct cost of labor and materials expended for said work, plus a surcharge equal to fifty percent (50%) of said direct cost. Payment shall be made within thirty (30) days of City's invoice date.

6.05. City Property. If, and to the extent, TBITEC is entitled to use any property owned by City, including fixtures, furnishings, or equipment, and such usage results in any damage to such fixtures, furnishings, or equipment (other than reasonable wear and tear), then TBITEC shall maintain, repair, and, as necessary, replace, such fixtures, furnishings, and equipment at its own expense, at the Chief Executive Officer's request.

6.06. Warranties. TBITEC shall obtain on City's behalf all appropriate warranties for the Aeronautical Equipment in connection with TBITEC's repair, maintenance, and replacement obligations hereunder. At City's request, TBITEC shall assign to City all such warranties. The parties shall reasonably cooperate with each other to enforce all warranties on Aeronautical Equipment and TBITEC shall take all reasonable steps to vigorously enforce such warranties on City's behalf.

6.07. TBITEC Waiver. Subject to its reservation of all other rights, remedies and recourses available under any law or this Agreement, TBITEC expressly waives the right to terminate this Agreement, as may otherwise be provided under any current or future law or statute, because of City's failure to keep the Aeronautical Equipment in good order, condition, and repair, to the extent City is required to do so hereunder. Without limiting the generality of the foregoing, TBITEC hereby waives California Civil Code Sections 1932(2) and 1933(4), providing for termination of hiring upon destruction of the thing hired, and California Civil Code Sections 1941 and 1942, providing for repairs to and of the Terminals and the Aeronautical Equipment.

6.08. Liaisons. Without limiting the rights and obligations of the parties hereunder, including those relating to reporting, approvals, and maintenance/repair, each party will designate a technical representative to liaise with the other party on technical and operational issues, as appropriate. Each party shall cooperate and permit the other party's representative to participate in technical and operational activities, including, for example, periodic inspections and Aeronautical Equipment problem-solving.

6.09. Training. If any Aeronautical Equipment consists of passenger loading bridges, TBITEC shall provide a training and certification program for the maintenance of such passenger loading bridges which training and certification program shall be subject to the Chief Executive Officer's, or his or her designee's, approval.

6.10. Prevailing Wage. Construction, alteration, demolition, installation, repair or maintenance work performed on City-owned property may require payment of prevailing wages in accordance with federal or state prevailing wage and apprenticeship laws. TBITEC is obligated to make the determination as to whether prevailing wage laws are applicable, and shall be bound by and comply with applicable provisions of the California Labor Code and Federal, State, and local laws related to labor. TBITEC shall indemnify and pay and/or reimburse the City for any damages, penalties or fines (including, but not limited to, attorney's fees and costs of litigation) that the City incurs, or pays, as a result of noncompliance with applicable prevailing wage laws in connection with the work performed by TBITEC.

6.11. Records and Reports. TBITEC may be required, at the direction of the Chief Executive Officer, to submit maintenance records and schedules to City in such form and frequency as determined by the Chief Executive Officer.

ARTICLE 7 **ALTERATIONS, ETC.**

7.01. City's Consent. TBITEC may make alterations, installations, additions and improvements in and to the Premises (referred to as "Alterations") provided that TBITEC complies with the provisions of this Article 7 and that TBITEC first obtain City's consent.

7.02. Alterations not Requiring Consent. TBITEC may, without City's consent, make Alterations in the Premises consisting of furniture, furnishings, painting, carpeting, wall coverings and other decorative changes.

7.03. Alterations Requiring Consent. If City's consent is required for any Alteration, TBITEC's initial request for the consent shall include reasonably detailed preliminary plans for the Alteration. If City shall approve the preliminary plans, TBITEC will prepare working drawings and specifications that are in all respect accurate reflections of the approved preliminary plans and will submit for approval to City two (2) copies of the working drawings and one copy of the specifications. TBITEC will not commence work on the proposed Alteration until City shall have approved the working drawings and specifications, as well as (in City's reasonable discretion) the identity of the architects, engineers, contractors and major subcontractors who TBITEC proposes to construct the Alteration. No material modifications shall be made to the working drawings or specifications, or in the construction of the Alteration described by them, without the prior consent of City, which consent shall not be unreasonably withheld. TBITEC will pay to City, within thirty (30) days after demand therefor, City's actual and reasonable out-of-pocket costs (as well as a reasonable allowance for the internal costs of City's use of its own employees) incurred in reviewing or considering any Alterations, and inspecting construction of the Alterations.

7.04. Performance of Alterations. Before the commencement of any Alteration, TBITEC will obtain and deliver to City (i) all required permits, (ii) insurance for the contractor for such coverages and in such amounts as may be reasonably acceptable to City, and (iii) surety bonds or other security in such amounts and otherwise reasonably satisfactory to City. All of TBITEC's Alterations shall be (i) effected at TBITEC's expense and promptly and fully paid for by TBITEC, (ii) performed with due diligence, in a good and workmanlike manner and in accordance with all Legal Requirements and Insurance Requirements, (iii) made under the supervision of a licensed architect or licensed professional engineer reasonably satisfactory to City, and (iv) performed without unreasonably interfering with (A) the use and occupation or conduct of the business of any other tenant or occupant of the Terminals, (B) any construction work being performed elsewhere in the Terminals by City or by any other tenant or occupant of the Terminals, or (C) ingress and egress to, in and from the Terminals or any other premises demised in the Terminals. In the course of effecting any Alterations, TBITEC will use good faith efforts to minimize noise and dust and will keep the Premises clean and neat. Upon completion of the Alteration, TBITEC will furnish to City, at no charge, two complete reproducible sets of record or as-built drawings of the Alterations, and one complete set in an electronic format that complies with the then current computer aided design standards of City. The drawings must include any applicable permit numbers, the structural and other improvements installed by TBITEC in the Premises, and the location and details of installation of all equipment, utility lines, heating, ventilating, and air-conditioning ducts and related matters.

TBITEC will keep the record or as-built drawings current by updating them in order to reflect any changes or modifications that may later be made in or to the Premises. Within one hundred twenty (120) days following the Completion of the Alteration, TBITEC will prepare and submit to City a construction report including the following information regarding the Alteration: (1) a description of the type of improvements constructed or altered, (2) the floor area or capacity of the improvements constructed or altered, (3) the total cost of the Alteration, (4) the completion date for the Alteration, and (5) a copy of the certificate of occupancy for the Alteration (or for the Premises, after giving effect to the Alteration). Without limiting the generality of the remedies available to City for any breach of this Agreement, if TBITEC shall fail to timely and completely perform its obligations and the failure shall continue for more than five (5) days after TBITEC receives written notice from City of such failure, TBITEC will pay to City, as additional rent, a late charge equal to \$500 for each day for which the failure continues.

7.05. Notices of Non-Responsibility. In connection with any Alteration, City may post notices of non-responsibility for the services and material furnished by mechanics, material men and other vendors.

ARTICLE 8 AERONAUTICAL EQUIPMENT

8.01. Access to the Equipment.

(a) Anything herein to the contrary notwithstanding, TBITEC shall operate the Aeronautical Equipment for the benefit of all Air Carriers operating at the Terminals for the purposes described herein, and shall afford all Air Carriers access to the Aeronautical Equipment and Company Property on a non-discriminatory basis, subject to non-discriminatory reasonable rules, regulations and fees established by TBITEC and approved by the Chief Executive Officer, or his or her designee.

(b) TBITEC shall require, as a condition to the use of the Aeronautical Equipment or any part of the Aeronautical Equipment, that Non-Member Air Carriers execute an Equipment Use Agreement with TBITEC and that Handlers execute an Equipment Access Agreement with TBITEC. The Equipment Use Agreement shall contain at least the following terms: (i) the fee for the use of the Aeronautical Equipment; (ii) insurance requirements; (iii) indemnification of City; and (iv) terms of use of the Aeronautical Equipment. The form of Equipment Use Agreement approved by the Chief Executive Officer is attached hereto as Exhibit G. All amendments to the Equipment Use Agreement shall be subject to the prior approval of the Chief Executive Officer or his or her designee, not to be unreasonably withheld. The Equipment Access Agreement shall contain at least the following terms: (i) the fee for the handling of Aeronautical Equipment; (ii) insurance requirements; (iii) indemnification of City; and (iv) terms of handling of the Aeronautical Equipment, including any license or permit requirements. The form of Equipment Access Agreement approved by the Chief Executive Officer is attached hereto as Exhibit H. Subject to Section 5.03, TBITEC shall notify City of any proposed amendments to the Equipment Access Agreement. TBITEC shall remain responsible to City for the quality and performance of all Handler's services. Each Equipment Access Agreement

entered into between TBITEC and Handler shall contain appropriate language whereby Handler, without creating any contractual obligation on the part of City to Handler or anyone working under contract to Handler, accepts and agrees to be bound by all of the obligations of this Agreement, including, without limitation, those obligations pertaining to obtaining and maintaining for the benefit of City the same indemnities and insurance benefits obtained for the protection of City by TBITEC, including an insurance certificate evidencing City as any additional insured. At the request of the Chief Executive Officer or his or her designee, TBITEC shall provide written notice to City of any default under any Equipment Use Agreement or Equipment Access Agreement.

8.02. City Acceptance of Equipment. With respect to any Aeronautical Equipment purchased hereunder by City, upon City's request, TBITEC shall assist in the process of accepting the Aeronautical Equipment from the manufacturer.

8.03. Licensed Equipment, Replacements and Addition of New Aeronautical Equipment.

(a) [Intentionally Omitted.]

(b) Replacement. Except as provided in Section 13.01 of this Agreement and subject to the procedures and provisions outlined in this Section 8.03(b), in the event any Aeronautical Equipment is near or at the end of its useful life, is unrepairable, or is in such disrepair that it would be economically unreasonable to repair it, City or TBITEC shall replace such Aeronautical Equipment in accordance with the following procedures:

(i) Annually on or before the anniversary of the Effective Date, TBITEC shall submit to City, for the Chief Executive Officer's approval, a plan for Aeronautical Equipment that it expects will need replacement during the ensuing five (5) Fiscal Years (the "Equipment Assessment and Replacement Plan"). The Equipment Assessment and Replacement Plan shall include (1) a list of all of the Aeronautical Equipment as of the date of the assessment which list shall also include a description of the existing condition of the Aeronautical Equipment and an estimate of the remaining useful life of each Aeronautical Equipment; (2) a list of Aeronautical Equipment to be replaced (description/number of items) and reason for replacement (end of useful life, obsolescence, wear and tear, etc.); (3) a list of the proposed Replacement Aeronautical Equipment which list shall include a description of the cost, make model and warranty period of the Replacement Aeronautical Equipment; (4) the replacement schedule and budget; and (5) any other information that TBITEC believes is important for City to know in reviewing the Equipment Replacement Plan. City shall have the right to expand the list of Aeronautical Equipment that should be replaced, or to modify such list as provided in Subsection 8.03(b)(ii) below. TBITEC shall review the Equipment Assessment and Replacement Plan no less than annually, and on or before April 1 of each year during the Term, TBITEC shall submit to City, for the Chief Executive Officer's approval, an updated Equipment Assessment and Replacement Plan, reflecting any changes in planned replacement items, schedule or budget, and extending the Equipment

Assessment and Replacement Plan as necessary to cover the period that ends five (5) years subsequent to each such submittal. Upon the acquisition and installation of Replacement Aeronautical Equipment, the Chief Executive Officer, subject to City Attorney approval as to form, shall amend Exhibit E to include such Replacement Aeronautical Equipment without the prior approval of the Board.

(ii) In the event that City elects not to procure and install Replacement Aeronautical Equipment as requested by TBITEC or otherwise provided in the Equipment Assessment and Replacement Plan, City and TBITEC shall meet and confer as to the modification of the Equipment Assessment and Replacement Plan as it relates to such Replacement Aeronautical Equipment, which may include extending the period for the procurement of such Replacement Aeronautical Equipment to include future Fiscal Years, modifying the specifications for such Replacement Aeronautical Equipment, removing such Replacement Aeronautical Equipment from the Equipment Assessment and Replacement Plan for the applicable Fiscal Year, or any other resolution that the parties may agree upon.

(iii) TBITEC-Procured Equipment.

(A) Notwithstanding Section 8.03(b)(ii), in the event that City is unable to procure and install any Replacement Aeronautical Equipment in a manner that would provide for the timely replacement of such equipment, TBITEC shall have the right, but not the obligation, to procure and install such equipment, at TBITEC's sole cost and expense (such equipment to be procured under this Section 8.03(b)(iii), the "TBITEC-Procured Equipment"). In order for TBITEC to exercise its right under this Section 8.03(b)(iii), TBITEC shall first (X) prepare and submit to the Chief Executive Officer a plan of finance to fully fund the TBITEC-Procured Equipment (the "Equipment Finance Plan"), and (Y) provide the Chief Executive Officer with the make, model, warranty and useful life of the TBITEC-Procured Equipment (the "Equipment Information"). The Equipment Finance Plan and the Equipment Information shall be subject to prior review and written approval by the Chief Executive Officer. Upon prior written approval by the Chief Executive Officer of the Equipment Finance Plan and the Equipment Information, TBITEC shall have the right under this Section 8.03(b)(iii) to procure the TBITEC-Procured Equipment subject to the procurement process outlined in Section 8.03(b)(iii)(B) below.

(B) Procurement Process. TBITEC recognizes and accepts that the supplier selection procedures specified herein are intended to promote pricing in a fair and reasonable manner and to maintain fair and open competition. As such, all procurement of TBITEC-Procured Equipment shall be based upon competitive bids awarded to the lowest responsive and responsible bidder, as defined below.

(1) TBITEC shall develop lists of possible bidders to solicit bids for the TBITEC-Procured Equipment. TBITEC shall conduct an

outreach effort to attract broad interest among qualified bidders. It shall be the responsibility of TBITEC to contact potential bidders to develop a sufficient pool of bidders.

(2) TBITEC shall make its best efforts to secure the commitment to bid on each TBITEC-Procured Equipment from a minimum of three (3) bidders.

(3) In the event that TBITEC obtains fewer than three bids, it shall provide City with a written description of its efforts to obtain competition and, if it believes that it should proceed to award the bid with fewer than three (3) bidders, the justification therefore.

(4) Upon receipt of bids:

(I) TBITEC shall record all bids received. The bids will be in a report format that allows for comparison of each bid for review by TBITEC and City. The report shall also indicate all bids received, and comparing the lowest responsible, responsive bids with the cost estimates for that TBITEC-Procured Equipment.

(II) TBITEC shall analyze the bid results, and review the apparent low bids for responsiveness, responsibility and compliance with the bid specifications.

(III) Responsibility is defined as a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily provide the applicable TBITEC-Procured Equipment.

(IV) All non-responsive and non-responsible bids shall be rejected, and the reasons therefore documented and provided to City.

(5) Awards shall be made to the responsive and responsible bidder with the lowest bid price. TBITEC will notify City in writing of the selected supplier, prior to awarding any bid. City reserves the right to reject any supplier.

(6) Before making award to a supplier, TBITEC shall obtain a letter of concurrence from City, concurring that TBITEC has followed the procurement procedure.

(7) All agreements for procurement of the TBITEC-Procured Equipment from the supplier will be between TBITEC and the supplier. A

copy of every such agreement shall be furnished to City at least five (5) calendar days prior to execution of any such agreement by TBITEC.

(8) TBITEC shall make no substitution for any supplier previously selected without the prior written concurrence of City.

(C) Upon completing the procurement process outlined in Section 8.03(b)(iii)(B) above, TBITEC shall submit to City (X) the actual cost of procuring and installing the TBITEC-Procured Equipment (the “Actual Equipment Cost”), (Y) the manufacturer’s useful life of the TBITEC-Procured Equipment (the “Equipment Useful Life”), and (Z) a schedule showing the monthly depreciation charge using straight line depreciation from date of beneficial use of equipment, as certified in writing by the Chief Executive Officer through the useful life of the TBITEC-Procured Equipment over the manufacturer’s useful life. For purposes of Section 8.03(b)(iii)(C)(X), any labor costs TBITEC incurs in connection with the installation of TBITEC-Procured Equipment may be capitalized if City exercises its option in Section 8.03(b)(iii)(G) below.

(D) During equipment installation, TBITEC will provide City a monthly report of all expenditures (schedule, approved costs, expenditures, approved change orders, etc.) or other information as determined by City for the TBITEC-Procured Equipment installation project.

(E) TBITEC shall review its established MBE/WBE/SBE policy for procurement of Aeronautical Equipment and determine the target participation level for the specific TBITEC-Procured Equipment based on the relative availability of certified and potentially certifiable firms to perform the work. TBITEC will notify City in writing of the established target and provide an explanation for any target below twenty percent (20%).

(F) Upon TBITEC submitting the Actual Equipment Cost and the Equipment Useful Life to City as outlined in Section 8.03(b)(iii)(C) above, TBITEC may request that City exercise its option under Section 8.03(b)(iii)(G) below. If City desires to exercise such option, (i) City shall use its reasonable best efforts to obtain approval of the Chief Executive Officer within thirty (30) days of request if such acquisition is permitted under the authority of the Chief Executive Officer or (ii) City shall use its reasonable best efforts to seek Board approval within sixty (60) days of receiving such request if such acquisition requires approval of the Board.

(G) During the Term, City shall have the right to acquire the TBITEC-Procured Equipment by paying TBITEC the Reimbursement Value. City’s exercise of its right under this Section 8.03(b)(iii)(G) shall be subject to Board approval if paying the Reimbursement Value exceeds the authority of the Chief

Executive Officer under Section 10.1.1 of the Los Angeles Administrative Code or any subsequent amendments thereto (the “Chief Executive Officer’s Authority”). The “Reimbursement Value” shall be the then non-depreciated Actual Equipment Cost as of the Determination Date. For purposes of this Section 8.03(b)(iii)(G) only, the “Determination Date” shall be the date of acquisition of the TBITEC-Procured Equipment by City. For purposes of determining the Reimbursement Value, the TBITEC-Procured Equipment shall be depreciated on a straight-line basis over the Equipment Useful Life commencing upon the installation date of the TBITEC-Procured Equipment in the Terminals. Upon acquisition of any TBITEC-Procured Equipment pursuant to this Section 8.03(b)(iii)(G), (X) title to such TBITEC-Procured Equipment shall be with City, (Y) such TBITEC-Procured Equipment shall be deemed New Aeronautical Equipment, and (Z) the Chief Executive Officer, subject to City Attorney approval as to form, shall amend Exhibit D to include such TBITEC-Procured Equipment acquired under this Section 8.03(b)(iii)(G).

(H) Upon the expiration or earlier termination of this Agreement, City shall, subject to Board approval, reimburse TBITEC for the then-Reimbursement Value of any TBITEC-Procured Equipment that has not been acquired by City pursuant to Section 8.03(b)(iii)(G). For purposes of determining the Reimbursement Value for this Section 8.03(b)(iii)(H) only, the “Determination Date” shall be the date of expiration of earlier termination of this Agreement. Upon City’s reimbursement of such TBITEC-Procured Equipment, City shall have title to all TBITEC-Procured Equipment.

(I) TBITEC shall follow for the construction of the TBITEC-Procured Equipment the procedures in the LAWA Tenant Improvement Approval Process as set forth in the then-current Design and Construction Handbook found at <http://www.lawa.org/laxdev/DesignConstructionHandbook.aspx?id=Int>.

(iv) City shall proceed to fully implement the Equipment Assessment and Replacement Plan for the relevant Fiscal Year by acquisition and installation of all Replacement Aeronautical Equipment with reimbursement from TBITEC for all of the cost incurred by City for such acquisition and installation through adjustment of the Rent as provided in Section 4.01.

(v) TBITEC shall, or shall cause its Maintenance Operator or its TBITEC Vendor(s) to, periodically inspect and test the Aeronautical Equipment, consistent with industry standards and manufacturer guidelines. City shall also have a similar right of inspection. If either party identifies a need to replace Aeronautical Equipment before the time specified in the Equipment Assessment and Replacement Plan, then the parties shall meet and confer regarding the handling of the replacement, in regard to modifications to the Equipment Assessment and Replacement Plan as provided in Subsection 8.03(b)(ii).

(c) New Aeronautical Equipment.

(i) Generally. From time to time City may acquire and license to TBITEC New Aeronautical Equipment. Upon the acquisition and installation of any New Aeronautical Equipment, the Chief Executive Officer, subject to City Attorney approval as to form, shall amend Exhibit D to include such New Aeronautical Equipment. Such amendment shall only require Board approval if the annual Rent for such New Aeronautical Equipment exceeds the amount of the Chief Executive Officer's authority.

(ii) TBITEC Procured New Aeronautical Equipment. From time to time City may request that TBITEC procure New Aeronautical Equipment. TBITEC shall have the right, but not the obligation, to procure and install such equipment, at TBITEC's sole cost and expense and following the terms and conditions of Section 8.03(b)(iii).

8.04. Consortium Manager, Maintenance Operator and TBITEC Vendors

(a) Pursuant to the Member Agreement, the rights conferred upon TBITEC under this Agreement will be delegated to and exercised by a Consortium Manager, Maintenance Operator and one or more TBITEC Vendors selected by TBITEC, with the prior written review and approval of the Chief Executive Officer. As part of such review and approval process, TBITEC shall provide, for review and comment, the Chief Executive Officer, or his or her designee, (i) minimum experience and performance standards for the selection of any such Maintenance Operator/TBITEC Vendor; and (ii) minimum requirements for duties, responsibilities or procurement specifications under the Operating Agreement or relevant TBITEC Vendor Agreement.

(b) The Operating Agreement and TBITEC Vendor Agreements shall set forth (i) the duties, responsibilities and compensation of the Maintenance Operator and TBITEC Vendor(s), as the case may be, with respect to the Aeronautical Equipment, (ii) insurance requirements, (iii) indemnification of City, and (iv) the rights and obligations of TBITEC with respect to the Maintenance Operator or TBITEC Vendor. Notwithstanding the foregoing, any such delegation shall not limit or reduce the obligations and responsibilities of TBITEC under this Agreement. TBITEC shall report any default of the Maintenance Operator under the Operating Agreement and any default of a TBITEC Vendor under a TBITEC Vendor Agreement to the Chief Executive Officer or his or her designee. TBITEC shall vigorously enforce the terms and conditions of the Operating Agreement and all TBITEC Vendor Agreements.

(c) TBITEC covenants and agrees that it will not remove or replace the Maintenance Operator without the prior written consent of the Chief Executive Officer. In the event the Chief Executive Officer determines that the Maintenance Operator or any TBITEC Vendor is not performing under its respective Operating Agreement or TBITEC Vendor Agreement and/or such Maintenance Operator's or TBITEC Vendor's performance is detrimental to the Aeronautical Equipment, the Airport, the passengers, public safety or security, and said non-performance continues for a period of more than thirty (30) days after written notice by the Chief Executive Officer, TBITEC shall, at the request of the Chief Executive Officer, terminate and replace such

non-performing Maintenance Operator or TBITEC Vendor with another Maintenance Operator or TBITEC Vendor satisfactory to the Chief Executive Officer; provided, however, that if the event(s) of non-performance is(are) of a nature that cannot be cured, including acts of criminal malfeasance, then the Chief Executive Officer may request immediate termination and replacement of such non-performing Maintenance Operator or TBITEC Vendor and, if so requested, TBITEC shall immediately proceed with such termination and replacement, and TBITEC may make such replacement on an interim basis until standard procurement processes can be followed to secure a permanent replacement. TBITEC shall diligently follow standard procurement processes to secure a permanent replacement.

8.05. Title to the Equipment. The Aeronautical Equipment is, and shall at all times remain, the sole personal property of City, notwithstanding that it or any part of it may be or become attached to, embedded in, or permanently resting on the real or personal property of TBITEC or any other person or firm not a party to this Agreement. TBITEC shall have no right, title or interest in the Aeronautical Equipment, except as provided in this Agreement. TBITEC shall not hold itself out as an owner of the Aeronautical Equipment, or take any action that would be inconsistent with the ownership of the Aeronautical Equipment by City or that would otherwise be inconsistent with, or outside the scope of, this Agreement. Notwithstanding anything to the contrary in this Agreement, City reserves and retains all rights to use, operate, maintain, repair, enlarge, modify, expand, replace and reconstruct any of the Airport facilities other than the Aeronautical Equipment.

8.06. Wireless Equipment. If and to the extent any of the Aeronautical Equipment communicates wirelessly, either through a public or a private wireless telecommunications network, TBITEC shall cause all such Aeronautical Equipment to use the wireless communications network designated by the Chief Executive Officer or his or her designee, which network could be owned by City or City's concessionaire or vendor, and TBITEC shall pay all standard charges for such usage.

8.07. Financing Statement. For notice purposes only and not with the intent to create a security interest under the California Uniform Commercial Code, City may record a precautionary Form UCC-1 Financing Statement for the Aeronautical Equipment subject to this Agreement in every state where TBITEC may be doing business or where the Aeronautical Equipment is located. In the event that this Agreement is recharacterized by a court of competent jurisdiction to be something other than a lease, TBITEC expressly grants City a security interest in the Aeronautical Equipment.

ARTICLE 9 **SUBLETTING, SUBLICENSING AND ASSIGNMENT**

9.01. Successors and Assigns. Subject to Section 9.02, each and all of the conditions and covenants of this Agreement shall extend to and bind and inure to the benefit of City and TBITEC, and the legal representatives, successors and assigns of either or both of them.

9.02. Subletting, Sublicensing, Subcontracting, and Assignment by TBITEC.

TBITEC shall not assign, transfer or encumber its interest in this Agreement or any other right, privilege or license conferred by this Agreement, either in whole or in part, nor sublet, sublicense or encumber the Premises or the Aeronautical Equipment or any part thereof (any of the foregoing actions referred to herein as a “Transfer”), without obtaining in advance the written consent of the Chief Executive Officer as to any material right, privilege or license conferred by this Agreement. Any Transfer without the Chief Executive Officer’s consent shall be voidable. No consent to any Transfer shall constitute a further waiver of the provisions of this paragraph. No sublicense will be approved by City, which by its terms provides for enrichment of TBITEC. TBITEC may not charge sublicensees a fee that exceeds its direct cost plus such administrative fee as authorized by the Chief Executive Officer. Approval of any proposed Transfer will be conditioned on the Chief Executive Officer’s determination of the reasonableness of the fee as well as on the suitability of the proposed transferee and use. Notwithstanding any other provision of this Agreement, including, without limitation, Section 15.01(g), the execution and performance of the Operating Agreement shall not be deemed to be a Transfer for purposes of this Agreement. Any Person accepting an assignment of this Agreement shall be deemed to have assumed all of the obligations of TBITEC hereunder. For the purposes of this Article 9, any merger or consolidation of TBITEC (in which TBITEC is not the surviving party), any sale of substantially all of the assets of TBITEC, any other circumstance that results in an assignment of this Agreement by operation of law, and the transfer (as part of a single plan of transfer) of fifty percent (50%) or more of the voting securities of TBITEC shall be deemed an assignment of this Agreement.

(a) Sublettings. If TBITEC wishes to sublet any portion of the Premises, TBITEC will notify City of TBITEC’s intention to sublet, including (i) a description of the portion of the Premises that TBITEC intends to sublet (the “Proposed Sublease Space”), and (ii) the date on which the Proposed Sublease Space will become available, which date shall be no later than six (6) months following the delivery of the notice. City may, within thirty (30) days after delivery of TBITEC’s notice, elect by notice to TBITEC to recapture or not to recapture the Proposed Sublease Space. If City fails to timely make either election, City will be deemed to have made an election not to recapture the Proposed Sublease Space, with the same effect as if that election had been made. Before subletting the Premises or any portion thereof, TBITEC will submit to City a request for City’s consent to the subletting, which request shall contain or be accompanied by the following information: (i) the name and address of the proposed subtenant, (ii) the basic economic terms and conditions of the proposed subletting, (iii) the nature and character of the business of the proposed subtenant and of its proposed use of the Premises, and (iv) current financial information as to the proposed subtenant. Within thirty (30) days following City’s receipt of the request for consent to the proposed subletting (and of City’s receipt of such further financial and other information regarding the proposed subtenant as City may reasonably request), City will advise TBITEC whether City consents to the proposed subtenant. If City approves the proposed subtenant, City shall have the further right to approve the form of sublease, which approval shall not be unreasonably withheld. Within thirty (30) days following TBITEC’s request for City’s consent to the form of the sublease (which request shall include an original or copy of the fully executed sublease), City will advise TBITEC as to whether City consents to the form.

(i) Recapture of Sublet Space. If City elects to recapture the Proposed Sublease Space, TBITEC may, within thirty (30) days of delivery of City's notice and no less than thirty (30) days prior to the date specified in TBITEC's notice referred to in the first sentence of Section 9.02(a), elect by notice to City to withdraw its notice of intent to sublet, and the Proposed Sublease Space will remain in the Premises. If TBITEC does not elect to withdraw the notice of intent to sublease, (i) TBITEC will surrender the Proposed Sublease Space on the date specified in TBITEC's notice referred to in the first sentence of Section 9.02(a), in the condition required by the provisions of this Agreement, (ii) the Proposed Sublease Space shall be eliminated from the Premises, (iii) the Terminal Buildings Charge shall be recalculated after subtracting the Rentable Area of the Proposed Sublease Space from the then Rentable Area of the Premises immediately before the recapture, (iv) any other additional rent payable for any period from and after the date of the recapture shall be appropriately adjusted, (v) any necessary proration of Terminal Buildings Charge and all other additional rent will be made as if, for the Proposed Sublease Space, the date of the recapture were the last day of the Term, (vi) TBITEC will reimburse City, promptly upon request, for City's reasonable costs of separately demising the Proposed Sublease Space, in a manner mutually acceptable to City and TBITEC, and (vii) TBITEC shall be released from all liability or obligations hereunder relating to the Proposed Sublease Space except such liabilities or obligations that occurred during TBITEC's occupancy and which expressly survive termination of this Agreement. If the Proposed Sublease Space is all of the Premises (or so much of the Proposed Sublease Space that, in City's reasonable opinion, no other potential Aeronautical User could make use of the Sublease Space for the purpose of conducting passenger flight operations from TBIT), and if City elects to recapture the Proposed Sublease Space, (i) TBITEC will surrender the Premises on the date specified in the notice referred to in the first sentence of Section 9.02(a), in the condition required by the provisions of this Agreement, (ii) the Terminal Buildings Charge and all additional rent will be prorated as of the date of the recapture, and (iii) this Agreement will terminate (subject to the provisions of this Agreement that survive termination) as of the date of the recapture.

(b) Assignments. If TBITEC wishes to assign this Agreement, TBITEC will notify City of its intention to assign and the date on which the Premises and the Aeronautical Equipment will become available, which date shall be no later than twelve (12) months following the delivery of the notice. City may, within thirty (30) days of the delivery of TBITEC's notice, elect by notice to TBITEC to recapture the Premises and the Aeronautical Equipment. If City fails timely to make either election, City will be deemed to have made an election not to recapture the Premises or the Aeronautical Equipment, with the same effect as if that election had been made. If City elects to recapture the Premises and the Aeronautical Equipment, (i) TBITEC will surrender the Premises and the Aeronautical Equipment on the date specified in the notice referred to in the first sentence of this Section 9.02(b), in the condition required by the provisions of this Agreement, (ii) the Terminal Buildings Charge and all additional rent will be prorated as of the date of the recapture, and (iii) this Agreement will terminate (subject to the provisions of this Agreement that survive termination) as of the date of the recapture. Before assigning this Agreement, TBITEC will submit to City a request for City's

consent to the assignment, which request shall contain or be accompanied by the following information: (i) the name and address of the proposed assignee, (ii) the basic economic terms and conditions of the proposed assignment, (iii) the nature and character of the business of the proposed assignee and of its proposed use of the Premises and the Aeronautical Equipment, and (iv) current financial information as to the proposed assignee. Within thirty (30) days following TBITEC's request for City's consent to an assignment, City will advise TBITEC as to whether City consents to the assignment.

9.03. Terms of all Sublettings, etc. Every subletting by TBITEC is subject to the express condition, and by accepting a sublease hereunder each subtenant shall be conclusively deemed to have agreed, that the sublease is subject to all of the provisions of this Agreement, and that if this Agreement should be terminated before its expiration date or if City shall succeed to TBITEC's estate in the Premises, then, at City's election (i) the subtenant shall attorn to and recognize City as the subtenant's landlord under the sublease and the subtenant will promptly execute and deliver any instrument City may reasonably request to evidence the attornment, or (ii) City may terminate the sublease in the exercise of City's discretion. TBITEC shall remain fully liable for the performance of all of TBITEC's obligations hereunder notwithstanding any assignment of this Agreement or subletting of any portion of the Premises and, without limiting the generality of the foregoing, shall remain fully responsible and liable to City for all acts and omissions in violation of any of the provisions of this Agreement of any subtenant or anyone claiming by, through or under any subtenant. Each sublease of all or a portion of the Premises shall expressly prohibit the subtenant thereunder from further subletting any portion of the subleased premises without the consent of City and TBITEC. In the case of any sublease entered into by TBITEC, the sublease shall not be effective until TBITEC and the proposed subtenant shall have executed and delivered to City City's customary form of consent to subletting. In no event will TBITEC knowingly enter into a sublease or an assignment with any Person entitled to claim sovereign immunity. No assignment of this Agreement shall be binding upon City unless (i) the assignment is approved by City, and (ii) the assignee shall execute and deliver to City an instrument, recordable in form, under which the assignee agrees unconditionally to be personally bound by and to perform all of the obligations of TBITEC hereunder. A failure or refusal of the assignee to execute or deliver such an instrument shall not release the assignee from its liability for the obligations of TBITEC assumed by the acceptance of the assignment of this Agreement.

ARTICLE 10 END OF TERM

10.01. Surrender of Possession.

(a) TBITEC shall yield and deliver peaceably to City possession of the Aeronautical Equipment and cease using the Aeronautical Equipment on the date of the expiration or earlier termination of this Agreement. The Aeronautical Equipment shall be in a condition similar to that which existed at the commencement of this Agreement or at the time of installation, if later, except for reasonable wear and tear. The form of side letter that will be used by TBITEC and the City that will identify the condition of the Aeronautical Equipment at the time of commencement

of this Agreement or at the time of installation, is attached hereto as Form of Transfer of Possession, Exhibit I.

(b) Upon the expiration of the Term or earlier termination of this Agreement, TBITEC will quit and surrender to City the Premises broom clean and in good order and in the condition required by the provisions of this Agreement, ordinary wear and tear, casualty damage governed by this Agreement and damage which City is obligated to repair under this Agreement in each case excepted. Aeronautical Equipment shall be surrendered in good order and in the condition required by the provisions of this Agreement, ordinary wear and tear excepted.

10.02. Holdover. If TBITEC remains in possession of the Premises after the termination of this Agreement (whether at the end of the Term or otherwise) without the execution of a new lease or an extension or amendment to this Agreement, without derogation of any other rights of City hereunder, including City's right, after a thirty (30) day written notice, to require payments for such use under the Tariff, then such occupancy shall be considered a month to month tenancy subject to the terms of this Agreement. Acceptance by City of holdover rent after the termination of this Agreement shall not be deemed to create or evidence a renewal of this Agreement. The foregoing provisions of this Section 10.02 are not intended to limit or otherwise modify City's right of re-entry or any other right of City under this Agreement or as otherwise provided by law, and shall not affect any right that City may otherwise have to recover damages from TBITEC for loss or liability incurred by City resulting from TBITEC's failure to timely surrender the Premises. Nothing contained in this Section 10.02 shall be construed as a consent by City to any holding over by TBITEC, and City expressly reserves the right to require TBITEC to surrender possession of the Premises to City upon the expiration or earlier termination of the Term as provided in this Agreement. Notwithstanding anything to the contrary contained in this Agreement, imposition of the Tariff following termination of this Agreement (whether at the end of the Term or otherwise) after thirty (30) days' advance written notice, shall be at the sole discretion of City.

10.03. Reversion. Upon termination or expiration of this Agreement, TBITEC shall cease to have any rights with respect to the Aeronautical Equipment under this Agreement; *provided, however,* that TBITEC shall have the right to remove all Company Property.

ARTICLE 11 REPRESENTATIONS AND WARRANTIES

11.01. Representations of TBITEC. TBITEC hereby represents and warrants to City that:

- (a) This Agreement is duly authorized, valid, binding and enforceable on TBITEC.
- (b) All consents, approvals and authorizations of governmental or regulatory authorities or by or on behalf of any creditors or any other third party for the valid execution and delivery of this Agreement, and TBITEC's performance of its obligations under and compliance with the terms thereof, have been obtained and are in full force and effect.

(c) No other approvals of TBITEC's members or governing body, or any governmental body are required in order for TBITEC to enter into this Agreement and to perform its obligations and comply with the conditions imposed hereunder.

(d) TBITEC does not and will not (i) represent the Member Air Carriers, Non-Member Air Carriers, or Handlers at the Airport in any litigation against City; (ii) perform any construction services on behalf of City without prior approval from the Chief Executive Officer; or (iii) provide any other service to the Member Air Carriers, Non-Member Air Carriers or Handlers other than those services contemplated under the Member Agreement.

11.02. Representations of City. City hereby represents and warrants to the TBITEC that:

(a) This Agreement is duly authorized, valid, binding and enforceable on City.

(b) All consents, approvals and authorizations of governmental or regulatory authorities or by or on behalf of any creditors or any other third party for the valid execution and delivery of this Agreement, and City's performance of its obligations under and compliance with the terms thereof, have been obtained and are in full force and effect.

ARTICLE 12 INDEMNITY; INSURANCE; HAZARDOUS MATERIALS

12.01. Indemnity. TBITEC will indemnify City against and hold City harmless from all expenses (including reasonable attorneys' fees and disbursements), liabilities, losses, damages or fines incurred or suffered by City by reason of (i) any breach or nonperformance by TBITEC or its agents, employees, contractors, customers and invitees, of any covenant or provision of this Agreement to be observed or performed on the part of TBITEC, (ii) the carelessness, negligence or improper conduct of TBITEC, or its agents, employees, contractors and invitees in, on or about the Premises and the Aeronautical Equipment or arising out of TBITEC's maintenance, operation and/or use of the Premises and the Aeronautical Equipment. City will promptly notify TBITEC of any claim asserted against City which TBITEC may be liable under this Section 12.01 and will promptly deliver to TBITEC the original or a true copy of any summons or other process, pleading, or notice issued in any suit or other proceeding to assert or enforce the claim. If TBITEC becomes aware of any claim asserted against City for which TBITEC may be liable under this Section 12.01, and of which TBITEC has not yet been notified by City under the provisions of the immediately preceding sentence, TBITEC will promptly notify City of the claim. If any claim, action or proceeding is made or brought against City for which claim, action or proceeding TBITEC would be liable under this Section 12.01, upon demand by City, TBITEC, at its expense, will defend the claim, action or proceeding, in City's name, if necessary, by such attorneys as City shall approve, which approval shall not be unreasonably withheld. Attorneys for TBITEC's insurance carrier are deemed approved for purposes of this Section 12.01 (and if TBITEC's insurance carrier offers TBITEC more than one choice of counsel, TBITEC will select the counsel provided by the insurance carrier that is reasonably acceptable to City). TBITEC shall, in any event, have the right, at TBITEC's expense, to

participate in the defense of any action or other proceeding brought against City and in negotiations for and settlement thereof if, under this Section 12.01, TBITEC may be obligated to reimburse City in connection therewith. City in its discretion may settle any claim against it that is covered by TBITEC's indemnity in this Section 12.01, if City shall first have provided notice to TBITEC of City's intention to settle the claim and the material terms of the proposed settlement and if TBITEC does not object to the proposed settlement within five Business Days of its receipt of the notice (or, if TBITEC receives immediate notice of the offer of settlement and its terms, such lesser time as was given as a condition of the settlement offer). In the case of any claim for which City's proposed settlement includes the payment of more than \$100,000, City may settle the claim over TBITEC's objection unless TBITEC furnishes City with either (i) a bond in an amount equal to the claim in a form and from a surety reasonably satisfactory to City, or (ii) other security reasonably satisfactory to City. For the purposes of this Section 12.01 and any other indemnity by TBITEC in this Agreement, any indemnity of City shall be deemed to include an indemnity of the Board and all of City's officers, employees and agents. In TBITEC's defense, negotiation, compromise, or settlement under this section of any action against City, City shall retain discretion in and control of the litigation, negotiation, compromise, settlement and appeals therefrom, as required by the Los Angeles City Charter, particularly Article II, Sections 271, 272 and 273 thereof.

12.02. Insurance.

(a) TBITEC shall procure at its expense, and keep in effect at all times during the term of this Agreement, the types and amounts of insurance specified on Exhibit J, attached hereto and incorporated by reference herein. The specified insurance shall also, either by provisions in the policies, by City's own endorsement form or by other endorsement attached to such policies, include and insure City, LAWA, its Board and all of the City's officers, employees, and agents, their successors and assigns, as additional insureds, against the areas of risk described on Exhibit J, hereof with respect to TBITEC's acts or omissions in its operations, use, and occupancy of the Airport or other related functions performed by or on behalf of TBITEC in, on or about Airport.

(b) Each specified insurance policy (other than workers' compensation and employers' liability and fire and extended coverages) shall contain a severability of interest (cross liability) clause which states, "It is agreed that the insurance afforded by this policy shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability," and a contractual endorsement which shall state, "Such insurance as is afforded by this policy shall also apply to liability assumed by the insured under this Agreement with the City of Los Angeles."

(c) All such insurance shall be primary and noncontributing with any other insurance held by LAWA where liability arises out of or results from the acts or omissions of TBITEC, its agents, employees, officers, assigns, or any person or entity acting for or on behalf of TBITEC. Such policies may provide for reasonable deductibles and/or retentions acceptable to the Chief Executive Officer based upon the nature of TBITEC's operations and the type of insurance involved.

(d) City shall have no liability for any premiums charged for such coverage(s). The inclusion of City, LAWA, its Board and all of City's officers, employees, and agents, their successors and assigns, as insureds is not intended to, and shall not, make them, or any of them, a partner or joint venturer with TBITEC in TBITEC's operations at the Airport. In the event TBITEC fails to furnish the City evidence of insurance and maintain the insurance as required, the City, upon ten (10) days prior written notice to comply, may (but shall not be required to) procure such insurance at the cost and expense of TBITEC, and TBITEC agrees to promptly reimburse City for the cost thereof plus fifteen percent (15%) for administrative overhead. Payment shall be made within thirty (30) days of invoice date.

(e) At least ten (10) days prior to the expiration date of the above policies, documentation showing that the insurance coverage has been renewed or extended shall be filed with the City. If such coverage is canceled or reduced, TBITEC shall, within fifteen (15) days of such cancellation of coverage, file with the City evidence that the required insurance has been reinstated or provided through another insurance company or companies.

(f) TBITEC shall provide proof of all specified insurance and related requirements to the City either by production of the actual insurance policy(ies), by use of the City's own endorsement form(s), by broker's letter acceptable to the Chief Executive Officer in both form and content in the case of foreign insurance syndicates, or by other written evidence of insurance acceptable to the Chief Executive Officer. The documents evidencing all specified coverages shall be filed with the City in duplicate and shall be procured and approved in strict accordance with the provisions in Sections 11.47 through 11.56 of the City's Administrative Code prior to TBITEC's use of the Airport. The documents shall contain the applicable policy number, the inclusive dates of policy coverages, and the insurance carrier's name, shall bear an original signature of an authorized representative of said carrier, and shall provide that such insurance shall not be subject to cancellation, reduction in coverage, or nonrenewal except after written notice by certified mail, return receipt requested, to the City Attorney of the City of Los Angeles at least thirty (30) days prior to the effective date thereof. The City reserves the right to have submitted to it, upon request, all pertinent information about the agent and carrier providing such insurance.

(g) City and TBITEC agree that the insurance policy limits specified herein shall be reviewed for adequacy annually throughout the term of this Agreement by the Chief Executive Officer who may, thereafter, require TBITEC, on thirty (30) days prior, written notice, to adjust the amounts of insurance coverage to whatever reasonable amount said Chief Executive Officer deems to be adequate.

(h) Submission of insurance from a non-California admitted carrier is subject to the provisions of California Insurance Code Sections 1760 through 1780, and any other regulations and/or directives from the State Department of Insurance or other regulatory board or agency. TBITEC agrees, except where exempted, to provide the City proof of said insurance by and through a surplus lines broker licensed by the State of California.

12.03. Utilities; Waiver of Damages. TBITEC hereby expressly waives any and all claims for damages arising or resulting from failures or interruptions of utility services furnished by City hereunder including but not limited to electricity, gas, water, plumbing, sewage, telephone, communications, or for the failure or interruption of any public or passenger conveniences.

12.04. Hazardous and Other Regulated Substances.

(a) Definition of "hazardous substance(s)." For the purposes of this Agreement, "hazardous substances" means:

(1) Any substance the presence of which requires the investigation or remediation under any federal, state or local statute, regulation, rule, ordinance, order, action, policy or common law; or

(2) Any substance which is or becomes defined as a hazardous waste, extremely hazardous waste, hazardous material, hazardous substance, hazardous chemical, toxic chemical, toxic substance, cancer causing substance, substance that causes reproductive harm, pollutant or contaminant under any federal, state or local statute, regulation, rule or ordinance or amendments thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.) and/or the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.); or

(3) Any substance which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, council, board, or instrumentality of the United States, the State of California, the City of Los Angeles, or any political subdivision of any of them; or

(4) Any substance the presence of which on the Airport causes or threatens to cause a nuisance upon the Airport or to adjacent properties or poses or threatens to pose a hazard to the health or safety of persons on or about the Airport; or

(5) Any substance the presence of which on adjacent properties could constitute a trespass by TBITEC; or

(6) Any substance, without limitation, which contains gasoline, aviation fuel, jet fuel, diesel fuel or other petroleum hydrocarbons, lubricating oils, solvents, polychlorinated biphenyls (PCBs) asbestos, urea formaldehyde or radon gases.

(b) Environmental Indemnity. Except for conditions existing prior to the original operation and use of the Airport by TBITEC, TBITEC agrees to accept sole responsibility for full compliance with any and all applicable present and future rules, regulations, restrictions,

ordinances, statutes, laws, and/or other orders of any governmental entity regarding the use, storage, handling, distribution, processing, and/or disposal of hazardous substances, regardless of whether the obligation for such compliance or responsibility is placed on the owner of the land, on the owner of any improvements on the Airport, on the user of the land, or on the user of the improvements. TBITEC agrees that any claims, damages, penalties, or fines asserted against or levied on City and/or the TBITEC as a result of noncompliance with any of the provisions in this Section shall be the sole responsibility of the TBITEC and that TBITEC shall indemnify and hold City harmless from all such claims, damages, penalties, or fines. Further, City may, at its option, pay such claims, damages, penalties, or fines resulting from TBITEC's non-compliance with any of the terms of this Section, and TBITEC shall indemnify and reimburse City for any such payments.

(c) In the case of any hazardous substance spill, leak, discharge, release or contamination by TBITEC or its employees, servants, agents, contractors, or subcontractors on the Airport or as may be discharged or released in, on or under adjacent property which affects other property of the City or its tenants, TBITEC agrees to make or cause to be made any necessary corrective actions to clean up and remove any such spill, leakage, discharge, release or contamination. If TBITEC fails to repair, clean up, properly dispose of, or take any other corrective actions as required herein, the City may (but shall not be required to) take all steps it deems necessary to properly repair, clean up, or otherwise correct the conditions resulting from the spill, leak, discharge, release or contamination. Any such repair, cleanup, or corrective actions taken by City shall be at TBITEC's sole cost and expense and TBITEC shall indemnify and pay for and/or reimburse the City for any and all costs (including any administrative costs) City incurs as a result of any repair, cleanup, or corrective action it takes.

(d) If TBITEC installs or uses already installed underground storage tanks, above-ground storage tanks, pipelines, or other improvements on the Airport for the storage, distribution, use, treatment, or disposal of any hazardous substances, TBITEC agrees, upon the expiration and/or termination of this Agreement, to remove and/or clean up, at the sole option of the Chief Executive Officer, the above-referred-to improvements. Said removal and/or cleanup shall be at the TBITEC's sole cost and expense and shall be undertaken and completed in full compliance with all federal, state, and local laws and regulations, as well as with the reasonable directions of the Chief Executive Officer.

(e) **Permittee's Provision to City of Environmental Documents.** TBITEC shall promptly supply City with complete and legible copies of all notices, reports, correspondence, and other documents sent by TBITEC to or received by TBITEC from any governmental entity regarding any hazardous substance. Such written materials include, without limitation, all documents relating to any threatened or actual hazardous substance spill, leak, or discharge, or to any investigations into or clean-up of any actual or threatened hazardous substance spill, leak, or discharge including all test results.

(f) **Survival of Obligations.** This Section and the obligations herein shall survive the expiration or earlier termination of this Agreement.

ARTICLE 13

DAMAGE, DESTRUCTION AND CONDEMNATION

13.01. Damage or Destruction

(a) If the Terminals, the Premises or the Aeronautical Equipment, or any portion thereof, is damaged or destroyed by fire or other casualty, the proceeds of insurance required hereunder with respect thereto shall be available to TBITEC, and TBITEC shall, subject to such reasonable terms and conditions as may be imposed by City, forthwith repair, reconstruct and restore (subject to unavoidable delays) the damaged or destroyed Premises and the Aeronautical Equipment, to substantially the same condition, character and utility value as existed prior to the event causing such damage or destruction, or (ii) such other condition, character and value as may be agreed upon by City and TBITEC. Any insurance proceeds in excess of the amount necessary by TBITEC to repair, reconstruct and restore the damaged or destroyed Premises or the Aeronautical Equipment shall be paid to City.

(b) If, for any reason other than TBITEC's failure to meet the requirements of Section 12.02 of this Agreement, the net proceeds of insurance on account of such damage or destruction are insufficient to restore or replace the Premises or the Aeronautical Equipment, TBITEC may elect to terminate this Agreement and all obligations hereunder, by giving notice to City hereunder within ninety (90) days after the event causing such damage or destruction; *provided, however,* in the event TBITEC is diligently seeking a determination as to insurance coverage, such ninety (90)-day period will be extended at TBITEC's request, for up to one hundred twenty (120) days after the event. In the event TBITEC fails to give such termination notice within such ninety (90) or one hundred twenty (120)-day period, as applicable, then TBITEC will be deemed to have waived the right to terminate this Agreement. In the event TBITEC timely gives such notice of termination, then City may, at its sole option, elect to restore or replace the Premises or the Aeronautical Equipment at City's cost, by giving notice of such election to TBITEC within sixty (60) days after TBITEC's notice of termination. In the event City fails to give such notice within such sixty (60)-day period, then this Agreement shall terminate on such sixtieth (60th) day. In the event City timely gives such notice, then TBITEC's right to terminate and exercise thereof shall be deemed null and void; this Agreement shall continue in full force and effect; and City shall proceed to cause such restoration and repair promptly, at its cost. Absent such election, City shall have no obligation to perform such restoration or repair. Regardless of whether City elects to perform such restoration or repair of the damaged or destroyed Premises or Aeronautical Equipment, TBITEC shall provide the insurance proceeds for such damaged or destroyed Aeronautical Equipment to City.

13.02. Condemnation.

(a) Any condemnation or taking of a substantial part of the Premises or the Aeronautical Equipment that results in the Premises or Aeronautical Equipment being unsuitable, or the use thereof being economically unfeasible, is herein referred to as a "Total Taking." In the event of a taking of the Premises or the Aeronautical Equipment other than a Total Taking (a "Partial Taking"), and other than a condemnation or taking where City is the condemning

authority, this Agreement shall remain in effect and, if the net proceeds of any award received by City on account of such Partial Taking are sufficient for the purpose, City shall make such net proceeds available to TBITEC, and TBITEC shall forthwith (subject to unavoidable delays) apply such net proceeds to the restoration or replacement of such portion of the Premises or Aeronautical Equipment so taken as nearly as possible to (i) such condition, character and utility value as existed prior to such Partial Taking, or (ii) to such other condition, character and value as may be agreed upon by City and TBITEC.

(b) In the event of a Partial Taking, if the net proceeds of any award received by City on account of such Partial Taking are insufficient to restore or replace the portion of the Premises or the Aeronautical Equipment so taken, as provided above, or in the case of any taking where City is the condemning authority, TBITEC may elect to terminate this Agreement and all obligations hereunder.

(c) In the event of a Total Taking, this Agreement shall terminate and the net proceeds received by City on account of such Total Taking shall be retained by City.

ARTICLE 14 LIENS AND CLAIMS

14.01. Taxes, Assessments, Licenses, Permit Fees and Tax Liens.

(a) TBITEC shall pay all taxes of whatever character that may be levied or charged upon TBITEC's operations at the Airport, or upon TBITEC's improvements, fixtures, equipment, or other property on the Airport, or upon TBITEC's use thereof.

(b) TBITEC shall also pay for, and cause to be maintained in full force and effect during the term of this Agreement, all licenses or permits necessary or required by law or regulation for the conduct and operation of TBITEC's business authorized herein, or for use of the Airport. Such permits and permits shall cover not only TBITEC, but also all of TBITEC's employees and agents required to be licensed to transact TBITEC's business at the Airport.

(c) If a claim is made against City for any of the above charges, City shall notify TBITEC in writing and TBITEC shall promptly pay said charges; provided, however, that failure by City to give such notice shall not constitute a waiver of TBITEC's obligation to pay such taxes, license and/or permit fees.

(d) The obligations of TBITEC under this Section, however, shall not prevent TBITEC from contesting the validity and/or applicability of any of the above charges and, during the period of any such lawful contest, TBITEC may refrain from making, or direct the withholding of, any such payment without being in breach of the above provisions. Upon a final determination in which TBITEC is held responsible for such taxes and/or fees, TBITEC shall promptly pay the required amount, plus all legally imposed interest, penalties and surcharges. If all or any part of such taxes and/or fees, penalties, or surcharges are refunded to the City, the City shall remit to TBITEC such sums to which TBITEC is legally entitled.

14.02. Other Liens. TBITEC agrees not to permit or suffer any vendors', mechanics', laborers', materialmen's, statutory or other liens to be imposed upon the Aeronautical Equipment or any part thereof or on TBITEC's interest therein as a result of its activities without promptly discharging the same; provided, however, that TBITEC may, if it so desires, contest such liens in good faith. TBITEC shall in no event permit any lien to be imposed on the City's interest as licensor and fee owner of the Aeronautical Equipment as a consequence of any act or omission of TBITEC or the Maintenance Operator or as a consequence of the existence of TBITEC's interest under this Agreement without promptly discharging the same; *provided, however*, that TBITEC shall have no obligation with respect to any lien arising by, through or under City. In the event of a contest, TBITEC shall provide a bond in an amount and form acceptable to City in order to clear the record of any such liens. TBITEC shall assume the defense of and indemnify and hold harmless City against any and all liens and charges of any and every nature and kind which may at any time be established against said Aeronautical Equipment and improvements thereto and thereon owned by City, subject to this Agreement, or any part thereof, as a consequence of any act or omission of TBITEC or as a consequence of the existence of TBITEC's interest under this Agreement.

ARTICLE 15 EVENTS OF DEFAULT AND TERMINATION

15.01. Events of Default. The following shall constitute “Events of Default” under this Agreement:

- (a) If TBITEC fails to duly and punctually pay the Fees or any other amount required hereunder when due, and such failure to pay the Fees shall continue for a period of more than ten (10) days after delivery by the Chief Executive Officer of written notice of such breach or default; or
- (b) TBITEC shall (i) commence a voluntary case under any chapter of the Federal Bankruptcy Code (11 U.S.C. § 101, et seq., as amended) as now or hereafter in effect, or shall consent to (or fail to controvert in a timely manner) the commencement of an involuntary case against TBITEC under the Federal Bankruptcy Code; (ii) institute proceedings for liquidation, termination, dissolution, rehabilitation, readjustment or composition (or for any related or similar purpose) under any law (other than the Federal Bankruptcy Code as now or hereafter in effect) relating to financially distressed debtors, their creditors or property, or shall consent to (or fail to controvert in a timely manner) the institution of any such proceedings against TBITEC; (iii) make an assignment for the benefit of creditors or enter into any arrangement for the adjustment or composition of debts or claims; (iv) apply for or consent to the appointment of, or the taking possession by, a receiver, liquidator, assignee, trustee, custodian or sequestrator (or other similar official) of itself or any of its property; or (v) take corporate action for the purpose or with the effect of authorizing, acknowledging or confirming the taking or existence of any action or condition specified in clause (i), (ii), (iii) or (iv) above; or
- (c) TBITEC shall be insolvent (within the meaning of any applicable law), or shall be

unable, or shall admit in writing its inability, to pay its debts generally as they become due, or take corporate action for the purpose or with the effect of authorizing or confirming the taking or existence of any action or condition specified in this Section 15.01(c); or

(d) A court or other governmental authority or agency having jurisdiction in the premises shall enter a decree or order (i) for the appointment of a receiver, liquidator, assignee, trustee, custodian or sequestrator (or other similar official) of TBITEC of any part of its property, or for the winding-up or liquidation of its affairs, and such decree or order shall remain in force undischarged and unstayed for a period of more than ninety (90) days, or (ii) for the sequestration or attachment of any material part of the property of TBITEC without its unconditional return to the possession of TBITEC or its unconditional release from such sequestration or attachment within ninety (90) days thereafter; or

(e) A court having jurisdiction shall enter an order for relief in any involuntary case commenced against TBITEC under the Federal Bankruptcy Code as now or hereafter in effect, and such order shall remain in force undischarged and unstayed for a period of more than ninety (90) days; or

(f) A court or other governmental authority or agency having jurisdiction shall enter a decree or order approving or acknowledging as properly filed or commenced against TBITEC a petition or proceedings for liquidation, rehabilitation, readjustment or composition (or for any related or similar purpose) under any law (other than the Federal Bankruptcy Code as now or hereafter in effect) relating to financially distressed debtors, their creditors or property, and such petition or proceedings shall not be dismissed within ninety (90) days of the late of filing or commencement; or

(g) The interest of TBITEC under this Agreement is Transferred (as defined below), without the prior written approval of City, except as permitted by Section 9.02 hereof; or

(h) TBITEC voluntarily abandons, deserts or vacates the Terminals and ceases operation of the Aeronautical Equipment for a period of more than thirty (30) consecutive days without the consent of City; *provided, however,* that if such cessation or failure to use the Aeronautical Equipment is caused by reason of war, strike, embargo, riot, civil commotion, acts of public enemies, earthquake, other natural disasters, governmental order, action of the elements, or any other similar cause beyond TBITEC's control, and TBITEC so notifies City within twenty (20) days from the date that the abandonment or cessation of operation of the Aeronautical Equipment began, such period of nonuse shall be excluded in computing the thirty (30) day period set forth herein.

(i) TBITEC shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this Agreement, and such failure shall continue for a period of more than thirty (30) days after delivery by the Chief Executive Officer of a written notice of such breach or default, except where fulfillment of its obligation requires activity over a period of time, and TBITEC shall have commenced in good faith to perform whatever may be required for fulfillment within thirty (30) days after receipt of notice and continues such performance without interruption except for force majeure events described in Section 17.06 below.

15.02. City's Remedies. Upon the occurrence and continuance of an Event of Default, City shall have the following remedies which shall not be exclusive but shall be cumulative and shall be in addition to any other remedies now or hereafter allowed by law or equity:

(a) City may terminate this Agreement and TBITEC's rights hereunder at any time by written notice to TBITEC. TBITEC expressly acknowledges that in the absence of such written notice from City, no other act of City, including, but not limited to, its re-entry into the Terminals and use of the Premises and Aeronautical Equipment, its leasing or re-licensing of the Premises or Aeronautical Equipment and use of the Premises and Aeronautical Equipment for TBITEC's account, its exercise of any other rights and remedies under this Section 15.02, shall constitute an acceptance of TBITEC's surrender, or constitute a termination, of this Agreement. Upon such written notice, this Agreement shall terminate and

City shall be entitled to recover any and all damages from TBITEC for such breach, including but not limited to the following:

(1) the reasonable cost of recovering the use of the Premises and the Aeronautical Equipment; plus

(2) any other amount not otherwise covered by the foregoing provisions necessary to compensate City for all the detriment proximately caused by TBITEC's failure to perform its obligations under this Agreement or which in the ordinary course of things would be likely to result therefrom; plus

(3) such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

(b) City may continue this Agreement in full force and effect and may enforce all of its rights and remedies under this Agreement, including, but not limited to, the right to recover Fees as they become due. During the continuance of an Event of Default, City may enter the Terminals without terminating this Agreement and use, lease or license all or any part of the Premises or Aeronautical Equipment for TBITEC's account to any person, for such term (which may be a period beyond the remaining term of this Agreement), at such fees and on such other terms and conditions as City deems advisable. In the event of any use, lease or license, monies and rents received by City from such use, lease or license shall be applied (A) first, to the payment of Fees then due and payable hereunder; (B) second, to the payment of future Fees as the same may become due and payable hereunder; (C) third, to the payment of the costs of maintaining, preserving, altering and preparing the Premises or Aeronautical Equipment for use, lease or license, the other costs of use, lease or license, including but not limited to brokers' commissions, attorneys' fees and expenses of removal of TBITEC's personal property, trade fixtures and Alterations; (D) fourth, the balance, if any, shall be paid to TBITEC upon (but not before) expiration of the Agreement. If the amounts received by City from such use, lease or license, after application as provided above, are insufficient in any month to pay the Fee due and payable hereunder for such month, TBITEC shall pay such deficiency to City monthly upon

demand. Notwithstanding any such use, lease or license for TBITEC's account without termination, City may at any time thereafter, by written notice to TBITEC, elect to terminate this Agreement by virtue of a previous Event of Default.

(c) During the continuance of an Event of Default, City may enter the Terminals without terminating this Agreement and remove all of TBITEC's personal property and trade fixtures from the Terminals, the Premises and the Aeronautical Equipment and store them at TBITEC's risk and expense. If City removes such property and stores it at TBITEC's risk and expense, and if TBITEC fails to pay the cost of such removal and storage after written demand therefor and/or to pay any rent then due, then after the property has been stored for a period of thirty (30) days or more City may sell such property at public or private sale, in the manner and at such times and places as City deems commercially reasonable following reasonable notice to TBITEC of the time and place of such sale. The proceeds of any such sale shall be applied first to the payment of the expenses for removal and storage of the property, the preparation for and the conducting of such sale, attorneys' fees and other legal expenses incurred by City in connection therewith, and the balance shall be applied as provided in Section 15.02(b) above. TBITEC hereby waives all claims for damages that may be caused by City's reentering and taking possession of the Premises or Aeronautical Equipment or removing and storing TBITEC's personal property pursuant to this Section 15.02, and TBITEC shall hold City harmless from and against any loss, cost or damage resulting from any such act. No reentry by City shall constitute or be construed as a forcible entry by City.

(d) City may cure the Event of Default at TBITEC's expense. If City pays any sum or incurs any expense in curing the Event of Default, TBITEC shall reimburse City upon demand for the amount of such payment or expense with interest at the rate of the lower of 1.5% per month and the highest rate permitted by law from the date the sum is paid or the expense is incurred until City is reimbursed by TBITEC.

(e) No action taken pursuant to this Article 15 shall, under any circumstances whatever, deprive City of the right to collect the Fees and other payments required to be made by TBITEC under this Agreement, nor release TBITEC from the obligation imposed by this Agreement to make such payments to City.

(f) Any amounts collected with respect to unpaid Fees pursuant to action taken under this Article 15 shall be paid to City.

15.03. Remedies; No Waiver. No remedy herein conferred upon or reserved to City is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power occurring upon any default shall impair any right or power or be construed to be a waiver, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle City to exercise any remedy reserved to it in this Article 15, it shall not be necessary to give any notice other than such notice as may be herein expressly required.

15.04. Rights and Duties Upon Termination or Expiration. Upon expiration or earlier termination of this Agreement:

(a) TBITEC shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City. This section shall survive termination of this Agreement.

(b) TBITEC will quit and surrender to City the Premises, broom clean, in good order and in the condition required by the provisions of this Agreement, ordinary wear and tear, casualty damage governed by Article 13 and damage which City is obligated to repair under this Agreement in each case excepted.

ARTICLE 16 CITY AND OTHER GOVERNMENTAL PROVISIONS

16.01 Nondiscrimination and Equal Employment Practices/Affirmative Action Program.

(a) Federal Non-Discrimination Provisions.

(i) TBITEC for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Agreement, for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, TBITEC shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended. (USE GUIDE, Paragraph 1).

(ii) TBITEC for itself, its 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 grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the TBITEC shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended. (USE GUIDE, Paragraph 1).

(iii) TBITEC assures that it will comply with pertinent statutes, Executive Orders, and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates TBITEC or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. [USE GUIDE, paragraph 1]

(iv) TBITEC shall furnish its services on a reasonable and not unjustly discriminatory basis to all users, and charge reasonable and not unjustly discriminatory prices for each unit or service, provided that TBITEC may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers. [USE GUIDE, paragraph 11]

(v) TBITEC agrees that it shall insert the provisions found in Sections 16.01(a)(iii) and 16.01(a)(iv) above in any assignment, license, or permit by which said TBITEC grants a right or privilege to any person, firm, or corporation to render services to the public on the Airport.

(b) **Municipal Non-Discrimination Provisions.**

(i) **Non-Discrimination in Use of Airport.** There shall be no discrimination against or segregation of any person, or group of persons, on account of race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition in the transfer, use or enjoyment of the Airport or any operations or activities conducted on the Airport. Nor shall TBITEC or any person claiming under or through TBITEC establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, or use of vendees of the Airport. Any assignment or transfer which may be permitted under this Agreement shall also be subject to all non-discrimination clauses contained in Section 16.01(b)(ii).

(ii) **Non-Discrimination in Employment.** During the term of this Agreement, TBITEC agrees and obligates itself in the performance of this Agreement not to discriminate against any employee or applicant for employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition. TBITEC shall take affirmative action to insure that applicants for employment are

treated, during the term of this Agreement, without regard to the aforementioned factors and shall comply with the affirmative action requirements of the Los Angeles Administrative Code, Sections 10.8, et seq., or any successor ordinances or law concerned with discrimination.

(iii) **Equal Employment Practices**. If the total payments made to City under this Agreement are \$1,000 (one thousand dollars) or more, this provision shall apply. During the performance of this Agreement, TBITEC agrees to comply with Section 10.8.3 of the Los Angeles Administrative Code ("Equal Employment Practices"), which is incorporated herein by this reference. A copy of Section 10.8.3 has been attached to this Agreement for the convenience of the parties as Exhibit K. By way of specification but not limitation, pursuant to Sections 10.8.3.E and 10.8.3.F of the Los Angeles Administrative Code, the failure of TBITEC to comply with the Equal Employment Practices provisions of this Agreement may be deemed to be a material breach of this Agreement. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to TBITEC. Upon a finding duly made that TBITEC has failed to comply with the Equal Employment Practices provisions of this Agreement, this Agreement may be forthwith terminated, cancelled, or suspended.

(iv) **Affirmative Action Program**. If the total payments to City under this Agreement are \$100,000 (one hundred thousand dollars) or more, this provision shall apply. During the performance of this Agreement, TBITEC agrees to comply with Section 10.8.4 of the Los Angeles Administrative Code ("Affirmative Action Program"), which is incorporated herein by this reference. A copy of Section 10.8.4 has been attached to this Agreement for the convenience of the parties as Exhibit L. By way of specification but not limitation, pursuant to Sections 10.8.4.E and 10.8.4.F of the Los Angeles Administrative Code, the failure of TBITEC to comply with the Affirmative Action Program provisions of this Agreement may be deemed to be a material breach of this Agreement. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to TBITEC. Upon a finding duly made that TBITEC has failed to comply with the Affirmative Action Program provisions of this Agreement, this Agreement may be forthwith terminated, cancelled, or suspended.

16.02. Living Wage Ordinance and Service Contractor Worker Retention Ordinance.

(a) Living Wage Ordinance.

(i) **General Provisions. Living Wage Policy.** This Agreement is subject to the Living Wage Ordinance ("LWO") which is incorporated herein by this reference. A copy of Section 10.37 has been attached hereto for the convenience of the parties as Exhibit M. The LWO requires that, unless specific exemptions apply, "employees" (as defined in Section 10.37 of the Code attached hereto) who render services at the Airport are covered

by the LWO if any of the following applies: (i) the services are rendered on premises at least a portion of which are visited by substantial numbers of the public on a frequent basis, (ii) any of the services could feasibly be performed by City employees if the awarding authority had the requisite financial and staffing resources, or (iii) the designated administrative agency of City has determined in writing that coverage would further the proprietary interests of City. Employees covered by the LWO are required to be paid not less than a minimum initial wage rate, as adjusted each year for each hour worked during a month on a City agreement. The LWO also requires that such employees be provided with at least twelve (12) compensated days off per year for sick leave, vacation, or personal necessity at the employee's request, and at least ten (10) additional days per year of uncompensated time to be used for sick leave for the illness of the employee or a member of his or her immediate family where the employee has exhausted his or her compensated days off for that year as provided in Section 10.37.2(b). The LWO requires employers to inform employees making less than Twelve Dollars (\$12) per hour of their possible right to the EITC and to make available the forms required to secure advance EITC payments from the employer pursuant to Section 10.37.4. TBITEC shall permit access to work sites for authorized City representatives to review the operation, payroll, and related documents, and to provide certified copies of the relevant records upon request by City. Whether or not subject to the LWO, TBITEC shall not retaliate against any employee claiming noncompliance with the provisions of the LWO, and, in addition, pursuant to Section 10.37.6(c), TBITEC agrees to comply with federal law prohibiting retaliation for union organizing.

(ii) Living Wage Coverage Determination. An initial determination has been made that this is an Agreement under the LWO, and, that it is not exempt from coverage by the LWO. Determinations as to whether this Agreement is a license covered by the LWO, or whether an employer or employee is exempt from coverage under the LWO are not final, but are subject to review and revision as additional facts are examined and/or other interpretations of the law are considered. In some circumstances, applications for exemption must be reviewed periodically. City shall notify TBITEC in writing about any redetermination by City of coverage or exemption status. To the extent TBITEC claims non-coverage or exemption from the provisions of the LWO, the burden shall be on TBITEC to prove such non-coverage or exemption.

(iii) Compliance, Termination Provisions and Other Remedies. Living Wage Policy. If TBITEC is not initially exempt from the LWO, TBITEC shall comply with all of the provisions of the LWO, including payment to employees at the minimum wage rates, effective on the Execution Date of this Permit. If TBITEC is initially exempt from the LWO, but later no longer qualifies for any exemption, TBITEC shall, at such time as TBITEC is no longer exempt, comply with the provisions of the LWO and execute the then currently used Declaration of Compliance Form, or such form as the LWO requires. Under the provisions of Section 10.37.6I of the Code, violation of the LWO shall constitute a material breach of this Agreement and City shall be entitled to terminate this Agreement and otherwise pursue legal remedies that may be available, including those set forth in the LWO, if City determines that TBITEC violated the provisions of the

LWO. The procedures and time periods provided in the LWO are in lieu of the procedures and time periods provided elsewhere in this Agreement. Nothing in this Agreement shall be construed to extend the time periods or limit the remedies provided in the LWO.

(b) Service Contract Worker Retention Ordinance. This Agreement may be subject to the SCWRO, which is incorporated herein by this reference. A copy of Section 10.36 of the Code has been attached hereto for the convenience of the parties as Exhibit N. If applicable, TBITEC must also comply with the SCWRO which requires that, unless specific exemptions apply, all employers under contracts that are primarily for the furnishing of services to or for City and that involve an expenditure or receipt in excess of Twenty-Five Thousand Dollars (\$25,000) and a contract term of at least three (3) months, shall provide retention by a successor contractor for a ninety (90) day transition period of those employees who have been employed for the preceding twelve (12) months or more by the terminated contractor or subcontractor, if any, as provided for in the SCWRO. Under the provisions of Section 10.36.3I of the Code, City has the authority, under appropriate circumstances, to terminate this Permit and otherwise pursue legal remedies that may be available if City determines that the subject contractor violated the provisions of the SCWRO.

(c) Subcontractor Compliance. TBITEC agrees to include, in every subcontract or sublease covering City property entered into between TBITEC and any subcontractor, a provision pursuant to which such subcontractor (i) agrees to comply with the LWO and the SCWRO with respect to City's property unless the subcontractor qualifies for an exemption from the LWO, or the subcontractor or its employees are otherwise not subject to coverage under the LWO; (ii) agrees not to retaliate against any employee lawfully asserting noncompliance on the part of the subcontractor with the provisions of either the LWO or the SCWRO; and (iii) agrees and acknowledges that City, as the intended third-party beneficiary of this provision may (a) enforce the LWO and SCWRO directly against the subcontractor with respect to City property, and (b) invoke, directly against the subcontractor with respect to City property, all the rights and remedies available to City under Section 10.37.5 of the LWO and Section 10.36.3 of the SCWRO, as same may be amended from time to time.

16.03 Child Support Orders. This Agreement is subject to Section 10.10, Article I, Chapter 1, Division 10 of the Code related to Child Support Assignment Orders, which is incorporated herein by this reference. A copy of Section 10.10 has been attached hereto for the convenience of the parties as Exhibit O. Pursuant to this section, TBITEC (and any subcontractor of TBITEC providing services to City under this Agreement) shall (i) fully comply with all state and federal employment reporting requirements for TBITEC's or TBITEC's subcontractor's employees applicable to Child Support Assignments Orders; (ii) certify that the principal owner(s) of TBITEC and applicable subcontractors are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (iii) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code Section 5230, et seq.; and (iv) maintain such compliance throughout the term of this Agreement. Pursuant to Section 10.10(b) of the Code, failure of TBITEC or an applicable subcontractor to comply with all applicable reporting

requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of TBITEC or applicable subcontractors to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default of this Agreement subjecting this Agreement to termination where such failure shall continue for more than ninety (90) days after notice of such failure to TBITEC by City (in lieu of any time for cure provided elsewhere in this Agreement).

16.04. Equal Benefits Ordinance.

(a) Unless otherwise exempt in accordance with the provisions of the Equal Benefits Ordinance (“EBO”), TBITEC certifies and represents that TBITEC will comply with the applicable provisions of EBO Section 10.8.2.1 of the Code, as amended from time to time. TBITEC shall not, in any of its operations within the City of Los Angeles or in other locations owned by the City of Los Angeles, including the Airport, discriminate in the provision of Non-ERISA Benefits (as defined below) between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration. As used above, the term “Non-ERISA Benefits” shall mean any and all benefits payable through benefit arrangements generally available to TBITEC’s employees which are neither “employee welfare benefit plans” nor “employee pension plans”, as those terms are defined in Sections 3(1) and 3(2) of ERISA. Non-ERISA Benefits shall include, but not be limited to, all benefits offered currently or in the future, by TBITEC to its employees, the spouses of its employees or the domestic partners of its employees, that are not defined as “employee welfare benefit plans” or “employee pension benefit plans”, and, which include any bereavement leave, family and medical leave, and travel discounts provided by TBITEC to its employees, their spouses and the domestic partners of employees.

(b) TBITEC agrees to post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the term of an Agreement with the City of Los Angeles, TBITEC will provide equal benefits to employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance at (213) 847-6480.”

(c) The failure of TBITEC to comply with the EBO will be deemed to be a material breach of the Agreement by City. If TBITEC fails to comply with the EBO, City may cancel or terminate the Agreement, in whole or in part, and all monies due or to become due under the Permit may be retained by City. City may also pursue any and all other remedies at law or in equity for any breach. Failure to comply with the EBO may be used as evidence against TBITEC in actions taken pursuant to the provisions of Code Section 10.40, *et seq.*, Contractor Responsibility Ordinance. If City determines that TBITEC has set up or used its contracting entity for the purpose of evading the intent of the EBO, City may terminate the Agreement.

16.05. Disabled Access.

(a) TBITEC shall be solely responsible for fully complying with any and all applicable present and/or future rules, regulations, restrictions, ordinances, statutes, laws and/or orders of any federal, state, and/or local governmental entity and/or court regarding disabled access, including any services, programs, or activities provided by TBITEC. TBITEC shall be solely responsible for any and all damages caused by, and/or penalties levied as the result of, TBITEC's noncompliance. Further, TBITEC agrees to cooperate fully with City in its efforts to comply with the Americans with Disabilities Act of 1990, and any amendments thereto or successor statutes.

(b) Should TBITEC fail to comply with Section 16.05(a), then City shall have the right, but not the obligation, to perform, or have performed, whatever work is necessary to achieve equal access compliance. TBITEC will then be required to reimburse City for the actual cost of achieving compliance, plus a fifteen percent (15%) administrative charge.

16.06. First Source Hiring Program For Airport Employers. TBITEC shall comply with the provisions of the first source hiring program adopted by the Board (the "First Source Hiring Program"). The rules, regulations, requirements and penalties of the First Source Hiring Program are attached as Exhibit P and made a material term of this Agreement. TBITEC shall be an "Airport Employer" under the First Source Hiring Program.

16.07. Contractor Responsibility Program. TBITEC shall comply with the provisions of the Contractor Responsibility Program adopted by the Board. The Executive Directives setting forth the rules, regulations, requirements and penalties of the Contractor Responsibility Program and the Pledge of Compliance Form is attached hereto as Exhibit Q and incorporated herein by reference.

16.08. Business Tax Registration. TBITEC represents that it has registered its business with the Office of Finance of the City of Los Angeles and has obtained and presently holds from that office a Business Tax Registration Certificate, or a Business Tax Exemption Number, required by City's Business Tax Ordinance (Article 1, Chapter 2, Sections 21.00 and following, of City's Municipal Code). TBITEC shall maintain, or obtain as necessary, all such certificates required of it under said ordinance and shall not allow any such certificate to be revoked or suspended during the term hereof.

16.09 Compliance with Los Angeles City Charter Section 470(c)(12) and 609(e).

(a) TBITEC, other underwriting firm members of the underwriting syndicate, Subcontractors, and their Principals are obligated to fully comply with City of Los Angeles Charter Sections 470(c)(12), 609(e) and related ordinances, regarding limitations on campaign contributions and fundraising to certain elected City officials or candidates for elected City office. Gifts to elected officials and certain City officials are also limited. Additionally, Contractor and other underwriting firm members of the underwriting syndicate are required to

provide and update certain information to City as specified by law. Any Contractor and other underwriting firm members of the underwriting syndicate subject to Charter Section 470(c)(12) and 609(e) shall include the following notice in any contract with a subcontractor expected to receive at least \$100,000 for performance under this contract:

Notice Regarding City of Los Angeles Campaign Contribution and Fundraising Restrictions.

As provided in Charter Sections 470(c) (12), 609(e) and related ordinances, you are subcontractor or underwriting firm on City of Los Angeles Contract/Resolution #_____. Pursuant to City Charter Section 470(c) (12) and 609(e), underwriting firm, subcontractor and principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after City contract is signed. Additionally, gifts are limited to elected officials and certain City officials. Subcontractor is required to provide to contractor names and addresses of the subcontractor's principals and contact information and shall update that information if it changes during the twelve (12) month time period. Subcontractor's information included must be provided to contractor within 10 business days. Failure to comply may result in termination of contract or any other available legal remedies including fines. Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling 213/978-1960.

(b) Contractor, underwriting firms, Subcontractors, and their Principals shall comply with these requirements and limitations. Violation of this provision shall entitle City to terminate this Agreement and pursue any and all legal remedies that may be available."

ARTICLE 17 MISCELLANEOUS

17.01. Notices. Except as otherwise provided in this Agreement, any notice, demand, or other correspondence given under this Agreement shall be in writing and given by delivering the notice in person or by commercial courier, or by sending it by first-class mail, certified mail, return receipt requested with postage prepaid, or by overnight commercial express mail, or by facsimile to:

City: Chief Executive Officer Los Angeles World Airports 1 World Way Los Angeles, CA 90045	TBITEC: Chairperson 380 World Way, Box S-18 Los Angeles, CA 90045
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or to such other address as either TBITEC or City may designate as its new address for such purpose by notice given to the other in accordance with this Section. Any notice hereunder shall be deemed to have been given and received two (2) days after the date when it is mailed, if sent by first-class, certified mail, one day after the date when it is mailed if sent by overnight express

mail, upon the date personal delivery is made, or upon the date on which the facsimile copy is transmitted, provided, that such transmission is received on a business day between the hours of 8:00 a.m. and 5:00 p.m., and if not so received, then as of 8:00 a.m. on the next business day.

17.02. Interpretation. The language of this Agreement shall be construed according to its fair meaning, and not strictly for or against either City or TBITEC. This Agreement shall be deemed to be made in the City and County of Los Angeles and construed and performed according to the laws of the State of California.

17.03. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement is breached by any party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder.

17.04. Severability. In the event any covenant, phrase, clause, paragraph, Article, Section, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, then any invalidity of such covenant, phrase, clause, paragraph, Article, Section, condition or provision shall in no way affect any other covenant, phrase, clause, paragraph, Article, Section, condition or provision herein contained, and such determination shall not invalidate or render this Agreement unenforceable.

17.05. Suspension and Abatement. If City's operation of Airport or TBITEC's operations at the Airport should be substantially restricted by action of any competent governmental authority with sovereignty over City, either party hereto shall have the right, upon written notice to the other, to a suspension of this Agreement and an abatement of a just proportion of the services and facilities to be afforded hereunder, or a just proportion of the rental to become due hereunder from the time of such notice until such restriction shall have been removed; provided, however, that the obligation to pay Fees hereunder shall not be abated and shall be absolute and unconditional. In the event that the Equipment may be required by the United States for use in connection with national defense, City, in addition to any other options to terminate, may immediately suspend this Agreement in its entirety by giving to TBITEC written notice, if possible; provided, however, that the obligation to pay Fees hereunder shall not be abated and shall be absolute and unconditional.

17.06. Force Majeure. In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor disputes, riots, war, acts of public enemies, earthquakes, actions of the elements or civil commotion, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this Section shall not operate to excuse TBITEC from the timely payment of all sums due under this Agreement, including without limitation all Fees.

17.07. Advertising. No advertising will be permitted on the Airport, without the written permission of the Chief Executive Officer, or his or her designee.

17.08. City's Right of Access and Inspection. City, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times and in a reasonable manner, upon notice to TBITEC and the Maintenance Operator to enter upon the Premises where the Aeronautical Equipment is operated, for the purpose of inspecting the same or for doing any act or thing which City may be obligated or have the right to do under this Agreement or otherwise, and to post notices which, in the opinion of City, are necessary to hold City harmless from any losses, claims, damages, liabilities or expenses (including reasonable costs of investigation and attorneys' fees) arising out of any work done in, on or about said premises, in connection with the use of the Premises or the Aeronautical Equipment by TBITEC. No abatement of fees shall be claimed by or allowed to TBITEC by reason of the exercise of such right. In the exercise of rights under this Section, City, its officers, employees, agents, representatives and contractors, shall use their best efforts to avoid interfering with the conduct of TBITEC's businesses as herein authorized.

17.09. Effect of City Approvals. Notwithstanding anything to the contrary herein, TBITEC acknowledges and agrees that City is entering into this Agreement as a lessor and an equipment owner, and not as a regulatory agency with police powers. Accordingly, any alteration or operations contemplated or performed by TBITEC hereunder may require further authorizations, approvals, or permits from governmental regulatory agencies. Nothing in this Agreement shall limit TBITEC's obligation to obtain such other authorizations, approvals, or permits. No inspection, review, or approval by City pursuant to this Agreement shall constitute the assumption of, nor be construed to impose, responsibility for the legal or other sufficiency of the matter inspected, reviewed, or approved.

17.10. No Joint Venture. It is expressly agreed that City is not, in any way or for any purpose, a partner of TBITEC in the conduct of TBITEC's business or a member of a joint enterprise with TBITEC, and does not assume any responsibility for TBITEC's conduct or performance of this Agreement.

17.11. Attorneys' Fees. If City shall, without any fault, be made a party to any litigation commenced by or against TBITEC arising out of TBITEC's maintenance, operation and/or use of the Premises or the Aeronautical Equipment, then TBITEC shall pay all costs, expenses, and reasonable attorneys' fees incurred by or imposed upon City in connection with such litigation. Each party shall give prompt notice to the other of any claim or suit instituted against it that may affect the other party.

17.12. Survival of Indemnities. Expiration or termination of this Agreement shall not affect the right of either party to enforce any and all indemnities given or made to the other party under this Agreement, nor shall it effect any provision of this Agreement that expressly states it shall survive termination hereof. Each party hereto specifically acknowledges and agrees that, with respect to each of the indemnities contained in this Agreement, the indemnitor has an immediate and independent obligation to defend the indemnitees from any claim which actually or potentially falls within the indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to the

indemnitor by the indemnitee.

17.13. Integration Clause. It is understood that no alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and that no oral understanding or agreement, not incorporated herein in writing, shall be binding on any of the parties hereto.

17.14. Laws of California. This Agreement shall be construed and enforced in accordance with the laws of the State of California and venue shall lie at the Airport.

17.15. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

17.16. Measurements. All measurements of the Premises shall be made (except as required to the contrary by the express terms of this Agreement) under ANSI/BOMA Z65.1-1996 ("Standard for Measuring Floor Area in Office Buildings") or any other consistent methods from time to time adopted by City. Any measurements of the Rentable Area of any terminal at the Airport shall be adjusted from time to time by City to take into account changes in the measurements of relevant portions of the terminal. For the purposes of any computation of area required by this Agreement, (a) the measurement of any area in any terminal at the Airport will not be affected by the temporary unavailability of floor area in the such terminal at the Airport due to maintenance, repairs, and construction activity in or affecting such terminal, and (b) additions to any area in any terminal at the Airport resulting from the construction of new improvements will not be included in the measurement of any area in such terminal until the new improvements are placed in service. The computation by City of any area required by this Agreement shall be deemed conclusive absent manifest error. If at any time City concludes that any computation of floor area measurement proves to have been incorrect, City will promptly disclose the inaccuracy to TBITEC, and City and TBITEC will promptly make such payments to the other as may be necessary to correct retroactively for the economic effect of the error.

17.17. Utilization. TBITEC understands and agrees that the Chief Executive Officer, in his or her sole discretion, retains the right to designate, assign and establish minimum utilization requirements for preferential-use gates in the Terminals.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers the day and year first hereinabove written.

CITY OF LOS ANGELES, A MUNICIPAL CORPORATION ACTING BY AND THROUGH ITS BOARD OF AIRPORT COMMISSIONERS

Date: _____

By: _____
Chief Executive Officer
Department of Airports

APPROVED AS TO FORM:

Michael N. Feuer, City Attorney

Date: 11/2/16

By: Ophelia Nezah
Deputy/Assistant City Attorney

TOM BRADLEY INTERNATIONAL TERMINAL EQUIPMENT COMPANY

Date: 11-10-2016

By: Carrie E. Sullivan

Name: Carrie E. Sullivan

Title: Chairperson

ATTEST:

Date: 11-10-2016

By: Susan Yandell

Name: SUSAN YANDELL

Title: GENERAL MANAGER
[SEAL]