

St. Louis City Ordinance 65140

FLOOR SUBSTITUTE
BOARD BILL NO. 222 [00]

INTRODUCED BY ALDERMAN JAMES F. SHREWSBURY

An ordinance recommended by the Board of Estimate and Apportionment authorizing and directing the Director of Airports and the Comptroller of the City of St. Louis (the "City") to enter into and execute on behalf of the City certain "Amendatory Agreements" to the Lambert-St. Louis International Airport (the "Airport") Use Agreements between the City and the following signatory airlines: 1) America West Airlines, Inc., 2) American Airlines, Inc., 3) Chautauqua Airlines, Inc., d/b/a Trans World Express, 4) Continental Airlines, Inc., 5) Delta Air Lines, Inc., 6) Northwest Airlines Inc., 7) Southwest Airlines Co., 8) Trans States Airlines, Inc., d/b/a Trans World Express, 9) Trans World Airlines, Inc., 10) United Airlines, Inc., and 11) US Airways, Inc.; the Amendatory Agreements, which were approved by the Airport Commission and are attached hereto as ATTACHMENT "1" through ATTACHMENT "11" and made a part hereof, amend the Airport Use Agreements supplanting and replacing those provisions of the Airport Use Agreements that address the procedures for the calculation of airline rates and charges to the Airport and are more fully described in SECTION ONE of this Ordinance; and containing an emergency clause.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. The Director of Airports and the Comptroller of the City of St. Louis (the "City") are hereby authorized and directed to enter into and execute on behalf of the City certain Amendatory Agreements to the Lambert-St. Louis International Airport (the "Airport") Use Agreements between the City and the following signatory airlines: 1) America West Airlines, Inc., 2) American Airlines, Inc., 3) Chautauqua Airlines, Inc., d/b/a Trans World Express, 4) Continental Airlines, Inc., 5) Delta Air Lines, Inc., 6) Northwest Airlines Inc., 7) Southwest Airlines Co., 8) Trans States Airlines, Inc., d/b/a Trans World Express, 9) Trans World Airlines, Inc., 10) United Airlines, Inc., and 11) US Airways, Inc.; the Amendatory Agreements, which were approved by the Airport Commission, are to read in words and figures as set out in

ATTACHMENT "1" through ATTACHMENT "11" and are attached hereto and made a part hereof.

SECTION TWO. This being an Ordinance for the preservation of public peace, health, or safety, it is hereby declared to be an emergency measure as defined in Article IV, Section 20 of the City Charter and shall become effective immediately upon its approval by the Mayor of the City.

FIRST AMENDATORY AGREEMENT

REGARDING RATES AND CHARGES PROCEDURES

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT

This First Amendatory Agreement, made and entered into this day of , , by and between the City of St. Louis, a municipal corporation of the State of Missouri (the "City") and America West Airlines, Inc., a corporation organized and existing under and by virtue of the laws of the State of Delaware (the "Airline").

WITNESSETH:

WHEREAS, City and Airline have previously entered into several agreements (collectively, the "Agreements") to lease and use areas of Lambert-St. Louis International Airport (the "Airport") consisting of:

Airline's Airport Use Agreement (Lease AL-3) dated January 2, 1997;
and

WHEREAS, the Agreements set forth certain definitions and procedures for calculating and periodically adjusting airline rates and charges at the Airport; and

WHEREAS, by this First Amendatory Agreement, City and Airline desire to amend but not terminate the Agreements with respect to the definition of certain terms and the procedures to be used in calculating airline rates and charges at the Airport;

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between City and Airline as follows:

SECTION 1 – GENERAL

The purpose and intent of this First Amendatory Agreement is to supplant and replace those provisions of the Agreements that address the procedures for the calculation of airline rates and charges at the Airport. The intent of the parties is (1) to clarify and consolidate in one place the rates and charges provisions of the Agreements, (2) to change the rates and charges adjustment process from a Calendar Year to a Fiscal Year basis and (3) to change the method of recovery of the costs of Capital Improvements from "depreciation + interest" charges to "amortization" charges. It is further the intent of the parties that all other substantive aspects of the current rates and charges provisions remain unchanged unless in conflict with the provisions of this First Amendatory Agreement. In the event of such a conflict this First Amendatory Agreement's provisions shall control. Those provisions to be supplanted and replaced include but are not limited to: Article III of the Airport Use Agreement.

SECTION 2 – DEFINITIONS

The following words and phrases, wherever used in this First Amendatory Agreement, shall, for the purpose of this First Amendatory Agreement, have the following meanings:

A. "Airport Cost Centers" means the direct cost areas to be used in accounting for Airport costs for the purposes of calculating compensatory rates and charges hereunder, as depicted in Exhibit "A", Airport Layout and Airfield Cost Center Plan, and Exhibit "B", Terminal Area Cost Center Plan which are attached hereto and incorporated herein, as such areas now exist or may hereafter be modified or expanded and as more particularly described below:

1. "Main Terminal" means the main terminal portion of the terminal complex, together with the upper level terminal roadway which forms the roof of the middle level facilities (baggage claim and administrative office areas).
2. "Terminal Expansion" means the extended portion of the terminal complex, currently used as an airline club, constructed as part of the 1996 "Terminal Expansion and B/C Connector" project.
3. "Concourses A/B/C" means Concourse A, Concourse B, and Concourse C (exclusive of the Concourse C extension).

4. "Concourse C Extension" means the extended portion of concourse C constructed as part of the 1981 "East Concourse Extension" project.

5. "Concourse D" means Concourse D constructed as part of the 1983 "Concourse Addition and Improvements" project.

6. "East Connector" means the space in the connector concourse between the Main Terminal and Concourse D constructed as part of the 1975 "Concourse Improvements and Terminal Expansion" project.

7. "East Terminal" means the new East Terminal building.

8. "International Area" means the federal inspection services (FIS) area, Gates E29, E31, and E33 and associated office and operation space, which are operated for the City through an agency agreement.

9. "Airfield" means the runways, taxiways, and apron areas, navigational aids, hazard designation and warning devices, airfield security roads and fencing, blast fencing, lighting, clear zones and safety areas for landing, taking off and taxiing of aircraft, aviation easements, including land utilized in connection therewith or acquired for such future purpose, and facilities, the acquisition, construction or installation cost of which is wholly or partially paid by the City, as depicted in Exhibit "A".

10. "Airline Services Building" means that building apart from the Terminal Complex, used to service airline equipment.

B. "Amortization" means the level annual charge required to recover the Net Cost of a Capital Improvement over the Useful Life of such Capital Improvement at the City's Cost of Capital.

C. "Capital Improvement" means any improvement or capital asset acquired or constructed by City at the Airport which has a Net Cost in excess of \$10,000 and a Useful Life in excess of three years or a Net Cost in excess of \$25,000 with a useful life in excess of one year.

D. "Cost of Capital" means (a) for Capital Improvements financed with Airport System Revenue Bonds, the effective interest rate (the "true interest cost" or "TIC") on the Bonds used to finance the particular Capital Improvement and (b) for Capital Improvements financed with other Airport funds, the current Revenue Bond Index of 22-year+, "A" rated bonds published daily in the Wall Street Journal (or successor publication thereto), as of the date the Capital Improvement is placed in service. However, for the purpose of developing annual rates and charges, the rate index nearest to the date of the rate setting will be used.

E. "Deferred Maintenance Charge" means the amount to be charged to the airline rate base to fund and replenish City's reserve for deferred maintenance, which charge shall be limited to \$150,000 per year and allocated sixty percent (60%) to the Airfield, thirty percent (30%) to the terminal building (and further allocated to individual terminal cost centers based on Gross Space), and ten percent (10%) to other buildings and facilities. City's reserve for deferred maintenance shall not exceed \$750,000 in the aggregate.

F. "Depreciation and Interest Charges" means annual depreciation charges associated with Airport assets placed in service on or before June 30, 1997, as determined from the Airport's Fixed Asset Database, unless otherwise excluded pursuant to any prior amendatory Agreements.

G. "Fiscal Year" refers to City's fiscal year and means the twelve-month period commencing July 1 and extending through June 30 of the following calendar year, or such other fiscal year as City may establish by ordinance.

H. "Fixed Asset Database" means the database maintained by the Airport to record historical investments in Airport fixed assets, as documented in the report, "Fixed Asset Database and Calculation of FY 1998-99 Depreciation and Interest Charges" dated June 1, 1998, which report is incorporated herein by reference.

I. "Gross Space" means every square foot of space, measured from the inside of perimeter walls and from the centerline of interior partitions, including but not necessarily limited to leasable, public, concession, City administrative, mechanical and janitorial areas.

J. "Interest on Assets Financed with Airport Funds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with Airport funds (other than bond proceeds), as documented in the Fixed Asset Database. Such interest charges will be calculated based on the mid-life value (50%) of the City's investment in depreciable assets, unless otherwise excluded pursuant to the First Amendatory Agreement.

K. "Interest on Assets Financed with Bonds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with bond proceeds (other than airport funds), as documented in the report, "Analysis of the Impact of Bond Refinancings on Airline Rates and Charges" dated March 17, 1995, as supplemented by letter dated April 4, 1995, which report and letter are incorporated herein by reference.

L. "Maintenance and Operating Expenses" means all reasonable and necessary current expenses of City, paid or accrued, in operating, maintaining, repairing, and administering the Airport as depicted on Exhibit D; including, without necessarily limiting thereto, salaries and wages, fringe benefits, materials and supplies used for current operations, equipment purchases (items costing \$10,000 or less per item), contractual services, utilities, professional services, police protection services, fire protection services, administrative expenses, insurance premiums, charges of any paying agents and any other depository bank pertaining to the Airport, the payment to the City of 5% of the gross receipts of the Airport as required by Section 504(B) of the Airport's master revenue bond trust indenture, as well as charges by the City for administrative expenses of other City departments whose services are directly related or reasonably allocable to the administration of the Airport; provided, however, Maintenance and Operating Expenses shall not include any allowance for depreciation, payments in lieu of taxes, Capital Improvements, or any charges for the accumulation of reserves for capital replacements. Maintenance and Operating Expenses shall be fairly allocated among Airport Cost Centers in accordance with generally accepted cost accounting practices.

M. "Majority-in-Interest" means, unless otherwise indicated in this First Amendatory Agreement, those scheduled airlines (but in no event less than fifty percent (50%) of the number of scheduled airlines who have executed agreements similar to or substantially the same as the 1965 Airport Use Agreement, as amended), who have on the date in question,

more than fifty percent (50%) of the aggregate revenue aircraft weight landed at the Airport during the immediately preceding Fiscal Year.

N. "Net Cost" means, with respect to a Capital Improvement, the total cost of the Capital Improvement (including actual construction costs; architectural and engineering fees, program management fees, testing and inspection fees, construction management fees, permit fees, and other direct or allocable fees; interest during construction; and allocable out-of-pocket financing costs) less any federal or state grants-in-aid or passenger facility charge resources used in financing the Capital Improvement.

O. "Off-Line Aircraft" means, any aircraft operated by an entity other than Airline.

P. "Useful Life" means the estimated period of time that a Capital Improvement is to be recovered through the Amortization process. Useful Lives will be assigned to Capital Improvements based on generally accepted airport accounting practices, as shown on the attached Exhibit C.

SECTION 3 – RENTALS AND FEES

Section 3.01. General

Airline agrees to pay City for the use of the premises, facilities, rights, licenses, services and privileges granted hereunder the following rentals, fees and charges, designated in the following paragraphs of this Section 3. In the event that the commencement or termination of the term with respect to any of the particular premises, facilities, rights, licenses, services or privileges as herein provided falls on any date other than the first or last day of a calendar month, the applicable rentals, fees and charges shall be paid for said month pro rata according to the number of days in that month during which said particular premises, facilities, rights, licenses, services or privileges were enjoyed.

Section 3.02. Terminal Building Rentals

- A. Airline shall pay City, for its exclusive and/or preferential use space in the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, East Connector, and International Area, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.

- B. Airline shall pay City, for its share of non-exclusive use space (baggage claim, baggage makeup and security checkpoint areas) in the Main Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- C. Airline shall pay City, for its exclusive and/or preferential use space in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.
- D. Airline shall pay City, for its share of shared use space (baggage claim, inbound baggage and security checkpoint areas) in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.

Section 3.03. Landing Fees

Airline shall pay City for its use of the Airfield, monthly landing fees based on the landing fee rate calculated each Fiscal Year in accordance with Section 4.04 hereof.

Section 3.04 Other Rentals

Airline Services Building. Airline shall pay City, for its exclusive and/or preferential use space in the Airline Services Building, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.05 hereof.

Section 3.05. Other Fees and Charges

- A. Utilities. Airline shall pay all water, sewage, electricity, gas and other utility charges which may be reasonably assessed by City for Airline's use of its leased premises and Airline-installed equipment.
- B. Other Services. Airline shall pay all charges which may be reasonably assessed by City for other services that may be provided by City to Airline from time to time.

Section 3.06. Payment Provisions

- A. Terminal Building Rentals. Rentals for exclusive and/or preferential use Main Terminal and concourse space and exclusive and/or preferential use space in the East Terminal shall be due and payable on the first day of each month based on invoices provided by City. Rentals for non-exclusive use space in the Main Terminal and shared use space in the East Terminal shall be due and payable within twenty (20) days of the date of an invoice from the City.

- B. Landing Fees. Landing fees for each month shall be due and payable within 15 days of receipt of City's invoice, which invoice shall be based on the landed weights reported in Airline's statistical report for the applicable month as required in Section 5 hereof.
- C. Other Fees. All other rentals, fees, and charges required hereunder shall be due and payable within twenty (20) days of the date of the invoice therefor.
- D. Right of City to Verify Airline's Payment. The acceptance of any payment made by Airline shall not preclude City from verifying the accuracy of Airline's report and computations or from recovering any additional payment actually due from Airline, or preclude Airline from later demonstrating that Airline's report was inaccurate and that a lesser amount was properly owed and from recovering any such overpayment.
- E. Form of Payment. Payments shall be made to the order of "Treasurer, City of St. Louis" and shall be mailed to the Airport Assistant Director of Finance, P.O. Box 10036, Lambert Station, St. Louis, Missouri, 63145 or such other place as may be designated by the Director from time to time. City and Airline may cooperate in the development of a procedure for the electronic transfer of funds as the preferred method of payment.

SECTION 4 – RECALCULATION OF AIRLINE RATES AND CHARGES

Section 4.01. General

- A. Effective July 1, 1998 (for the Fiscal Year ending June 30, 1999), and for each Fiscal Year thereafter, airline rates and charges will be recalculated based on the principles and procedures set forth in this Section; provided, however, that, for the period July 1 to December 31, 1998, rates shall be assessed at the previously established rates for Calendar Year 1998, and the rates calculated for the Fiscal Year ending June 30, 1999 shall be placed into effect on January 1, 1999. The methodology for the calculation of airline rentals and fees described in this Section is illustrated in the report entitled "Calculation of Airline Rates and Charges—Fiscal Year 1998-99, Lambert-St. Louis International Airport," dated December 4, 1998, which report is incorporated herein by reference.
- B. On or about March 1 of each year, City shall provide Airline with the Airport's draft operating budget for the ensuing fiscal year. Within thirty (30) days of providing Airline with the draft operating budget, City shall provide notice of a meeting, at which Airline shall have the opportunity to comment on the Airport's draft operating budget.
- C. On or about April 1 of each year, Airline shall provide the Airport with its estimate of its total landed weight for the ensuing Fiscal Year.

- D. On or about May 1 of each year, City shall provide Airline with the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. For rate setting purposes, the calculations will be made on the basis of costs, expenses, and other factors estimated by City and estimates of total landed weight provided by the signatory airlines (or by City to the extent that certain signatory airlines fail to provide their estimates of landed weight).
- E. On or about June 1 of each year, City shall provide notice of a meeting for the purpose of City presenting the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. City shall give due consideration to the comments and suggestions made by Airline and the other airlines at that meeting. Based on consideration of those comments and suggestions, and upon the Airport's final operating budget approved by the City's Board of Aldermen, City shall prepare a final calculation of airline rates and charges for the ensuing Fiscal Year and provide a copy to Airline no later than the last working day of the month preceding the start of the Fiscal Year. The rates and charges contained in City's final calculation of airline rates and charges shall become effective as of July 1—the first day of the ensuing Fiscal Year.

Section 4.02. Terminal Rental Rates Other Than East Terminal

- A. For each cost center of the terminal complex other than the East Terminal (i.e., the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, the East Connector, and the International Area) the Total Costs of the cost center will be calculated by adding together the following amounts:
 - 1. Direct and indirect Maintenance and Operating Expenses allocable to the particular cost center
 - 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the particular cost center
 - 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the particular cost center
 - 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the particular cost center on or after July 1, 1997
 - 5. Deferred Maintenance Charges allocable to the particular cost center

Costs and expenses allocable to the terminal building but not assignable to any particular terminal cost center shall be allocated among the terminal cost centers based on Gross Space.

The annual rental rate for each cost center other than the International Area will then be calculated by dividing the Total Costs allocable to the particular cost center by the Gross Space in the particular cost center. City shall establish rates for the use of the International Area by ordinance.

Section 4.03 Rental Rate for the East Terminal

The annual rental rate for the East Terminal will be calculated in accordance with the Second Amendatory Agreement to the Southwest Airlines Co. Airport Use Agreement dated September 15, 1998 a copy of which is attached as Exhibit "E".

Section 4.04. Landing Fee Rate

- A. The Total Costs of the Airfield cost center will be calculated by adding together the following amounts:
 1. Direct and indirect Maintenance and Operating Expenses allocable to the Airfield
 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airfield
 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airfield
 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airfield on or after July 1, 1997
 5. Interest on the City's investment in Airfield land
 6. Deferred Maintenance Charges allocable to the Airfield
 7. All costs allocable to the sanitary disposal facilities (tritulators)
- B. The Net Costs of the Airfield Area will then be calculated by subtracting revenues from nonsignatory operator landing fees, fuel flowage fees, and field use fees. The signatory airline landing fee rate will then be calculated by dividing the Net Costs of the Airfield Area by the total aircraft landed weight of all signatory airlines.
 - A. The nonsignatory landing fee rate will be set at 125% of the signatory airline landing fee rate.

Section 4.05 Airline Services Building

The Total Costs of the Airline Services Building will be calculated by adding together the following amounts:

1. Direct and indirect Maintenance and Operating Expenses allocable to the Airline Services Building
2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airline Services Building
3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airline Services Building
4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airline Services Building on or after July 1, 1997
5. Deferred Maintenance Charges allocable to the Airline Services Building

The annual rental rate for the Airline Services Building will then be calculated by dividing the Total Costs allocable to the Airline Services Building by the gross area of the Airline Services Building.

Section 4.06. Mid-Year Rate Adjustment

In the event that, at any time during a Fiscal Year, City estimates that the Total Costs of the Airfield Area or any of the terminal cost centers, or the aggregate Total Landed Weight of all airlines, will vary ten percent (10%) or more from the estimates used in setting the landing fee rate and terminal rental rates at the beginning of the Fiscal Year, such rates may be adjusted either up or down for the balance of such Fiscal Year, provided that such adjustment is deemed necessary by City. City shall provide Airline with notice of a meeting, for the purpose of presenting any such rate adjustment, along with a written explanation of the basis for such rate adjustment, thirty (30) days prior to putting such adjustment into effect. Unless extraordinary circumstances warrant additional adjustments, City will seek to limit such mid-year rate adjustments to no more than once each Fiscal Year.

Section 4.07. Year-End Adjustment to Actual and Settlement

- A. On or about 180 days following the close of each Fiscal Year, City shall furnish Airline with an accounting of the costs and expenses actually incurred, revenues and other credits actually realized (reconciled to the audited financial statements of the Airport System), and actual enplaned passengers and landed weights during such Fiscal Year with respect to each of the components of the calculation of terminal rental rates, the landing fee rate, and other rental rates in this Section 4 and shall recalculate the rates, fees, and charges required for the Fiscal Year based on those actual costs and revenues. City shall then provide notice of a meeting, within 30 days after completion of audit, to discuss the

calculation of the year-end settlement and shall give due consideration to the comments and suggestions made by the signatory airlines before finalizing the settlement calculations.

- B. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were more than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such excess amount shall be credited to Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- C. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were less than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such deficiency shall be paid by Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- D. For final settlement purposes all calculations will be made on the basis of actual costs and expenses incurred and will be provided to Airline as soon as possible following the completion of the annual audit of the Airport's financial statements.
- E. The settlement for the first half of the last calendar year rates and charges, January 1 – June 30, 1998 will be settled during the period, April 1 – December 31, 1999. This settlement period applies to this stub period only.
- F. It is understood and agreed by the parties hereto that, while the rates billed for the period July 1-December 31, 1998, are the rates previously established for calendar year 1998, the settlement for the Fiscal Year ending June 30, 1999, shall be based on the methodology set forth in this First Amendatory Agreement applied to the full Fiscal Year 1999 (July 1, 1998 - June 30, 1999).

SECTION 5 – STATISTICAL REPORT

Airline shall furnish City, without demand therefore, on or before the 10th day of each month, a written report showing Airline's actual revenue producing arrivals and enplaned passengers at the Airport during the preceding calendar month, which report shall include the number, the type of aircraft and the maximum gross certificated landed weight of each aircraft type. The number of arrivals so operated at the Airport multiplied by the applicable maximum certificated landing weight for each type of aircraft shall determine the total landed weight for which monthly payment of landing fees shall be made. Airline shall also report the number and type of off-line aircraft serviced by it in order that City can make the appropriate billing.

SECTION 6 – CAPITAL IMPROVEMENTS

Section 6.01. Review of Proposed Capital Improvements

In conjunction with the submission of the draft operating budget in Section 4.01(B) hereof, City shall submit a list of proposed Capital Improvements for the ensuing Fiscal Year together with the estimated Net Costs of those Capital Improvements and shall request Airline Majority-in-Interest approval of such proposed Capital Improvements. (This regular process will not preclude City from requesting Majority-in-Interest approval of other proposed Capital Improvements at other times during a Fiscal Year if circumstances warrant.) Airline review of proposed Capital Improvements in the terminal building cost centers shall be governed by Section 306 of the Airport Use Agreement. Airline review of proposed Capital Improvements in the Airfield Area shall be governed by Section 306 of the Airport Use Agreement, however where such provision states "calendar year" it shall be deemed to read "Fiscal Year".

Section 6.02. Increases in Costs of Proposed Capital Improvements

If, after the receipt of initial bid(s) or anytime thereafter, the Net Cost of a particular Capital Improvement exceeds the Majority-In-Interest approved cost of that particular Capital Improvement by greater than five percent (5.0%) or \$100,000, whichever is less, then the City shall convene a meeting with the Airlines, if the Airlines so desire, within thirty (30) days of receipt of initial bid(s) to determine whether to:

- i. request MII approval to fund the increase through rates and charges;
- ii. request MII approval to reduce the scope of the Capital Improvement in order to be within the original MII approval amount;
- iii. fund the increase in the Net Cost of the Capital Improvement from the Capital Improvement Fund, or other sources acceptable to the Airlines, at no additional cost to the Airlines; or
- iv. not proceed with the project

The City will immediately notify the Airlines, in writing, of any estimated increase in the Net Cost of a particular Capital Improvement, regardless of whether MII approval is required. The notice shall include an explanation for the estimated increase as well as identify the funding sources.

SECTION 7 – MISCELLANEOUS PROVISIONS

Section 7.01. Calendar Year to Fiscal Year

Wherever the Agreements refer to the term "calendar year" it shall be deemed to be "Fiscal Year" as defined hereunder.

Section 7.02. Effect on Agreements

All other terms, covenants and conditions of the Agreements not inconsistent with this First Amendatory Agreement are unchanged and are hereby ratified and approved and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement the day and year first above written.

Pursuant to City of St. Louis Ordinance approved , .

AMERICA WEST AIRLINES, INC.

Title: Date

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT ST. LOUIS INTERNATIONAL AIRPORT:

The foregoing Agreement was approved by the Airport Commission at its meeting on

Commission Chairman Date

And Director of Airports

The foregoing Agreement was approved by the Board of Estimate and Apportionment at its meeting on

Secretary Date

Board of Estimate & Apportionment

APPROVED AS TO FORM COUNTERSIGNED

City Counselor Date Comptroller Date

City of St. Louis City of St. Louis

ATTEST

Register Date

City of St. Louis

FOURTH AMENDATORY AGREEMENT

REGARDING RATES AND CHARGES PROCEDURES

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT

This Fourth Amendatory Agreement, made and entered into this day of , , by and between the City of St. Louis, a municipal corporation of the State of Missouri (the "City") and American Airlines, Inc., a corporation organized and existing under and by virtue of the laws of the State of Delaware (the "Airline").

WITNESSETH:

WHEREAS, City and Airline have previously entered into several agreements (collectively, the "Agreements") to lease and use areas of Lambert-St. Louis International Airport (the "Airport") consisting of:

Airline's Airport Use Agreement (Lease AL-2) dated August 1, 1965,

Airline's Amendatory Agreement for Concourse Improvements and Terminal Expansion dated August 1, 1975,

Airline's Second Amendatory Agreement for Concourse Improvements and Terminal Expansion dated January 1, 1977,

Airline's Third Amendatory Agreement for Concourse Improvements dated September 29, 1982; and

WHEREAS, the Agreements set forth certain definitions and procedures for calculating and periodically adjusting airline rates and charges at the Airport; and

WHEREAS, by this Fourth Amendatory Agreement, City and Airline desire to amend but not terminate the Agreements with respect to the definition of certain terms and the procedures to be used in calculating airline rates and charges at the Airport;

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between City and Airline as follows:

SECTION 1 – GENERAL

The purpose and intent of this Fourth Amendatory Agreement is to supplant and replace those provisions of the Agreements that address the procedures for the calculation of airline rates and charges at the Airport. The intent of the parties is (1) to clarify and consolidate in one place the rates and charges provisions of the

Agreements, (2) to change the rates and charges adjustment process from a Calendar Year to a Fiscal Year basis and (3) to change the method of recovery of the costs of Capital Improvements from "depreciation + interest" charges to "amortization" charges. It is further the intent of the parties that all other substantive aspects of the current rates and charges provisions remain unchanged unless in conflict with the provisions of this Fourth Amendatory Agreement. In the event of such a conflict this Fourth Amendatory Agreement's provisions shall control. Those provisions to be supplanted and replaced include but are not limited to: Article III of the Airport Use Agreement, Sections I and IV of the Amendatory Agreement, Section II of the Second Amendatory Agreement and Section II of the Third Amendatory Agreement.

SECTION 2 – DEFINITIONS

The following words and phrases, wherever used in this Fourth Amendatory Agreement, shall, for the purpose of this Fourth Amendatory Agreement, have the following meanings:

- A. "Airport Cost Centers" means the direct cost areas to be used in accounting for Airport costs for the purposes of calculating compensatory rates and charges hereunder, as depicted in Exhibit "A", Airport Layout and Airfield Cost Center Plan, and Exhibit "B", Terminal Area Cost Center Plan which are attached hereto and incorporated herein, as such areas now exist or may hereafter be modified or expanded and as more particularly described below:
 - 1. "Main Terminal" means the main terminal portion of the terminal complex, together with the upper level terminal roadway which forms the roof of the middle level facilities (baggage claim and administrative office areas).
 - 2. "Terminal Expansion" means the extended portion of the terminal complex, currently used as an airline club, constructed as part of the 1996 "Terminal Expansion and B/C Connector" project.
 - 3. "Concourses A/B/C" means Concourse A, Concourse B, and Concourse C (exclusive of the Concourse C extension).
 - 4. "Concourse C Extension" means the extended portion of concourse C constructed as part of the 1981 "East Concourse Extension" project.
 - 5. "Concourse D" means Concourse D constructed as part of the 1983 "Concourse Addition and Improvements" project.
 - 6. "East Connector" means the space in the connector concourse between the Main Terminal and Concourse D constructed as part of the 1975 "Concourse Improvements and Terminal Expansion" project.

7. "East Terminal" means the new East Terminal building.
 8. "International Area" means the federal inspection services (FIS) area, Gates E29, E31, and E33 and associated office and operation space, which are operated for the City through an agency agreement.
 9. "Airfield" means the runways, taxiways, and apron areas, navigational aids, hazard designation and warning devices, airfield security roads and fencing, blast fencing, lighting, clear zones and safety areas for landing, taking off and taxiing of aircraft, aviation easements, including land utilized in connection therewith or acquired for such future purpose, and facilities, the acquisition, construction or installation cost of which is wholly or partially paid by the City, as depicted in Exhibit "A".
 10. "Airline Services Building" means that building apart from the Terminal Complex, used to service airline equipment.
-
- B. "Amortization" means the level annual charge required to recover the Net Cost of a Capital Improvement over the Useful Life of such Capital Improvement at the City's Cost of Capital.
 - C. "Capital Improvement" means any improvement or capital asset acquired or constructed by City at the Airport which has a Net Cost in excess of \$10,000 and a Useful Life in excess of three years or a Net Cost in excess of \$25,000 with a useful life in excess of one year.
 - D. "Cost of Capital" means (a) for Capital Improvements financed with Airport System Revenue Bonds, the effective interest rate (the "true interest cost" or "TIC") on the Bonds used to finance the particular Capital Improvement and (b) for Capital Improvements financed with other Airport funds, the current Revenue Bond Index of 22-year+, "A" rated bonds published daily in the Wall Street Journal (or successor publication thereto), as of the date the Capital Improvement is placed in service. However, for the purpose of developing annual rates and charges, the rate index nearest to the date of the rate setting will be used.
 - E. "Deferred Maintenance Charge" means the amount to be charged to the airline rate base to fund and replenish City's reserve for deferred maintenance, which charge shall be limited to \$150,000 per year and allocated sixty percent (60%) to the Airfield, thirty percent (30%) to the terminal building (and further allocated to individual terminal cost centers based on Gross Space), and ten percent (10%) to other buildings and facilities. City's reserve for deferred maintenance shall not exceed \$750,000 in the aggregate.
 - F. "Depreciation and Interest Charges" means annual depreciation charges associated with Airport assets placed in service on or before June 30, 1997, as

determined from the Airport's Fixed Asset Database, unless otherwise excluded pursuant to any prior amendatory Agreements.

- G. "Fiscal Year" refers to City's fiscal year and means the twelve-month period commencing July 1 and extending through June 30 of the following calendar year, or such other fiscal year as City may establish by ordinance.
- H. "Fixed Asset Database" means the database maintained by the Airport to record historical investments in Airport fixed assets, as documented in the report, "Fixed Asset Database and Calculation of FY 1998-99 Depreciation and Interest Charges" dated June 1, 1998, which report is incorporated herein by reference.
- I. "Gross Space" means every square foot of space, measured from the inside of perimeter walls and from the centerline of interior partitions, including but not necessarily limited to leasable, public, concession, City administrative, mechanical and janitorial areas.
- J. "Interest on Assets Financed with Airport Funds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with Airport funds (other than bond proceeds), as documented in the Fixed Asset Database. Such interest charges will be calculated based on the mid-life value (50%) of the City's investment in depreciable assets, unless otherwise excluded pursuant to the First Amendatory Agreement.
- K. "Interest on Assets Financed with Bonds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with bond proceeds (other than airport funds), as documented in the report, "Analysis of the Impact of Bond Refinancings on Airline Rates and Charges" dated March 17, 1995, as supplemented by letter dated April 4, 1995, which report and letter are incorporated herein by reference.
- L. "Maintenance and Operating Expenses" means all reasonable and necessary current expenses of City, paid or accrued, in operating, maintaining, repairing, and administering the Airport as depicted on Exhibit D; including, without necessarily limiting thereto, salaries and wages, fringe benefits, materials and supplies used for current operations, equipment purchases (items costing \$10,000 or less per item), contractual services, utilities, professional services, police protection services, fire protection services, administrative expenses, insurance premiums, charges of any paying agents and any other depository bank pertaining to the Airport, the payment to the City of 5% of the gross receipts of the Airport as required by Section 504(B) of the Airport's master revenue bond trust indenture, as well as charges by the City for administrative expenses of other City departments whose services are directly related or reasonably allocable to the administration of the Airport; provided, however, Maintenance and Operating Expenses shall not include any allowance for depreciation, payments in lieu of taxes, Capital Improvements, or any charges

for the accumulation of reserves for capital replacements. Maintenance and Operating Expenses shall be fairly allocated among Airport Cost Centers in accordance with generally accepted cost accounting practices.

- M. "Majority-in-Interest" means, unless otherwise indicated in this Fourth Amendatory Agreement, those scheduled airlines (but in no event less than fifty percent (50%) of the number of scheduled airlines who have executed agreements similar to or substantially the same as the 1965 Airport Use Agreement, as amended), who have on the date in question, more than fifty percent (50%) of the aggregate revenue aircraft weight landed at the Airport during the immediately preceding Fiscal Year.
- N. "Net Cost" means, with respect to a Capital Improvement, the total cost of the Capital Improvement (including actual construction costs; architectural and engineering fees, program management fees, testing and inspection fees, construction management fees, permit fees, and other direct or allocable fees; interest during construction; and allocable out-of-pocket financing costs) less any federal or state grants-in-aid or passenger facility charge resources used in financing the Capital Improvement.
- O. "Off-Line Aircraft" means, any aircraft operated by an entity other than Airline.
- P. "Useful Life" means the estimated period of time that a Capital Improvement is to be recovered through the Amortization process. Useful Lives will be assigned to Capital Improvements based on generally accepted airport accounting practices, as shown on the attached Exhibit C.

SECTION 3 – RENTALS AND FEES

Section 3.01. General

Airline agrees to pay City for the use of the premises, facilities, rights, licenses, services and privileges granted hereunder the following rentals, fees and charges, designated in the following paragraphs of this Section 3. In the event that the commencement or termination of the term with respect to any of the particular premises, facilities, rights, licenses, services or privileges as herein provided falls on any date other than the first or last day of a calendar month, the applicable rentals, fees and charges shall be paid for said month pro rata according to the number of days in that month during which said particular premises, facilities, rights, licenses, services or privileges were enjoyed.

Section 3.02. Terminal Building Rentals

- A. Airline shall pay City, for its exclusive and/or preferential use space in the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, East Connector, and International Area, monthly

rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.

- B. Airline shall pay City, for its share of non-exclusive use space (baggage claim, baggage makeup and security checkpoint areas) in the Main Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- C. Airline shall pay City, for its exclusive and/or preferential use space in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.
- D. Airline shall pay City, for its share of shared use space (baggage claim, inbound baggage and security checkpoint areas) in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.

Section 3.03. Landing Fees

Airline shall pay City for its use of the Airfield, monthly landing fees based on the landing fee rate calculated each Fiscal Year in accordance with Section 4.04 hereof.

Section 3.04 Other Rentals

Airline Services Building. Airline shall pay City, for its exclusive and/or preferential use space in the Airline Services Building, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.05 hereof.

Section 3.05. Other Fees and Charges

- A. Utilities. Airline shall pay all water, sewage, electricity, gas and other utility charges which may be reasonably assessed by City for Airline's use of its leased premises and Airline-installed equipment.
- B. Other Services. Airline shall pay all charges which may be reasonably assessed by City for other services that may be provided by City to Airline from time to time.

Section 3.06. Payment Provisions

- A. Terminal Building Rentals. Rentals for exclusive and/or preferential use Main Terminal and concourse space and exclusive and/or preferential use space in the East Terminal shall be due and payable on the first day of each month based on invoices provided by City. Rentals for non-exclusive use space in the Main

Terminal and shared use space in the East Terminal shall be due and payable within twenty (20) days of the date of an invoice from the City.

- B. Landing Fees. Landing fees for each month shall be due and payable within 15 days of receipt of City's invoice, which invoice shall be based on the landed weights reported in Airline's statistical report for the applicable month as required in Section 5 hereof.
- C. Other Fees. All other rentals, fees, and charges required hereunder shall be due and payable within twenty (20) days of the date of the invoice therefor.
- D. Right of City to Verify Airline's Payment. The acceptance of any payment made by Airline shall not preclude City from verifying the accuracy of Airline's report and computations or from recovering any additional payment actually due from Airline, or preclude Airline from later demonstrating that Airline's report was inaccurate and that a lesser amount was properly owed and from recovering any such overpayment.
- E. Form of Payment. Payments shall be made to the order of "Treasurer, City of St. Louis" and shall be mailed to the Airport Assistant Director of Finance, P.O. Box 10036, Lambert Station, St. Louis, Missouri, 63145 or such other place as may be designated by the Director from time to time. City and Airline may cooperate in the development of a procedure for the electronic transfer of funds as the preferred method of payment.

SECTION 4 – RECALCULATION OF AIRLINE RATES AND CHARGES

Section 4.01. General

- A. Effective July 1, 1998 (for the Fiscal Year ending June 30, 1999), and for each Fiscal Year thereafter, airline rates and charges will be recalculated based on the principles and procedures set forth in this Section; provided, however, that, for the period July 1 to December 31, 1998, rates shall be assessed at the previously established rates for Calendar Year 1998, and the rates calculated for the Fiscal Year ending June 30, 1999 shall be placed into effect on January 1, 1999. The methodology for the calculation of airline rentals and fees described in this Section is illustrated in the report entitled "Calculation of Airline Rates and Charges—Fiscal Year 1998-99, Lambert-St. Louis International Airport," dated December 4, 1998, which report is incorporated herein by reference.
- B. On or about March 1 of each year, City shall provide Airline with the Airport's draft operating budget for the ensuing fiscal year. Within thirty (30) days of providing Airline with the draft operating budget, City shall provide notice of a meeting, at which Airline shall have the opportunity to comment on the Airport's draft operating budget.

- C. On or about April 1 of each year, Airline shall provide the Airport with its estimate of its total landed weight for the ensuing Fiscal Year.
- D. On or about May 1 of each year, City shall provide Airline with the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. For rate setting purposes, the calculations will be made on the basis of costs, expenses, and other factors estimated by City and estimates of total landed weight provided by the signatory airlines (or by City to the extent that certain signatory airlines fail to provide their estimates of landed weight).
- E. On or about June 1 of each year, City shall provide notice of a meeting for the purpose of City presenting the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. City shall give due consideration to the comments and suggestions made by Airline and the other airlines at that meeting. Based on consideration of those comments and suggestions, and upon the Airport's final operating budget approved by the City's Board of Aldermen, City shall prepare a final calculation of airline rates and charges for the ensuing Fiscal Year and provide a copy to Airline no later than the last working day of the month preceding the start of the Fiscal Year. The rates and charges contained in City's final calculation of airline rates and charges shall become effective as of July 1—the first day of the ensuing Fiscal Year.

Section 4.02. Terminal Rental Rates Other Than East Terminal

- A. For each cost center of the terminal complex other than the East Terminal (i.e., the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, the East Connector, and the International Area) the Total Costs of the cost center will be calculated by adding together the following amounts:
 - 1. Direct and indirect Maintenance and Operating Expenses allocable to the particular cost center
 - 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the particular cost center
 - 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the particular cost center
 - 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the particular cost center on or after July 1, 1997
 - 5. Deferred Maintenance Charges allocable to the particular cost center

Costs and expenses allocable to the terminal building but not assignable to any particular terminal cost center shall be allocated among the terminal cost centers based on Gross Space.

- B. The annual rental rate for each cost center other than the International Area will then be calculated by dividing the Total Costs allocable to the particular cost center by the Gross Space in the particular cost center. City shall establish rates for the use of the International Area by ordinance.

Section 4.03 Rental Rate for the East Terminal

The annual rental rate for the East Terminal will be calculated in accordance with the Second Amendatory Agreement to the Southwest Airlines Co. Airport Use Agreement dated September 15, 1998 a copy of which is attached as Exhibit "E".

Section 4.04. Landing Fee Rate

- A. The Total Costs of the Airfield cost center will be calculated by adding together the following amounts:
 - 1. Direct and indirect Maintenance and Operating Expenses allocable to the Airfield
 - 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airfield
 - 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airfield
 - 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airfield on or after July 1, 1997
 - 5. Interest on the City's investment in Airfield land
 - 6. Deferred Maintenance Charges allocable to the Airfield
 - 7. All costs allocable to the sanitary disposal facilities (tritulators)
- B. The Net Costs of the Airfield Area will then be calculated by subtracting revenues from nonsignatory operator landing fees, fuel flowage fees, and field use fees. The signatory airline landing fee rate will then be calculated by dividing the Net Costs of the Airfield Area by the total aircraft landed weight of all signatory airlines.
- C. The nonsignatory landing fee rate will be set at 125% of the signatory airline landing fee rate.

Section 4.05 Airline Services Building

The Total Costs of the Airline Services Building will be calculated by adding together the following amounts:

1. Direct and indirect Maintenance and Operating Expenses allocable to the Airline Services Building
2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airline Services Building
3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airline Services Building
4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airline Services Building on or after July 1, 1997
5. Deferred Maintenance Charges allocable to the Airline Services Building

The annual rental rate for the Airline Services Building will then be calculated by dividing the Total Costs allocable to the Airline Services Building by the gross area of the Airline Services Building.

Section 4.06. Mid-Year Rate Adjustment

In the event that, at any time during a Fiscal Year, City estimates that the Total Costs of the Airfield Area or any of the terminal cost centers, or the aggregate Total Landed Weight of all airlines, will vary ten percent (10%) or more from the estimates used in setting the landing fee rate and terminal rental rates at the beginning of the Fiscal Year, such rates may be adjusted either up or down for the balance of such Fiscal Year, provided that such adjustment is deemed necessary by City. City shall provide Airline with notice of a meeting, for the purpose of presenting any such rate adjustment, along with a written explanation of the basis for such rate adjustment, thirty (30) days prior to putting such adjustment into effect. Unless extraordinary circumstances warrant additional adjustments, City will seek to limit such mid-year rate adjustments to no more than once each Fiscal Year.

Section 4.07. Year-End Adjustment to Actual and Settlement

- A. On or about 180 days following the close of each Fiscal Year, City shall furnish Airline with an accounting of the costs and expenses actually incurred, revenues and other credits actually realized (reconciled to the audited financial statements of the Airport System), and actual enplaned passengers and landed weights during such Fiscal Year with respect to each of the components of the calculation of terminal rental rates, the landing fee rate, and other rental rates in

this Section 4 and shall recalculate the rates, fees, and charges required for the Fiscal Year based on those actual costs and revenues. City shall then provide notice of a meeting, within 30 days after completion of audit, to discuss the calculation of the year-end settlement and shall give due consideration to the comments and suggestions made by the signatory airlines before finalizing the settlement calculations.

- B. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were more than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such excess amount shall be credited to Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- C. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were less than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such deficiency shall be paid by Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- D. For final settlement purposes all calculations will be made on the basis of actual costs and expenses incurred and will be provided to Airline as soon as possible following the completion of the annual audit of the Airport's financial statements.
- E. The settlement for the first half of the last calendar year rates and charges, January 1 – June 30, 1998 will be settled during the period, April 1 – December 31, 1999. This settlement period applies to this stub period only.
- F. It is understood and agreed by the parties hereto that, while the rates billed for the period July 1-December 31, 1998, are the rates previously established for calendar year 1998, the settlement for the Fiscal Year ending June 30, 1999, shall be based on the methodology set forth in this Fourth Amendatory Agreement applied to the full Fiscal Year 1999 (July 1, 1998 - June 30, 1999).

SECTION 5 – STATISTICAL REPORT

Airline shall furnish City, without demand therefore, on or before the 10th day of each month, a written report showing Airline's actual revenue producing arrivals and enplaned passengers at the Airport during the preceding calendar month, which report shall include the number, the type of aircraft and the maximum gross certificated landed weight of each aircraft type. The number of arrivals so operated at the Airport multiplied by the applicable maximum certificated landing weight for each type of aircraft shall determine the total landed weight for which monthly payment of landing fees shall be made. Airline shall also report the number and type of off-line aircraft serviced by it in order that City can make the appropriate billing.

SECTION 6 – CAPITAL IMPROVEMENTS

Section 6.01. Review of Proposed Capital Improvements

In conjunction with the submission of the draft operating budget in Section 4.01(B) hereof, City shall submit a list of proposed Capital Improvements for the ensuing Fiscal Year together with the estimated Net Costs of those Capital Improvements and shall request airline Majority-in-Interest approval of such proposed Capital Improvements. (This regular process will not preclude City from requesting Majority-in-Interest approval of other proposed Capital Improvements at other times during a Fiscal Year if circumstances warrant.) Airline review of proposed Capital Improvements in the terminal building cost centers shall be governed by Section V of the Amendatory Agreement. Airline review of proposed Capital Improvements in the Airfield Area shall be governed by Section IV of the Third Amendatory Agreement, however where such provision states "calendar year" it shall be deemed to read "Fiscal Year".

Section 6.02. Increases in Costs of Proposed Capital Improvements

If, after the receipt of initial bid(s) or anytime thereafter, the Net Cost of a particular Capital Improvement exceeds the Majority-In-Interest approved cost of that particular Capital Improvement by greater than five percent (5.0%) or \$100,000, whichever is less, then the City shall convene a meeting with the Airlines, if the Airlines so desire, within thirty (30) days of receipt of initial bid(s) to determine whether to:

- i. request MII approval to fund the increase through rates and charges;
- ii. request MII approval to reduce the scope of the Capital Improvement in order to be within the original MII approval amount;
- iii. fund the increase in the Net Cost of the Capital Improvement from the Capital Improvement Fund, or other sources acceptable to the Airlines, at no additional cost to the Airlines; or
- iv. not proceed with the project

The City will immediately notify the Airlines, in writing, of any estimated increase in the Net Cost of a particular Capital Improvement, regardless of whether MII approval is required. The notice shall include an explanation for the estimated increase as well as identify the funding sources.

SECTION 7 – MISCELLANEOUS PROVISIONS

Section 7.01. Calendar Year to Fiscal Year

Wherever the Agreements refer to the term "calendar year" it shall be deemed to be "Fiscal Year" as defined hereunder.

Section 7.02. Effect on Agreements

All other terms, covenants and conditions of the Agreements not inconsistent with this Fourth Amendatory Agreement are unchanged and are hereby ratified and approved and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement the day and year first above written.

Pursuant to City of St. Louis Ordinance approved , .

AMERICAN AIRLINES, INC.

Title: Date

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT ST. LOUIS INTERNATIONAL AIRPORT:

The foregoing Agreement was approved by the Airport Commission at its meeting on

Commission Chairman Date

And Director of Airports

The foregoing Agreement was approved by the Board of Estimate and Apportionment at its meeting on

Secretary Date

Board of Estimate & Apportionment

APPROVED AS TO FORM COUNTERSIGNED

City Counselor Date Comptroller Date

City of St. Louis City of St. Louis

ATTEST

Register Date

City of St. Louis

FIRST AMENDATORY AGREEMENT
REGARDING RATES AND CHARGES PROCEDURES
LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT

This First Amendatory Agreement, made and entered into this day of , , by and between the City of St. Louis, a municipal corporation of the State of Missouri (the "City") and Chautauqua Airlines, Inc., d/b/a Trans World Express, a corporation organized and existing under and by virtue of the laws of the State of New York (the "Airline").

WITNESSETH:

WHEREAS, City and Airline have previously entered into several agreements (collectively, the "Agreements") to lease and use areas of Lambert-St. Louis International Airport (the "Airport") consisting of:

Airline's Airport Use Agreement (Lease AL-15) dated June 15, 2000;
and

WHEREAS, the Agreements set forth certain definitions and procedures for calculating and periodically adjusting airline rates and charges at the Airport; and

WHEREAS, by this First Amendatory Agreement, City and Airline desire to amend but not terminate the Agreements with respect to the definition of certain terms and the procedures to be used in calculating airline rates and charges at the Airport;

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between City and Airline as follows:

SECTION 1 – GENERAL

The purpose and intent of this First Amendatory Agreement is to supplant and replace those provisions of the Agreements that address the procedures for the calculation of airline rates and charges at the Airport. The intent of the parties is (1) to clarify and consolidate in one place the rates and charges provisions of the Agreements, (2) to change the rates and charges adjustment process from a Calendar Year to a Fiscal Year basis and (3) to change the method of recovery of the costs of Capital Improvements from "depreciation + interest" charges to "amortization" charges. It is further the intent of the parties that all other substantive aspects of the current rates

and charges provisions remain unchanged unless in conflict with the provisions of this First Amendatory Agreement. In the event of such a conflict this First Amendatory Agreement's provisions shall control. Those provisions to be supplanted and replaced include but are not limited to: Article III of the Airport Use Agreement.

SECTION 2 – DEFINITIONS

The following words and phrases, wherever used in this First Amendatory Agreement, shall, for the purpose of this First Amendatory Agreement, have the following meanings:

- A. "Airport Cost Centers" means the direct cost areas to be used in accounting for Airport costs for the purposes of calculating compensatory rates and charges hereunder, as depicted in Exhibit "A", Airport Layout and Airfield Cost Center Plan, and Exhibit "B", Terminal Area Cost Center Plan which are attached hereto and incorporated herein, as such areas now exist or may hereafter be modified or expanded and as more particularly described below:
1. "Main Terminal" means the main terminal portion of the terminal complex, together with the upper level terminal roadway which forms the roof of the middle level facilities (baggage claim and administrative office areas).
 2. "Terminal Expansion" means the extended portion of the terminal complex, currently used as an airline club, constructed as part of the 1996 "Terminal Expansion and B/C Connector" project.
 3. "Concourses A/B/C" means Concourse A, Concourse B, and Concourse C (exclusive of the Concourse C extension).
 4. "Concourse C Extension" means the extended portion of concourse C constructed as part of the 1981 "East Concourse Extension" project.
 5. "Concourse D" means Concourse D constructed as part of the 1983 "Concourse Addition and Improvements" project.
 6. "East Connector" means the space in the connector concourse between the Main Terminal and Concourse D constructed as part of the 1975 "Concourse Improvements and Terminal Expansion" project.
 7. "East Terminal" means the new East Terminal building.
 8. "International Area" means the federal inspection services (FIS) area, Gates E29, E31, and E33 and associated office and operation space, which are operated for the City through an agency agreement.

9. "Airfield" means the runways, taxiways, and apron areas, navigational aids, hazard designation and warning devices, airfield security roads and fencing, blast fencing, lighting, clear zones and safety areas for landing, taking off and taxiing of aircraft, aviation easements, including land utilized in connection therewith or acquired for such future purpose, and facilities, the acquisition, construction or installation cost of which is wholly or partially paid by the City, as depicted in Exhibit "A".
 10. "Airline Services Building" means that building apart from the Terminal Complex, used to service airline equipment.
-
- B. "Amortization" means the level annual charge required to recover the Net Cost of a Capital Improvement over the Useful Life of such Capital Improvement at the City's Cost of Capital.
 - C. "Capital Improvement" means any improvement or capital asset acquired or constructed by City at the Airport which has a Net Cost in excess of \$10,000 and a Useful Life in excess of three years or a Net Cost in excess of \$25,000 with a useful life in excess of one year.
 - D. "Cost of Capital" means (a) for Capital Improvements financed with Airport System Revenue Bonds, the effective interest rate (the "true interest cost" or "TIC") on the Bonds used to finance the particular Capital Improvement and (b) for Capital Improvements financed with other Airport funds, the current Revenue Bond Index of 22-year+, "A" rated bonds published daily in the Wall Street Journal (or successor publication thereto), as of the date the Capital Improvement is placed in service. However, for the purpose of developing annual rates and charges, the rate index nearest to the date of the rate setting will be used.
 - E. "Deferred Maintenance Charge" means the amount to be charged to the airline rate base to fund and replenish City's reserve for deferred maintenance, which charge shall be limited to \$150,000 per year and allocated sixty percent (60%) to the Airfield, thirty percent (30%) to the terminal building (and further allocated to individual terminal cost centers based on Gross Space), and ten percent (10%) to other buildings and facilities. City's reserve for deferred maintenance shall not exceed \$750,000 in the aggregate.
 - F. "Depreciation and Interest Charges" means annual depreciation charges associated with Airport assets placed in service on or before June 30, 1997, as determined from the Airport's Fixed Asset Database, unless otherwise excluded pursuant to any prior amendatory Agreements.
 - G. "Fiscal Year" refers to City's fiscal year and means the twelve-month period commencing July 1 and extending through June 30 of the following calendar year, or such other fiscal year as City may establish by ordinance.

- H. "Fixed Asset Database" means the database maintained by the Airport to record historical investments in Airport fixed assets, as documented in the report, "Fixed Asset Database and Calculation of FY 1998-99 Depreciation and Interest Charges" dated June 1, 1998, which report is incorporated herein by reference.
- I. "Gross Space" means every square foot of space, measured from the inside of perimeter walls and from the centerline of interior partitions, including but not necessarily limited to leasable, public, concession, City administrative, mechanical and janitorial areas.
- J. "Interest on Assets Financed with Airport Funds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with Airport funds (other than bond proceeds), as documented in the Fixed Asset Database. Such interest charges will be calculated based on the mid-life value (50%) of the City's investment in depreciable assets, unless otherwise excluded pursuant to the First Amendatory Agreement.
- K. "Interest on Assets Financed with Bonds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with bond proceeds (other than airport funds), as documented in the report, "Analysis of the Impact of Bond Refinancings on Airline Rates and Charges" dated March 17, 1995, as supplemented by letter dated April 4, 1995, which report and letter are incorporated herein by reference.
- L. "Maintenance and Operating Expenses" means all reasonable and necessary current expenses of City, paid or accrued, in operating, maintaining, repairing, and administering the Airport as depicted on Exhibit D; including, without necessarily limiting thereto, salaries and wages, fringe benefits, materials and supplies used for current operations, equipment purchases (items costing \$10,000 or less per item), contractual services, utilities, professional services, police protection services, fire protection services, administrative expenses, insurance premiums, charges of any paying agents and any other depository bank pertaining to the Airport, the payment to the City of 5% of the gross receipts of the Airport as required by Section 504(B) of the Airport's master revenue bond trust indenture, as well as charges by the City for administrative expenses of other City departments whose services are directly related or reasonably allocable to the administration of the Airport; provided, however, Maintenance and Operating Expenses shall not include any allowance for depreciation, payments in lieu of taxes, Capital Improvements, or any charges for the accumulation of reserves for capital replacements. Maintenance and Operating Expenses shall be fairly allocated among Airport Cost Centers in accordance with generally accepted cost accounting practices.
- M. "Majority-in-Interest" means, unless otherwise indicated in this First Amendatory Agreement, those scheduled airlines (but in no event less than fifty

percent (50%) of the number of scheduled airlines who have executed agreements similar to or substantially the same as the 1965 Airport Use Agreement, as amended), who have on the date in question, more than fifty percent (50%) of the aggregate revenue aircraft weight landed at the Airport during the immediately preceding Fiscal Year.

- N. "Net Cost" means, with respect to a Capital Improvement, the total cost of the Capital Improvement (including actual construction costs; architectural and engineering fees, program management fees, testing and inspection fees, construction management fees, permit fees, and other direct or allocable fees; interest during construction; and allocable out-of-pocket financing costs) less any federal or state grants-in-aid or passenger facility charge resources used in financing the Capital Improvement.
- O. "Off-Line Aircraft" means, any aircraft operated by an entity other than Airline.
- P. "Useful Life" means the estimated period of time that a Capital Improvement is to be recovered through the Amortization process. Useful Lives will be assigned to Capital Improvements based on generally accepted airport accounting practices, as shown on the attached Exhibit C.

SECTION 3 – RENTALS AND FEES

Section 3.01. General

Airline agrees to pay City for the use of the premises, facilities, rights, licenses, services and privileges granted hereunder the following rentals, fees and charges, designated in the following paragraphs of this Section 3. In the event that the commencement or termination of the term with respect to any of the particular premises, facilities, rights, licenses, services or privileges as herein provided falls on any date other than the first or last day of a calendar month, the applicable rentals, fees and charges shall be paid for said month pro rata according to the number of days in that month during which said particular premises, facilities, rights, licenses, services or privileges were enjoyed.

Section 3.02. Terminal Building Rentals

- A. Airline shall pay City, for its exclusive and/or preferential use space in the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, East Connector, and International Area, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- B. Airline shall pay City, for its share of non-exclusive use space (baggage claim, baggage makeup and security checkpoint areas) in the Main Terminal, monthly

rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.

- C. Airline shall pay City, for its exclusive and/or preferential use space in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.
- D. Airline shall pay City, for its share of shared use space (baggage claim, inbound baggage and security checkpoint areas) in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.

Section 3.03. Landing Fees

Airline shall pay City for its use of the Airfield, monthly landing fees based on the landing fee rate calculated each Fiscal Year in accordance with Section 4.04 hereof.

Section 3.04 Other Rentals

Airline Services Building. Airline shall pay City, for its exclusive and/or preferential use space in the Airline Services Building, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.05 hereof.

Section 3.05. Other Fees and Charges

- A. Utilities. Airline shall pay all water, sewage, electricity, gas and other utility charges which may be reasonably assessed by City for Airline's use of its leased premises and Airline-installed equipment.
- B. Other Services. Airline shall pay all charges which may be reasonably assessed by City for other services that may be provided by City to Airline from time to time.

Section 3.06. Payment Provisions

- A. Terminal Building Rentals. Rentals for exclusive and/or preferential use Main Terminal and concourse space and exclusive and/or preferential use space in the East Terminal shall be due and payable on the first day of each month based on invoices provided by City. Rentals for non-exclusive use space in the Main Terminal and shared use space in the East Terminal shall be due and payable within twenty (20) days of the date of an invoice from the City.
- B. Landing Fees. Landing fees for each month shall be due and payable within 15 days of receipt of City's invoice, which invoice shall be based on the landed

weights reported in Airline's statistical report for the applicable month as required in Section 5 hereof.

- C. Other Fees. All other rentals, fees, and charges required hereunder shall be due and payable within twenty (20) days of the date of the invoice therefor.
- D. Right of City to Verify Airline's Payment. The acceptance of any payment made by Airline shall not preclude City from verifying the accuracy of Airline's report and computations or from recovering any additional payment actually due from Airline, or preclude Airline from later demonstrating that Airline's report was inaccurate and that a lesser amount was properly owed and from recovering any such overpayment.
- E. Form of Payment. Payments shall be made to the order of "Treasurer, City of St. Louis" and shall be mailed to the Airport Assistant Director of Finance, P.O. Box 10036, Lambert Station, St. Louis, Missouri, 63145 or such other place as may be designated by the Director from time to time. City and Airline may cooperate in the development of a procedure for the electronic transfer of funds as the preferred method of payment.

SECTION 4 – RECALCULATION OF AIRLINE RATES AND CHARGES

Section 4.01. General

- A. Effective July 1, 1998 (for the Fiscal Year ending June 30, 1999), and for each Fiscal Year thereafter, airline rates and charges will be recalculated based on the principles and procedures set forth in this Section; provided, however, that, for the period July 1 to December 31, 1998, rates shall be assessed at the previously established rates for Calendar Year 1998, and the rates calculated for the Fiscal Year ending June 30, 1999 shall be placed into effect on January 1, 1999. The methodology for the calculation of airline rentals and fees described in this Section is illustrated in the report entitled "Calculation of Airline Rates and Charges—Fiscal Year 1998-99, Lambert-St. Louis International Airport," dated December 4, 1998, which report is incorporated herein by reference.
- B. On or about March 1 of each year, City shall provide Airline with the Airport's draft operating budget for the ensuing fiscal year. Within thirty (30) days of providing Airline with the draft operating budget, City shall provide notice of a meeting, at which Airline shall have the opportunity to comment on the Airport's draft operating budget.
- C. On or about April 1 of each year, Airline shall provide the Airport with its estimate of its total landed weight for the ensuing Fiscal Year.
- D. On or about May 1 of each year, City shall provide Airline with the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. For rate setting purposes, the calculations will be made on the basis of costs,

expenses, and other factors estimated by City and estimates of total landed weight provided by the signatory airlines (or by City to the extent that certain signatory airlines fail to provide their estimates of landed weight).

- E. On or about June 1 of each year, City shall provide notice of a meeting for the purpose of City presenting the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. City shall give due consideration to the comments and suggestions made by Airline and the other airlines at that meeting. Based on consideration of those comments and suggestions, and upon the Airport's final operating budget approved by the City's Board of Aldermen, City shall prepare a final calculation of airline rates and charges for the ensuing Fiscal Year and provide a copy to Airline no later than the last working day of the month preceding the start of the Fiscal Year. The rates and charges contained in City's final calculation of airline rates and charges shall become effective as of July 1—the first day of the ensuing Fiscal Year.

Section 4.02. Terminal Rental Rates Other Than East Terminal

- A. For each cost center of the terminal complex other than the East Terminal (i.e., the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, the East Connector, and the International Area) the Total Costs of the cost center will be calculated by adding together the following amounts:
1. Direct and indirect Maintenance and Operating Expenses allocable to the particular cost center
 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the particular cost center
 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the particular cost center
 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the particular cost center on or after July 1, 1997
 5. Deferred Maintenance Charges allocable to the particular cost center

Costs and expenses allocable to the terminal building but not assignable to any particular terminal cost center shall be allocated among the terminal cost centers based on Gross Space.

- B. The annual rental rate for each cost center other than the International Area will then be calculated by dividing the Total Costs allocable to the particular cost

center by the Gross Space in the particular cost center. City shall establish rates for the use of the International Area by ordinance.

Section 4.03 Rental Rate for the East Terminal

The annual rental rate for the East Terminal will be calculated in accordance with the Second Amendatory Agreement to the Southwest Airlines Co. Airport Use Agreement dated September 15, 1998 a copy of which is attached as Exhibit "E".

Section 4.04. Landing Fee Rate

A. The Total Costs of the Airfield cost center will be calculated by adding together the following amounts:

1. Direct and indirect Maintenance and Operating Expenses allocable to the Airfield
2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airfield
3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airfield
4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airfield on or after July 1, 1997
5. Interest on the City's investment in Airfield land
6. Deferred Maintenance Charges allocable to the Airfield
7. All costs allocable to the sanitary disposal facilities (tritulators)

B. The Net Costs of the Airfield Area will then be calculated by subtracting revenues from nonsignatory operator landing fees, fuel flowage fees, and field use fees. The signatory airline landing fee rate will then be calculated by dividing the Net Costs of the Airfield Area by the total aircraft landed weight of all signatory airlines.

A. The nonsignatory landing fee rate will be set at 125% of the signatory airline landing fee rate.

Section 4.05 Airline Services Building

The Total Costs of the Airline Services Building will be calculated by adding together the following amounts:

1. Direct and indirect Maintenance and Operating Expenses allocable to the Airline Services Building

2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airline Services Building
3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airline Services Building
4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airline Services Building on or after July 1, 1997
5. Deferred Maintenance Charges allocable to the Airline Services Building

The annual rental rate for the Airline Services Building will then be calculated by dividing the Total Costs allocable to the Airline Services Building by the gross area of the Airline Services Building.

Section 4.06. Mid-Year Rate Adjustment

In the event that, at any time during a Fiscal Year, City estimates that the Total Costs of the Airfield Area or any of the terminal cost centers, or the aggregate Total Landed Weight of all airlines, will vary ten percent (10%) or more from the estimates used in setting the landing fee rate and terminal rental rates at the beginning of the Fiscal Year, such rates may be adjusted either up or down for the balance of such Fiscal Year, provided that such adjustment is deemed necessary by City. City shall provide Airline with notice of a meeting, for the purpose of presenting any such rate adjustment, along with a written explanation of the basis for such rate adjustment, thirty (30) days prior to putting such adjustment into effect. Unless extraordinary circumstances warrant additional adjustments, City will seek to limit such mid-year rate adjustments to no more than once each Fiscal Year.

Section 4.07. Year-End Adjustment to Actual and Settlement

- A. On or about 180 days following the close of each Fiscal Year, City shall furnish Airline with an accounting of the costs and expenses actually incurred, revenues and other credits actually realized (reconciled to the audited financial statements of the Airport System), and actual enplaned passengers and landed weights during such Fiscal Year with respect to each of the components of the calculation of terminal rental rates, the landing fee rate, and other rental rates in this Section 4 and shall recalculate the rates, fees, and charges required for the Fiscal Year based on those actual costs and revenues. City shall then provide notice of a meeting, within 30 days after completion of audit, to discuss the calculation of the year-end settlement and shall give due consideration to the

comments and suggestions made by the signatory airlines before finalizing the settlement calculations.

- B. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were more than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such excess amount shall be credited to Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- C. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were less than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such deficiency shall be paid by Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- D. For final settlement purposes all calculations will be made on the basis of actual costs and expenses incurred and will be provided to Airline as soon as possible following the completion of the annual audit of the Airport's financial statements.
- E. The settlement for the first half of the last calendar year rates and charges, January 1 – June 30, 1998 will be settled during the period, April 1 – December 31, 1999. This settlement period applies to this stub period only.
- F. It is understood and agreed by the parties hereto that, while the rates billed for the period July 1-December 31, 1998, are the rates previously established for calendar year 1998, the settlement for the Fiscal Year ending June 30, 1999, shall be based on the methodology set forth in this First Amendatory Agreement applied to the full Fiscal Year 1999 (July 1, 1998 - June 30, 1999).

SECTION 5 – STATISTICAL REPORT

Airline shall furnish City, without demand therefore, on or before the 10th day of each month, a written report showing Airline's actual revenue producing arrivals and enplaned passengers at the Airport during the preceding calendar month, which report shall include the number, the type of aircraft and the maximum gross certificated landed weight of each aircraft type. The number of arrivals so operated at the Airport multiplied by the applicable maximum certificated landing weight for each type of aircraft shall determine the total landed weight for which monthly payment of landing fees shall be made. Airline shall also report the number and type of off-line aircraft serviced by it in order that City can make the appropriate billing.

SECTION 6 – CAPITAL IMPROVEMENTS

Section 6.01. Review of Proposed Capital Improvements

In conjunction with the submission of the draft operating budget in Section 4.01(B) hereof, City shall submit a list of proposed Capital Improvements for the ensuing Fiscal Year together with the estimated Net Costs of those Capital Improvements and shall request Airline Majority-in-Interest approval of such proposed Capital Improvements. (This regular process will not preclude City from requesting Majority-in-Interest approval of other proposed Capital Improvements at other times during a Fiscal Year if circumstances warrant.) Airline review of proposed Capital Improvements in the terminal building cost centers shall be governed by Section 306 of the Airport Use Agreement. Airline review of proposed Capital Improvements in the Airfield Area shall be governed by Section 306 of the Airport Use Agreement, however where such provision states "calendar year" it shall be deemed to read "Fiscal Year".

Section 6.02. Increases in Costs of Proposed Capital Improvements

If, after the receipt of initial bid(s) or anytime thereafter, the Net Cost of a particular Capital Improvement exceeds the Majority-In-Interest approved cost of that particular Capital Improvement by greater than five percent (5.0%) or \$100,000, whichever is less, then the City shall convene a meeting with the Airlines, if the Airlines so desire, within thirty (30) days of receipt of initial bid(s) to determine whether to:

- i. request MII approval to fund the increase through rates and charges;
- ii. request MII approval to reduce the scope of the Capital Improvement in order to be within the original MII approval amount;
- iii. fund the increase in the Net Cost of the Capital Improvement from the Capital Improvement Fund, or other sources acceptable to the Airlines, at no additional cost to the Airlines; or
- iv. not proceed with the project

The City will immediately notify the Airlines, in writing, of any estimated increase in the Net Cost of a particular Capital Improvement, regardless of whether MII approval is required. The notice shall include an explanation for the estimated increase as well as identify the funding sources.

SECTION 7 – MISCELLANEOUS PROVISIONS

Section 7.01. Calendar Year to Fiscal Year

Wherever the Agreements refer to the term "calendar year" it shall be deemed to be "Fiscal Year" as defined hereunder.

Section 7.02. Effect on Agreements

All other terms, covenants and conditions of the Agreements not inconsistent with this First Amendatory Agreement are unchanged and are hereby ratified and approved and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement the day and year first above written.

Pursuant to City of St. Louis Ordinance approved , .

CHAUTAUQUA AIRLINES, INC., D/B/A TRANS WORLD EXPRESS

Title: Date

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT ST. LOUIS INTERNATIONAL AIRPORT:

The foregoing Agreement was approved by the Airport Commission at its meeting on

Commission Chairman Date

And Director of Airports

The foregoing Agreement was approved by the Board of Estimate and Apportionment at its meeting on

Secretary Date

Board of Estimate & Apportionment

APPROVED AS TO FORM COUNTERSIGNED

City Counselor Date Comptroller Date

City of St. Louis City of St. Louis

ATTEST

Register Date

City of St. Louis

FOURTH AMENDATORY AGREEMENT

REGARDING RATES AND CHARGES PROCEDURES

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT

This Fourth Amendatory Agreement, made and entered into this day of , , by and between the City of St. Louis, a municipal corporation of the State of Missouri (the "City") and Continental Airlines, Inc., a corporation organized and existing under and by virtue of the laws of the State of Delaware (the "Airline").

WITNESSETH:

WHEREAS, City and Airline have previously entered into several agreements (collectively, the "Agreements") to lease and use areas of Lambert-St. Louis International Airport (the "Airport") consisting of:

Frontier Airlines, Inc. (Frontier) Airport Use Agreement (Lease AL-10) dated June 15, 1967,

Frontier's Amendatory Agreement for Concourse Improvements and Terminal Expansion dated August 1, 1975,

Frontier's Second Amendatory Agreement for Concourse Improvements and Terminal Expansion dated January 1, 1977,

Frontier's Third Amendatory Agreement for Concourse Improvements dated June 30, 1982, these four agreements with Frontier having been assumed by Airline; and

WHEREAS, the Agreements set forth certain definitions and procedures for calculating and periodically adjusting airline rates and charges at the Airport; and

WHEREAS, by this Fourth Amendatory Agreement, City and Airline desire to amend but not terminate the Agreements with respect to the definition of certain terms and the procedures to be used in calculating airline rates and charges at the Airport;

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between City and Airline as follows:

SECTION 1 – GENERAL

The purpose and intent of this Fourth Amendatory Agreement is to supplant and replace those provisions of the Agreements that address the procedures for the

calculation of airline rates and charges at the Airport. The intent of the parties is (1) to clarify and consolidate in one place the rates and charges provisions of the Agreements, (2) to change the rates and charges adjustment process from a Calendar Year to a Fiscal Year basis and (3) to change the method of recovery of the costs of Capital Improvements from "depreciation + interest" charges to "amortization" charges. It is further the intent of the parties that all other substantive aspects of the current rates and charges provisions remain unchanged unless in conflict with the provisions of this Fourth Amendatory Agreement. In the event of such a conflict this Fourth Amendatory Agreement's provisions shall control. Those provisions to be supplanted and replaced include but are not limited to: Article III of the Airport Use Agreement, Sections I and IV of the Amendatory Agreement, Section II of the Second Amendatory Agreement and Section II of the Third Amendatory Agreement.

SECTION 2 – DEFINITIONS

The following words and phrases, wherever used in this Fourth Amendatory Agreement, shall, for the purpose of this Fourth Amendatory Agreement, have the following meanings:

- A. "Airport Cost Centers" means the direct cost areas to be used in accounting for Airport costs for the purposes of calculating compensatory rates and charges hereunder, as depicted in Exhibit "A", Airport Layout and Airfield Cost Center Plan, and Exhibit "B", Terminal Area Cost Center Plan which are attached hereto and incorporated herein, as such areas now exist or may hereafter be modified or expanded and as more particularly described below:
 - 1. "Main Terminal" means the main terminal portion of the terminal complex, together with the upper level terminal roadway which forms the roof of the middle level facilities (baggage claim and administrative office areas).
 - 2. "Terminal Expansion" means the extended portion of the terminal complex, currently used as an airline club, constructed as part of the 1996 "Terminal Expansion and B/C Connector" project.
 - 3. "Concourses A/B/C" means Concourse A, Concourse B, and Concourse C (exclusive of the Concourse C extension).
 - 4. "Concourse C Extension" means the extended portion of concourse C constructed as part of the 1981 "East Concourse Extension" project.
 - 5. "Concourse D" means Concourse D constructed as part of the 1983 "Concourse Addition and Improvements" project.
 - 6. "East Connector" means the space in the connector concourse between the Main Terminal and Concourse D constructed as part

of the 1975 "Concourse Improvements and Terminal Expansion" project.

7. "East Terminal" means the new East Terminal building.
 8. "International Area" means the federal inspection services (FIS) area, Gates E29, E31, and E33 and associated office and operation space, which are operated for the City through an agency agreement.
 9. "Airfield" means the runways, taxiways, and apron areas, navigational aids, hazard designation and warning devices, airfield security roads and fencing, blast fencing, lighting, clear zones and safety areas for landing, taking off and taxiing of aircraft, aviation easements, including land utilized in connection therewith or acquired for such future purpose, and facilities, the acquisition, construction or installation cost of which is wholly or partially paid by the City, as depicted in Exhibit "A".
 10. "Airline Services Building" means that building apart from the Terminal Complex, used to service airline equipment.
- B. "Amortization" means the level annual charge required to recover the Net Cost of a Capital Improvement over the Useful Life of such Capital Improvement at the City's Cost of Capital.
- C. "Capital Improvement" means any improvement or capital asset acquired or constructed by City at the Airport which has a Net Cost in excess of \$10,000 and a Useful Life in excess of three years or a Net Cost in excess of \$25,000 with a useful life in excess of one year.
- D. "Cost of Capital" means (a) for Capital Improvements financed with Airport System Revenue Bonds, the effective interest rate (the "true interest cost" or "TIC") on the Bonds used to finance the particular Capital Improvement and (b) for Capital Improvements financed with other Airport funds, the current Revenue Bond Index of 22-year+, "A" rated bonds published daily in the Wall Street Journal (or successor publication thereto), as of the date the Capital Improvement is placed in service. However, for the purpose of developing annual rates and charges, the rate index nearest to the date of the rate setting will be used.
- E. "Deferred Maintenance Charge" means the amount to be charged to the airline rate base to fund and replenish City's reserve for deferred maintenance, which charge shall be limited to \$150,000 per year and allocated sixty percent (60%) to the Airfield, thirty percent (30%) to the terminal building (and further allocated to individual terminal cost centers based on Gross Space), and ten percent (10%) to other buildings and facilities. City's reserve for deferred maintenance shall not exceed \$750,000 in the aggregate.

- F. "Depreciation and Interest Charges" means annual depreciation charges associated with Airport assets placed in service on or before June 30, 1997, as determined from the Airport's Fixed Asset Database, unless otherwise excluded pursuant to any prior amendatory Agreements.
- G. "Fiscal Year" refers to City's fiscal year and means the twelve-month period commencing July 1 and extending through June 30 of the following calendar year, or such other fiscal year as City may establish by ordinance.
- H. "Fixed Asset Database" means the database maintained by the Airport to record historical investments in Airport fixed assets, as documented in the report, "Fixed Asset Database and Calculation of FY 1998-99 Depreciation and Interest Charges" dated June 1, 1998, which report is incorporated herein by reference.
- I. "Gross Space" means every square foot of space, measured from the inside of perimeter walls and from the centerline of interior partitions, including but not necessarily limited to leasable, public, concession, City administrative, mechanical and janitorial areas.
- J. "Interest on Assets Financed with Airport Funds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with Airport funds (other than bond proceeds), as documented in the Fixed Asset Database. Such interest charges will be calculated based on the mid-life value (50%) of the City's investment in depreciable assets, unless otherwise excluded pursuant to the First Amendatory Agreement.
- K. "Interest on Assets Financed with Bonds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with bond proceeds (other than airport funds), as documented in the report, "Analysis of the Impact of Bond Refinancings on Airline Rates and Charges" dated March 17, 1995, as supplemented by letter dated April 4, 1995, which report and letter are incorporated herein by reference.
- L. "Maintenance and Operating Expenses" means all reasonable and necessary current expenses of City, paid or accrued, in operating, maintaining, repairing, and administering the Airport as depicted on Exhibit D; including, without necessarily limiting thereto, salaries and wages, fringe benefits, materials and supplies used for current operations, equipment purchases (items costing \$10,000 or less per item), contractual services, utilities, professional services, police protection services, fire protection services, administrative expenses, insurance premiums, charges of any paying agents and any other depository bank pertaining to the Airport, the payment to the City of 5% of the gross receipts of the Airport as required by Section 504(B) of the Airport's master revenue bond trust indenture, as well as charges by the City for administrative expenses of other City departments whose services are directly related or reasonably allocable to the administration of the Airport; provided, however,

Maintenance and Operating Expenses shall not include any allowance for depreciation, payments in lieu of taxes, Capital Improvements, or any charges for the accumulation of reserves for capital replacements. Maintenance and Operating Expenses shall be fairly allocated among Airport Cost Centers in accordance with generally accepted cost accounting practices.

- M. "Majority-in-Interest" means, unless otherwise indicated in this Fourth Amendatory Agreement, those scheduled airlines (but in no event less than fifty percent (50%) of the number of scheduled airlines who have executed agreements similar to or substantially the same as the 1965 Airport Use Agreement, as amended), who have on the date in question, more than fifty percent (50%) of the aggregate revenue aircraft weight landed at the Airport during the immediately preceding Fiscal Year.
- N. "Net Cost" means, with respect to a Capital Improvement, the total cost of the Capital Improvement (including actual construction costs; architectural and engineering fees, program management fees, testing and inspection fees, construction management fees, permit fees, and other direct or allocable fees; interest during construction; and allocable out-of-pocket financing costs) less any federal or state grants-in-aid or passenger facility charge resources used in financing the Capital Improvement.
- O. "Off-Line Aircraft" means, any aircraft operated by an entity other than Airline.
- P. "Useful Life" means the estimated period of time that a Capital Improvement is to be recovered through the Amortization process. Useful Lives will be assigned to Capital Improvements based on generally accepted airport accounting practices, as shown on the attached Exhibit C.

SECTION 3 – RENTALS AND FEES

Section 3.01. General

Airline agrees to pay City for the use of the premises, facilities, rights, licenses, services and privileges granted hereunder the following rentals, fees and charges, designated in the following paragraphs of this Section 3. In the event that the commencement or termination of the term with respect to any of the particular premises, facilities, rights, licenses, services or privileges as herein provided falls on any date other than the first or last day of a calendar month, the applicable rentals, fees and charges shall be paid for said month pro rata according to the number of days in that month during which said particular premises, facilities, rights, licenses, services or privileges were enjoyed.

Section 3.02. Terminal Building Rentals

- A. Airline shall pay City, for its exclusive and/or preferential use space in the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, East Connector, and International Area, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- B. Airline shall pay City, for its share of non-exclusive use space (baggage claim, baggage makeup and security checkpoint areas) in the Main Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- C. Airline shall pay City, for its exclusive and/or preferential use space in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.
- D. Airline shall pay City, for its share of shared use space (baggage claim, inbound baggage and security checkpoint areas) in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.

Section 3.03. Landing Fees

Airline shall pay City for its use of the Airfield, monthly landing fees based on the landing fee rate calculated each Fiscal Year in accordance with Section 4.04 hereof.

Section 3.04 Other Rentals

Airline Services Building. Airline shall pay City, for its exclusive and/or preferential use space in the Airline Services Building, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.05 hereof.

Section 3.05. Other Fees and Charges

- A. Utilities. Airline shall pay all water, sewage, electricity, gas and other utility charges which may be reasonably assessed by City for Airline's use of its leased premises and Airline-installed equipment.
- B. Other Services. Airline shall pay all charges which may be reasonably assessed by City for other services that may be provided by City to Airline from time to time.

Section 3.06. Payment Provisions

- A. Terminal Building Rentals. Rentals for exclusive and/or preferential use Main Terminal and concourse space and exclusive and/or preferential use space in

the East Terminal shall be due and payable on the first day of each month based on invoices provided by City. Rentals for non-exclusive use space in the Main Terminal and shared use space in the East Terminal shall be due and payable within twenty (20) days of the date of an invoice from the City.

- B. Landing Fees. Landing fees for each month shall be due and payable within 15 days of receipt of City's invoice, which invoice shall be based on the landed weights reported in Airline's statistical report for the applicable month as required in Section 5 hereof.
- C. Other Fees. All other rentals, fees, and charges required hereunder shall be due and payable within twenty (20) days of the date of the invoice therefor.
- D. Right of City to Verify Airline's Payment. The acceptance of any payment made by Airline shall not preclude City from verifying the accuracy of Airline's report and computations or from recovering any additional payment actually due from Airline, or preclude Airline from later demonstrating that Airline's report was inaccurate and that a lesser amount was properly owed and from recovering any such overpayment.
- E. Form of Payment. Payments shall be made to the order of "Treasurer, City of St. Louis" and shall be mailed to the Airport Assistant Director of Finance, P.O. Box 10036, Lambert Station, St. Louis, Missouri, 63145 or such other place as may be designated by the Director from time to time. City and Airline may cooperate in the development of a procedure for the electronic transfer of funds as the preferred method of payment.

SECTION 4 – RECALCULATION OF AIRLINE RATES AND CHARGES

Section 4.01. General

- A. Effective July 1, 1998 (for the Fiscal Year ending June 30, 1999), and for each Fiscal Year thereafter, airline rates and charges will be recalculated based on the principles and procedures set forth in this Section; provided, however, that, for the period July 1 to December 31, 1998, rates shall be assessed at the previously established rates for Calendar Year 1998, and the rates calculated for the Fiscal Year ending June 30, 1999 shall be placed into effect on January 1, 1999. The methodology for the calculation of airline rentals and fees described in this Section is illustrated in the report entitled "Calculation of Airline Rates and Charges—Fiscal Year 1998-99, Lambert-St. Louis International Airport," dated December 4, 1998, which report is incorporated herein by reference.
- B. On or about March 1 of each year, City shall provide Airline with the Airport's draft operating budget for the ensuing fiscal year. Within thirty (30) days of providing Airline with the draft operating budget, City shall provide notice of a

meeting, at which Airline shall have the opportunity to comment on the Airport's draft operating budget.

- C. On or about April 1 of each year, Airline shall provide the Airport with its estimate of its total landed weight for the ensuing Fiscal Year.
- D. On or about May 1 of each year, City shall provide Airline with the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. For rate setting purposes, the calculations will be made on the basis of costs, expenses, and other factors estimated by City and estimates of total landed weight provided by the signatory airlines (or by City to the extent that certain signatory airlines fail to provide their estimates of landed weight).
- E. On or about June 1 of each year, City shall provide notice of a meeting for the purpose of City presenting the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. City shall give due consideration to the comments and suggestions made by Airline and the other airlines at that meeting. Based on consideration of those comments and suggestions, and upon the Airport's final operating budget approved by the City's Board of Aldermen, City shall prepare a final calculation of airline rates and charges for the ensuing Fiscal Year and provide a copy to Airline no later than the last working day of the month preceding the start of the Fiscal Year. The rates and charges contained in City's final calculation of airline rates and charges shall become effective as of July 1—the first day of the ensuing Fiscal Year.

Section 4.02. Terminal Rental Rates Other Than East Terminal

- A. For each cost center of the terminal complex other than the East Terminal (i.e., the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, the East Connector, and the International Area) the Total Costs of the cost center will be calculated by adding together the following amounts:
 - 1. Direct and indirect Maintenance and Operating Expenses allocable to the particular cost center
 - 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the particular cost center
 - 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the particular cost center
 - 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the particular cost center on or after July 1, 1997
 - 5. Deferred Maintenance Charges allocable to the particular cost center

Costs and expenses allocable to the terminal building but not assignable to any particular terminal cost center shall be allocated among the terminal cost centers based on Gross Space.

- B. The annual rental rate for each cost center other than the International Area will then be calculated by dividing the Total Costs allocable to the particular cost center by the Gross Space in the particular cost center. City shall establish rates for the use of the International Area by ordinance.

Section 4.03 Rental Rate for the East Terminal

The annual rental rate for the East Terminal will be calculated in accordance with the Second Amendatory Agreement to the Southwest Airlines Co. Airport Use Agreement dated September 15, 1998 a copy of which is attached as Exhibit "E".

Section 4.04. Landing Fee Rate

- A. The Total Costs of the Airfield cost center will be calculated by adding together the following amounts:
 - 1. Direct and indirect Maintenance and Operating Expenses allocable to the Airfield
 - 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airfield
 - 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airfield
 - 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airfield on or after July 1, 1997
 - 5. Interest on the City's investment in Airfield land
 - 6. Deferred Maintenance Charges allocable to the Airfield
 - 7. All costs allocable to the sanitary disposal facilities (tritulators)
- B. The Net Costs of the Airfield Area will then be calculated by subtracting revenues from nonsignatory operator landing fees, fuel flowage fees, and field use fees. The signatory airline landing fee rate will then be calculated by dividing the Net Costs of the Airfield Area by the total aircraft landed weight of all signatory airlines.
- C. The nonsignatory landing fee rate will be set at 125% of the signatory airline landing fee rate.

Section 4.05 Airline Services Building

The Total Costs of the Airline Services Building will be calculated by adding together the following amounts:

1. Direct and indirect Maintenance and Operating Expenses allocable to the Airline Services Building
2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airline Services Building
3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airline Services Building
4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airline Services Building on or after July 1, 1997
5. Deferred Maintenance Charges allocable to the Airline Services Building

The annual rental rate for the Airline Services Building will then be calculated by dividing the Total Costs allocable to the Airline Services Building by the gross area of the Airline Services Building.

Section 4.06. Mid-Year Rate Adjustment

In the event that, at any time during a Fiscal Year, City estimates that the Total Costs of the Airfield Area or any of the terminal cost centers, or the aggregate Total Landed Weight of all airlines, will vary ten percent (10%) or more from the estimates used in setting the landing fee rate and terminal rental rates at the beginning of the Fiscal Year, such rates may be adjusted either up or down for the balance of such Fiscal Year, provided that such adjustment is deemed necessary by City. City shall provide Airline with notice of a meeting, for the purpose of presenting any such rate adjustment, along with a written explanation of the basis for such rate adjustment, thirty (30) days prior to putting such adjustment into effect. Unless extraordinary circumstances warrant additional adjustments, City will seek to limit such mid-year rate adjustments to no more than once each Fiscal Year.

Section 4.07. Year-End Adjustment to Actual and Settlement

- A. On or about 180 days following the close of each Fiscal Year, City shall furnish Airline with an accounting of the costs and expenses actually incurred, revenues and other credits actually realized (reconciled to the audited financial statements of the Airport System), and actual enplaned passengers and landed weights during such Fiscal Year with respect to each of the components of the calculation of terminal rental rates, the landing fee rate, and other rental rates in

this Section 4 and shall recalculate the rates, fees, and charges required for the Fiscal Year based on those actual costs and revenues. City shall then provide notice of a meeting, within 30 days after completion of audit, to discuss the calculation of the year-end settlement and shall give due consideration to the comments and suggestions made by the signatory airlines before finalizing the settlement calculations.

- B. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were more than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such excess amount shall be credited to Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- C. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were less than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such deficiency shall be paid by Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- D. For final settlement purposes all calculations will be made on the basis of actual costs and expenses incurred and will be provided to Airline as soon as possible following the completion of the annual audit of the Airport's financial statements.
- E. The settlement for the first half of the last calendar year rates and charges, January 1 – June 30, 1998 will be settled during the period, April 1 – December 31, 1999. This settlement period applies to this stub period only.
- F. It is understood and agreed by the parties hereto that, while the rates billed for the period July 1-December 31, 1998, are the rates previously established for calendar year 1998, the settlement for the Fiscal Year ending June 30, 1999, shall be based on the methodology set forth in this Fourth Amendatory Agreement applied to the full Fiscal Year 1999 (July 1, 1998 - June 30, 1999).

SECTION 5 – STATISTICAL REPORT

Airline shall furnish City, without demand therefore, on or before the 10th day of each month, a written report showing Airline's actual revenue producing arrivals and enplaned passengers at the Airport during the preceding calendar month, which report shall include the number, the type of aircraft and the maximum gross certificated landed weight of each aircraft type. The number of arrivals so operated at the Airport multiplied by the applicable maximum certificated landing weight for each type of aircraft shall determine the total landed weight for which monthly payment of landing fees shall be made. Airline shall also report the number and type of off-line aircraft serviced by it in order that City can make the appropriate billing.

SECTION 6 – CAPITAL IMPROVEMENTS

Section 6.01. Review of Proposed Capital Improvements

In conjunction with the submission of the draft operating budget in Section 4.01(B) hereof, City shall submit a list of proposed Capital Improvements for the ensuing Fiscal Year together with the estimated Net Costs of those Capital Improvements and shall request airline Majority-in-Interest approval of such proposed Capital Improvements. (This regular process will not preclude City from requesting Majority-in-Interest approval of other proposed Capital Improvements at other times during a Fiscal Year if circumstances warrant.) Airline review of proposed Capital Improvements in the terminal building cost centers shall be governed by Section V of the Amendatory Agreement. Airline review of proposed Capital Improvements in the Airfield Area shall be governed by Section IV of the Third Amendatory Agreement, however where such provision states "calendar year" it shall be deemed to read "Fiscal Year".

Section 6.02. Increases in Costs of Proposed Capital Improvements

If, after the receipt of initial bid(s) or anytime thereafter, the Net Cost of a particular Capital Improvement exceeds the Majority-In-Interest approved cost of that particular Capital Improvement by greater than five percent (5.0%) or \$100,000, whichever is less, then the City shall convene a meeting with the Airlines, if the Airlines so desire, within thirty (30) days of receipt of initial bid(s) to determine whether to:

- i. request MII approval to fund the increase through rates and charges;
- ii. request MII approval to reduce the scope of the Capital Improvement in order to be within the original MII approval amount;
- iii. fund the increase in the Net Cost of the Capital Improvement from the Capital Improvement Fund, or other sources acceptable to the Airlines, at no additional cost to the Airlines; or
- iv. not proceed with the project

The City will immediately notify the Airlines, in writing, of any estimated increase in the Net Cost of a particular Capital Improvement, regardless of whether MII approval is required. The notice shall include an explanation for the estimated increase as well as identify the funding sources.

SECTION 7 – MISCELLANEOUS PROVISIONS

Section 7.01. Calendar Year to Fiscal Year

Wherever the Agreements refer to the term "calendar year" it shall be deemed to be "Fiscal Year" as defined hereunder.

Section 7.02. Effect on Agreements

All other terms, covenants and conditions of the Agreements not inconsistent with this Fourth Amendatory Agreement are unchanged and are hereby ratified and approved and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement the day and year first above written.

Pursuant to City of St. Louis Ordinance approved , .

CONTINENTAL AIRLINES, INC.

Title: Date

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT ST. LOUIS INTERNATIONAL AIRPORT:

The foregoing Agreement was approved by the Airport Commission at its meeting on
Commission Chairman Date

And Director of Airports

The foregoing Agreement was approved by the Board of Estimate and Apportionment at its meeting on

Secretary Date

Board of Estimate & Apportionment

APPROVED AS TO FORM COUNTERSIGNED

City Counselor Date Comptroller Date

City of St. Louis City of St. Louis

ATTEST

Register Date

City of St. Louis

FOURTH AMENDATORY AGREEMENT
REGARDING RATES AND CHARGES PROCEDURES
LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT

This Fourth Amendatory Agreement, made and entered into this day of , , by and between the City of St. Louis, a municipal corporation of the State of Missouri (the "City") and Delta Air Lines, Inc., a corporation organized and existing under and by virtue of the laws of the State of Delaware (the "Airline").

WITNESSETH:

WHEREAS, City and Airline have previously entered into several agreements (collectively, the "Agreements") to lease and use areas of Lambert-St. Louis International Airport (the "Airport") consisting of:

Airline's Airport Use Agreement (Lease AL-6) dated August 1, 1965,

Airline's Amendatory Agreement for Concourse Improvements and Terminal Expansion dated August 1, 1975,

Airline's Second Amendatory Agreement for Concourse Improvements and Terminal Expansion dated January 1, 1977,

Airline's Third Amendatory Agreement for Concourse Improvements dated June 30, 1982; and

WHEREAS, the Agreements set forth certain definitions and procedures for calculating and periodically adjusting airline rates and charges at the Airport; and

WHEREAS, by this Fourth Amendatory Agreement, City and Airline desire to amend but not terminate the Agreements with respect to the definition of certain terms and the procedures to be used in calculating airline rates and charges at the Airport;

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between City and Airline as follows:

SECTION 1 – GENERAL

The purpose and intent of this Fourth Amendatory Agreement is to supplant and replace those provisions of the Agreements that address the procedures for the

calculation of airline rates and charges at the Airport. The intent of the parties is (1) to clarify and consolidate in one place the rates and charges provisions of the Agreements, (2) to change the rates and charges adjustment process from a Calendar Year to a Fiscal Year basis and (3) to change the method of recovery of the costs of Capital Improvements from "depreciation + interest" charges to "amortization" charges. It is further the intent of the parties that all other substantive aspects of the current rates and charges provisions remain unchanged unless in conflict with the provisions of this Fourth Amendatory Agreement. In the event of such a conflict this Fourth Amendatory Agreement's provisions shall control. Those provisions to be supplanted and replaced include but are not limited to: Article III of the Airport Use Agreement, Sections I and IV of the Amendatory Agreement, Section II of the Second Amendatory Agreement and Section II of the Third Amendatory Agreement.

SECTION 2 – DEFINITIONS

The following words and phrases, wherever used in this Fourth Amendatory Agreement, shall, for the purpose of this Fourth Amendatory Agreement, have the following meanings:

- A. "Airport Cost Centers" means the direct cost areas to be used in accounting for Airport costs for the purposes of calculating compensatory rates and charges hereunder, as depicted in Exhibit "A", Airport Layout and Airfield Cost Center Plan, and Exhibit "B", Terminal Area Cost Center Plan which are attached hereto and incorporated herein, as such areas now exist or may hereafter be modified or expanded and as more particularly described below:
 - 1. "Main Terminal" means the main terminal portion of the terminal complex, together with the upper level terminal roadway which forms the roof of the middle level facilities (baggage claim and administrative office areas).
 - 2. "Terminal Expansion" means the extended portion of the terminal complex, currently used as an airline club, constructed as part of the 1996 "Terminal Expansion and B/C Connector" project.
 - 3. "Concourses A/B/C" means Concourse A, Concourse B, and Concourse C (exclusive of the Concourse C extension).
 - 4. "Concourse C Extension" means the extended portion of concourse C constructed as part of the 1981 "East Concourse Extension" project.
 - 5. "Concourse D" means Concourse D constructed as part of the 1983 "Concourse Addition and Improvements" project.
 - 6. "East Connector" means the space in the connector concourse between the Main Terminal and Concourse D constructed as part

of the 1975 "Concourse Improvements and Terminal Expansion" project.

7. "East Terminal" means the new East Terminal building.
 8. "International Area" means the federal inspection services (FIS) area, Gates E29, E31, and E33 and associated office and operation space, which are operated for the City through an agency agreement.
 9. "Airfield" means the runways, taxiways, and apron areas, navigational aids, hazard designation and warning devices, airfield security roads and fencing, blast fencing, lighting, clear zones and safety areas for landing, taking off and taxiing of aircraft, aviation easements, including land utilized in connection therewith or acquired for such future purpose, and facilities, the acquisition, construction or installation cost of which is wholly or partially paid by the City, as depicted in Exhibit "A".
 10. "Airline Services Building" means that building apart from the Terminal Complex, used to service airline equipment.
- B. "Amortization" means the level annual charge required to recover the Net Cost of a Capital Improvement over the Useful Life of such Capital Improvement at the City's Cost of Capital.
- C. "Capital Improvement" means any improvement or capital asset acquired or constructed by City at the Airport which has a Net Cost in excess of \$10,000 and a Useful Life in excess of three years or a Net Cost in excess of \$25,000 with a useful life in excess of one year.
- D. "Cost of Capital" means (a) for Capital Improvements financed with Airport System Revenue Bonds, the effective interest rate (the "true interest cost" or "TIC") on the Bonds used to finance the particular Capital Improvement and (b) for Capital Improvements financed with other Airport funds, the current Revenue Bond Index of 22-year+, "A" rated bonds published daily in the Wall Street Journal (or successor publication thereto), as of the date the Capital Improvement is placed in service. However, for the purpose of developing annual rates and charges, the rate index nearest to the date of the rate setting will be used.
- E. "Deferred Maintenance Charge" means the amount to be charged to the airline rate base to fund and replenish City's reserve for deferred maintenance, which charge shall be limited to \$150,000 per year and allocated sixty percent (60%) to the Airfield, thirty percent (30%) to the terminal building (and further allocated to individual terminal cost centers based on Gross Space), and ten percent (10%) to other buildings and facilities. City's reserve for deferred maintenance shall not exceed \$750,000 in the aggregate.

- F. "Depreciation and Interest Charges" means annual depreciation charges associated with Airport assets placed in service on or before June 30, 1997, as determined from the Airport's Fixed Asset Database, unless otherwise excluded pursuant to any prior amendatory Agreements.
- G. "Fiscal Year" refers to City's fiscal year and means the twelve-month period commencing July 1 and extending through June 30 of the following calendar year, or such other fiscal year as City may establish by ordinance.
- H. "Fixed Asset Database" means the database maintained by the Airport to record historical investments in Airport fixed assets, as documented in the report, "Fixed Asset Database and Calculation of FY 1998-99 Depreciation and Interest Charges" dated June 1, 1998, which report is incorporated herein by reference.
- I. "Gross Space" means every square foot of space, measured from the inside of perimeter walls and from the centerline of interior partitions, including but not necessarily limited to leasable, public, concession, City administrative, mechanical and janitorial areas.
- J. "Interest on Assets Financed with Airport Funds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with Airport funds (other than bond proceeds), as documented in the Fixed Asset Database. Such interest charges will be calculated based on the mid-life value (50%) of the City's investment in depreciable assets, unless otherwise excluded pursuant to the First Amendatory Agreement.
- K. "Interest on Assets Financed with Bonds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with bond proceeds (other than airport funds), as documented in the report, "Analysis of the Impact of Bond Refinancings on Airline Rates and Charges" dated March 17, 1995, as supplemented by letter dated April 4, 1995, which report and letter are incorporated herein by reference.
- L. "Maintenance and Operating Expenses" means all reasonable and necessary current expenses of City, paid or accrued, in operating, maintaining, repairing, and administering the Airport as depicted on Exhibit D; including, without necessarily limiting thereto, salaries and wages, fringe benefits, materials and supplies used for current operations, equipment purchases (items costing \$10,000 or less per item), contractual services, utilities, professional services, police protection services, fire protection services, administrative expenses, insurance premiums, charges of any paying agents and any other depository bank pertaining to the Airport, the payment to the City of 5% of the gross receipts of the Airport as required by Section 504(B) of the Airport's master revenue bond trust indenture, as well as charges by the City for administrative expenses of other City departments whose services are directly related or reasonably allocable to the administration of the Airport; provided, however,

Maintenance and Operating Expenses shall not include any allowance for depreciation, payments in lieu of taxes, Capital Improvements, or any charges for the accumulation of reserves for capital replacements. Maintenance and Operating Expenses shall be fairly allocated among Airport Cost Centers in accordance with generally accepted cost accounting practices.

- M. "Majority-in-Interest" means, unless otherwise indicated in this Fourth Amendatory Agreement, those scheduled airlines (but in no event less than fifty percent (50%) of the number of scheduled airlines who have executed agreements similar to or substantially the same as the 1965 Airport Use Agreement, as amended), who have on the date in question, more than fifty percent (50%) of the aggregate revenue aircraft weight landed at the Airport during the immediately preceding Fiscal Year.
- N. "Net Cost" means, with respect to a Capital Improvement, the total cost of the Capital Improvement (including actual construction costs; architectural and engineering fees, program management fees, testing and inspection fees, construction management fees, permit fees, and other direct or allocable fees; interest during construction; and allocable out-of-pocket financing costs) less any federal or state grants-in-aid or passenger facility charge resources used in financing the Capital Improvement.
- O. "Off-Line Aircraft" means, any aircraft operated by an entity other than Airline.
- P. "Useful Life" means the estimated period of time that a Capital Improvement is to be recovered through the Amortization process. Useful Lives will be assigned to Capital Improvements based on generally accepted airport accounting practices, as shown on the attached Exhibit C.

SECTION 3 – RENTALS AND FEES

Section 3.01. General

Airline agrees to pay City for the use of the premises, facilities, rights, licenses, services and privileges granted hereunder the following rentals, fees and charges, designated in the following paragraphs of this Section 3. In the event that the commencement or termination of the term with respect to any of the particular premises, facilities, rights, licenses, services or privileges as herein provided falls on any date other than the first or last day of a calendar month, the applicable rentals, fees and charges shall be paid for said month pro rata according to the number of days in that month during which said particular premises, facilities, rights, licenses, services or privileges were enjoyed.

Section 3.02. Terminal Building Rentals

- A. Airline shall pay City, for its exclusive and/or preferential use space in the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, East Connector, and International Area, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- B. Airline shall pay City, for its share of non-exclusive use space (baggage claim, baggage makeup and security checkpoint areas) in the Main Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- C. Airline shall pay City, for its exclusive and/or preferential use space in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.
- D. Airline shall pay City, for its share of shared use space (baggage claim, inbound baggage and security checkpoint areas) in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.

Section 3.03. Landing Fees

Airline shall pay City for its use of the Airfield, monthly landing fees based on the landing fee rate calculated each Fiscal Year in accordance with Section 4.04 hereof.

Section 3.04 Other Rentals

Airline Services Building. Airline shall pay City, for its exclusive and/or preferential use space in the Airline Services Building, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.05 hereof.

Section 3.05. Other Fees and Charges

- A. Utilities. Airline shall pay all water, sewage, electricity, gas and other utility charges which may be reasonably assessed by City for Airline's use of its leased premises and Airline-installed equipment.
- B. Other Services. Airline shall pay all charges which may be reasonably assessed by City for other services that may be provided by City to Airline from time to time.

Section 3.06. Payment Provisions

- A. Terminal Building Rentals. Rentals for exclusive and/or preferential use Main Terminal and concourse space and exclusive and/or preferential use space in

the East Terminal shall be due and payable on the first day of each month based on invoices provided by City. Rentals for non-exclusive use space in the Main Terminal and shared use space in the East Terminal shall be due and payable within twenty (20) days of the date of an invoice from the City.

- B. Landing Fees. Landing fees for each month shall be due and payable within 15 days of receipt of City's invoice, which invoice shall be based on the landed weights reported in Airline's statistical report for the applicable month as required in Section 5 hereof.
- C. Other Fees. All other rentals, fees, and charges required hereunder shall be due and payable within twenty (20) days of the date of the invoice therefor.
- D. Right of City to Verify Airline's Payment. The acceptance of any payment made by Airline shall not preclude City from verifying the accuracy of Airline's report and computations or from recovering any additional payment actually due from Airline, or preclude Airline from later demonstrating that Airline's report was inaccurate and that a lesser amount was properly owed and from recovering any such overpayment.
- E. Form of Payment. Payments shall be made to the order of "Treasurer, City of St. Louis" and shall be mailed to the Airport Assistant Director of Finance, P.O. Box 10036, Lambert Station, St. Louis, Missouri, 63145 or such other place as may be designated by the Director from time to time. City and Airline may cooperate in the development of a procedure for the electronic transfer of funds as the preferred method of payment.

SECTION 4 – RECALCULATION OF AIRLINE RATES AND CHARGE

Section 4.01. General

- A. Effective July 1, 1998 (for the Fiscal Year ending June 30, 1999), and for each Fiscal Year thereafter, airline rates and charges will be recalculated based on the principles and procedures set forth in this Section; provided, however, that, for the period July 1 to December 31, 1998, rates shall be assessed at the previously established rates for Calendar Year 1998, and the rates calculated for the Fiscal Year ending June 30, 1999 shall be placed into effect on January 1, 1999. The methodology for the calculation of airline rentals and fees described in this Section is illustrated in the report entitled "Calculation of Airline Rates and Charges—Fiscal Year 1998-99, Lambert-St. Louis International Airport," dated December 4, 1998, which report is incorporated herein by reference.
- B. On or about March 1 of each year, City shall provide Airline with the Airport's draft operating budget for the ensuing fiscal year. Within thirty (30) days of providing Airline with the draft operating budget, City shall provide notice of a

meeting, at which Airline shall have the opportunity to comment on the Airport's draft operating budget.

- C. On or about April 1 of each year, Airline shall provide the Airport with its estimate of its total landed weight for the ensuing Fiscal Year.
- D. On or about May 1 of each year, City shall provide Airline with the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. For rate setting purposes, the calculations will be made on the basis of costs, expenses, and other factors estimated by City and estimates of total landed weight provided by the signatory airlines (or by City to the extent that certain signatory airlines fail to provide their estimates of landed weight).
- E. On or about June 1 of each year, City shall provide notice of a meeting for the purpose of City presenting the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. City shall give due consideration to the comments and suggestions made by Airline and the other airlines at that meeting. Based on consideration of those comments and suggestions, and upon the Airport's final operating budget approved by the City's Board of Aldermen, City shall prepare a final calculation of airline rates and charges for the ensuing Fiscal Year and provide a copy to Airline no later than the last working day of the month preceding the start of the Fiscal Year. The rates and charges contained in City's final calculation of airline rates and charges shall become effective as of July 1—the first day of the ensuing Fiscal Year.

Section 4.02. Terminal Rental Rates Other Than East Terminal

- A. For each cost center of the terminal complex other than the East Terminal (i.e., the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, the East Connector, and the International Area) the Total Costs of the cost center will be calculated by adding together the following amounts:
 - 1. Direct and indirect Maintenance and Operating Expenses allocable to the particular cost center
 - 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the particular cost center
 - 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the particular cost center
 - 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the particular cost center on or after July 1, 1997
 - 5. Deferred Maintenance Charges allocable to the particular cost center

Costs and expenses allocable to the terminal building but not assignable to any particular terminal cost center shall be allocated among the terminal cost centers based on Gross Space.

- B. The annual rental rate for each cost center other than the International Area will then be calculated by dividing the Total Costs allocable to the particular cost center by the Gross Space in the particular cost center. City shall establish rates for the use of the International Area by ordinance.

Section 4.03 Rental Rate for the East Terminal

The annual rental rate for the East Terminal will be calculated in accordance with the Second Amendatory Agreement to the Southwest Airlines Co. Airport Use Agreement dated September 15, 1998 a copy of which is attached as Exhibit "E".

Section 4.04. Landing Fee Rate

- A. The Total Costs of the Airfield cost center will be calculated by adding together the following amounts:
 - 1. Direct and indirect Maintenance and Operating Expenses allocable to the Airfield
 - 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airfield
 - 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airfield
 - 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airfield on or after July 1, 1997
 - 5. Interest on the City's investment in Airfield land
 - 6. Deferred Maintenance Charges allocable to the Airfield
 - 7. All costs allocable to the sanitary disposal facilities (tritulators)
- B. The Net Costs of the Airfield Area will then be calculated by subtracting revenues from nonsignatory operator landing fees, fuel flowage fees, and field use fees. The signatory airline landing fee rate will then be calculated by dividing the Net Costs of the Airfield Area by the total aircraft landed weight of all signatory airlines.
- C. The nonsignatory landing fee rate will be set at 125% of the signatory airline landing fee rate.

Section 4.05 Airline Services Building

The Total Costs of the Airline Services Building will be calculated by adding together the following amounts:

1. Direct and indirect Maintenance and Operating Expenses allocable to the Airline Services Building
2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airline Services Building
3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airline Services Building
4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airline Services Building on or after July 1, 1997
5. Deferred Maintenance Charges allocable to the Airline Services Building

The annual rental rate for the Airline Services Building will then be calculated by dividing the Total Costs allocable to the Airline Services Building by the gross area of the Airline Services Building.

Section 4.06. Mid-Year Rate Adjustment

In the event that, at any time during a Fiscal Year, City estimates that the Total Costs of the Airfield Area or any of the terminal cost centers, or the aggregate Total Landed Weight of all airlines, will vary ten percent (10%) or more from the estimates used in setting the landing fee rate and terminal rental rates at the beginning of the Fiscal Year, such rates may be adjusted either up or down for the balance of such Fiscal Year, provided that such adjustment is deemed necessary by City. City shall provide Airline with notice of a meeting, for the purpose of presenting any such rate adjustment, along with a written explanation of the basis for such rate adjustment, thirty (30) days prior to putting such adjustment into effect. Unless extraordinary circumstances warrant additional adjustments, City will seek to limit such mid-year rate adjustments to no more than once each Fiscal Year.

Section 4.07. Year-End Adjustment to Actual and Settlement

- A. On or about 180 days following the close of each Fiscal Year, City shall furnish Airline with an accounting of the costs and expenses actually incurred, revenues and other credits actually realized (reconciled to the audited financial statements of the Airport System), and actual enplaned passengers and landed weights during such Fiscal Year with respect to each of the components of the calculation of terminal rental rates, the landing fee rate, and other rental rates in

this Section 4 and shall recalculate the rates, fees, and charges required for the Fiscal Year based on those actual costs and revenues. City shall then provide notice of a meeting, within 30 days after completion of audit, to discuss the calculation of the year-end settlement and shall give due consideration to the comments and suggestions made by the signatory airlines before finalizing the settlement calculations.

- B. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were more than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such excess amount shall be credited to Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- C. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were less than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such deficiency shall be paid by Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- D. For final settlement purposes all calculations will be made on the basis of actual costs and expenses incurred and will be provided to Airline as soon as possible following the completion of the annual audit of the Airport's financial statements.
- E. The settlement for the first half of the last calendar year rates and charges, January 1 – June 30, 1998 will be settled during the period, April 1 – December 31, 1999. This settlement period applies to this stub period only.
- F. It is understood and agreed by the parties hereto that, while the rates billed for the period July 1-December 31, 1998, are the rates previously established for calendar year 1998, the settlement for the Fiscal Year ending June 30, 1999, shall be based on the methodology set forth in this Fourth Amendatory Agreement applied to the full Fiscal Year 1999 (July 1, 1998 - June 30, 1999).

SECTION 5 – STATISTICAL REPORT

Airline shall furnish City, without demand therefore, on or before the 10th day of each month, a written report showing Airline's actual revenue producing arrivals and enplaned passengers at the Airport during the preceding calendar month, which report shall include the number, the type of aircraft and the maximum gross certificated landed weight of each aircraft type. The number of arrivals so operated at the Airport multiplied by the applicable maximum certificated landing weight for each type of aircraft shall determine the total landed weight for which monthly payment of landing fees shall be made. Airline shall also report the number and type of off-line aircraft serviced by it in order that City can make the appropriate billing.

SECTION 6 – CAPITAL IMPROVEMENTS

Section 6.01. Review of Proposed Capital Improvements

In conjunction with the submission of the draft operating budget in Section 4.01(B) hereof, City shall submit a list of proposed Capital Improvements for the ensuing Fiscal Year together with the estimated Net Costs of those Capital Improvements and shall request airline Majority-in-Interest approval of such proposed Capital Improvements. (This regular process will not preclude City from requesting Majority-in-Interest approval of other proposed Capital Improvements at other times during a Fiscal Year if circumstances warrant.) Airline review of proposed Capital Improvements in the terminal building cost centers shall be governed by Section V of the Amendatory Agreement. Airline review of proposed Capital Improvements in the Airfield Area shall be governed by Section IV of the Third Amendatory Agreement, however where such provision states "calendar year" it shall be deemed to read "Fiscal Year".

Section 6.02. Increases in Costs of Proposed Capital Improvements

If, after the receipt of initial bid(s) or anytime thereafter, the Net Cost of a particular Capital Improvement exceeds the Majority-In-Interest approved cost of that particular Capital Improvement by greater than five percent (5.0%) or \$100,000, whichever is less, then the City shall convene a meeting with the Airlines, if the Airlines so desire, within thirty (30) days of receipt of initial bid(s) to determine whether to:

- i. request MII approval to fund the increase through rates and charges;
- ii. request MII approval to reduce the scope of the Capital Improvement in order to be within the original MII approval amount;
- iii. fund the increase in the Net Cost of the Capital Improvement from the Capital Improvement Fund, or other sources acceptable to the Airlines, at no additional cost to the Airlines; or
- iv. not proceed with the project

The City will immediately notify the Airlines, in writing, of any estimated increase in the Net Cost of a particular Capital Improvement, regardless of whether MII approval is required. The notice shall include an explanation for the estimated increase as well as identify the funding sources.

SECTION 7 – MISCELLANEOUS PROVISIONS

Section 7.01. Calendar Year to Fiscal Year

Wherever the Agreements refer to the term "calendar year" it shall be deemed to be "Fiscal Year" as defined hereunder.

Section 7.02. Effect on Agreements

All other terms, covenants and conditions of the Agreements not inconsistent with this Fourth Amendatory Agreement are unchanged and are hereby ratified and approved and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement the day and year first above written.

Pursuant to City of St. Louis Ordinance approved , .

DELTA AIR LINES, INC.

Title: Date

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT ST. LOUIS INTERNATIONAL AIRPORT:

The foregoing Agreement was approved by the Airport Commission at its meeting on
Commission Chairman Date

And Director of Airports

The foregoing Agreement was approved by the Board of Estimate and Apportionment at its meeting on

Secretary Date

Board of Estimate & Apportionment

APPROVED AS TO FORM COUNTERSIGNED

City Counselor Date Comptroller Date

City of St. Louis City of St. Louis

ATTEST

Register Date

City of St. Louis

FOURTH AMENDATORY AGREEMENT
REGARDING RATES AND CHARGES PROCEDURES
LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT

This Fourth Amendatory Agreement, made and entered into this day of , , by and between the City of St. Louis, a municipal corporation of the State of Missouri (the "City") and Northwest Airlines, Inc., a corporation organized and existing under and by virtue of the laws of the State of Minnesota (the "Airline").

WITNESSETH:

WHEREAS, City and Airline have previously entered into several agreements (collectively, the "Agreements") to lease and use areas of Lambert-St. Louis International Airport (the "Airport") consisting of:

Airline's Use Agreement (Lease AL-24) dated August 8, 1980,

Airline's Third Amendatory Agreement for Concourse Improvements dated June 30, 1982,

Southern Airways, Inc. (Southern) Airport Use Agreement (Lease AL-13) dated July 1, 1969,

Southern's Amendatory Agreement for Concourse Improvements and Terminal Expansion dated August 1, 1975,

Southern's Second Amendatory Agreement for Concourse Improvements and Terminal Expansion dated January 1, 1977, these three agreements with Southern having been assumed by Republic Airlines, Inc. (Republic),

Republic's Third Amendatory Agreement for Concourse Improvements dated June 30, 1982, these four agreements with Republic having been assumed by Airline; and

WHEREAS, the Agreements set forth certain definitions and procedures for calculating and periodically adjusting airline rates and charges at the Airport; and

WHEREAS, by this Fourth Amendatory Agreement, City and Airline desire to amend but not terminate the Agreements with respect to the definition of certain terms and the procedures to be used in calculating airline rates and charges at the Airport;

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between City and Airline as follows:

SECTION 1 – GENERAL

The purpose and intent of this Fourth Amendatory Agreement is to supplant and replace those provisions of the Agreements that address the procedures for the calculation of airline rates and charges at the Airport. The intent of the parties is (1) to clarify and consolidate in one place the rates and charges provisions of the Agreements, (2) to change the rates and charges adjustment process from a Calendar Year to a Fiscal Year basis and (3) to change the method of recovery of the costs of Capital Improvements from "depreciation + interest" charges to "amortization" charges. It is further the intent of the parties that all other substantive aspects of the current rates and charges provisions remain unchanged unless in conflict with the provisions of this Fourth Amendatory Agreement. In the event of such a conflict this Fourth Amendatory Agreement's provisions shall control. Those provisions to be supplanted and replaced include but are not limited to: Article III of the Airport Use Agreement, Section I and IV of the Amendatory Agreement, Section II of the Second Amendatory Agreement and Section II of the Third Amendatory Agreement.

SECTION 2 – DEFINITIONS

The following words and phrases, wherever used in this Fourth Amendatory Agreement, shall, for the purpose of this Fourth Amendatory Agreement, have the following meanings:

- A. "Airport Cost Centers" means the direct cost areas to be used in accounting for Airport costs for the purposes of calculating compensatory rates and charges hereunder, as depicted in Exhibit "A", Airport Layout and Airfield Cost Center Plan, and Exhibit "B", Terminal Area Cost Center Plan which are attached hereto and incorporated herein, as such areas now exist or may hereafter be modified or expanded and as more particularly described below:
 - 1. "Main Terminal" means the main terminal portion of the terminal complex, together with the upper level terminal roadway which forms the roof of the middle level facilities (baggage claim and administrative office areas).
 - 2. "Terminal Expansion" means the extended portion of the terminal complex, currently used as an airline club, constructed as part of the 1996 "Terminal Expansion and B/C Connector" project.

3. "Concourses A/B/C" means Concourse A, Concourse B, and Concourse C (exclusive of the Concourse C extension).
 4. "Concourse C Extension" means the extended portion of concourse C constructed as part of the 1981 "East Concourse Extension" project.
 5. "Concourse D" means Concourse D constructed as part of the 1983 "Concourse Addition and Improvements" project.
 6. "East Connector" means the space in the connector concourse between the Main Terminal and Concourse D constructed as part of the 1975 "Concourse Improvements and Terminal Expansion" project.
 7. "East Terminal" means the new East Terminal building.
 8. "International Area" means the federal inspection services (FIS) area, Gates E29, E31, and E33 and associated office and operation space, which are operated for the City through an agency agreement.
 9. "Airfield" means the runways, taxiways, and apron areas, navigational aids, hazard designation and warning devices, airfield security roads and fencing, blast fencing, lighting, clear zones and safety areas for landing, taking off and taxiing of aircraft, aviation easements, including land utilized in connection therewith or acquired for such future purpose, and facilities, the acquisition, construction or installation cost of which is wholly or partially paid by the City, as depicted in Exhibit "A".
 10. "Airline Services Building" means that building apart from the Terminal Complex, used to service airline equipment.
- B. "Amortization" means the level annual charge required to recover the Net Cost of a Capital Improvement over the Useful Life of such Capital Improvement at the City's Cost of Capital.
- C. "Capital Improvement" means any improvement or capital asset acquired or constructed by City at the Airport which has a Net Cost in excess of \$10,000 and a Useful Life in excess of three years or a Net Cost in excess of \$25,000 with a useful life in excess of one year.
- D. "Cost of Capital" means (a) for Capital Improvements financed with Airport System Revenue Bonds, the effective interest rate (the "true interest cost" or "TIC") on the Bonds used to finance the particular Capital Improvement and (b) for Capital Improvements financed with other Airport funds, the current Revenue Bond Index of 22-year+, "A" rated bonds published daily in the Wall Street Journal (or successor publication thereto), as of the date the Capital Improvement is placed in service. However, for the purpose of developing

annual rates and charges, the rate index nearest to the date of the rate setting will be used.

- E. "Deferred Maintenance Charge" means the amount to be charged to the airline rate base to fund and replenish City's reserve for deferred maintenance, which charge shall be limited to \$150,000 per year and allocated sixty percent (60%) to the Airfield, thirty percent (30%) to the terminal building (and further allocated to individual terminal cost centers based on Gross Space), and ten percent (10%) to other buildings and facilities. City's reserve for deferred maintenance shall not exceed \$750,000 in the aggregate.
- F. "Depreciation and Interest Charges" means annual depreciation charges associated with Airport assets placed in service on or before June 30, 1997, as determined from the Airport's Fixed Asset Database, unless otherwise excluded pursuant to any prior amendatory Agreements.
- G. "Fiscal Year" refers to City's fiscal year and means the twelve-month period commencing July 1 and extending through June 30 of the following calendar year, or such other fiscal year as City may establish by ordinance.
- H. "Fixed Asset Database" means the database maintained by the Airport to record historical investments in Airport fixed assets, as documented in the report, "Fixed Asset Database and Calculation of FY 1998-99 Depreciation and Interest Charges" dated June 1, 1998, which report is incorporated herein by reference.
- I. "Gross Space" means every square foot of space, measured from the inside of perimeter walls and from the centerline of interior partitions, including but not necessarily limited to leasable, public, concession, City administrative, mechanical and janitorial areas.
- J. "Interest on Assets Financed with Airport Funds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with Airport funds (other than bond proceeds), as documented in the Fixed Asset Database. Such interest charges will be calculated based on the mid-life value (50%) of the City's investment in depreciable assets, unless otherwise excluded pursuant to the First Amendatory Agreement.
- K. "Interest on Assets Financed with Bonds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with bond proceeds (other than airport funds), as documented in the report, "Analysis of the Impact of Bond Refinancings on Airline Rates and Charges" dated March 17, 1995, as supplemented by letter dated April 4, 1995, which report and letter are incorporated herein by reference.
- L. "Maintenance and Operating Expenses" means all reasonable and necessary current expenses of City, paid or accrued, in operating, maintaining, repairing, and administering the Airport as depicted on Exhibit D; including, without necessarily limiting thereto, salaries and wages, fringe benefits, materials and

supplies used for current operations, equipment purchases (items costing \$10,000 or less per item), contractual services, utilities, professional services, police protection services, fire protection services, administrative expenses, insurance premiums, charges of any paying agents and any other depository bank pertaining to the Airport, the payment to the City of 5% of the gross receipts of the Airport as required by Section 504(B) of the Airport's master revenue bond trust indenture, as well as charges by the City for administrative expenses of other City departments whose services are directly related or reasonably allocable to the administration of the Airport; provided, however, Maintenance and Operating Expenses shall not include any allowance for depreciation, payments in lieu of taxes, Capital Improvements, or any charges for the accumulation of reserves for capital replacements. Maintenance and Operating Expenses shall be fairly allocated among Airport Cost Centers in accordance with generally accepted cost accounting practices.

- M. "Majority-in-Interest" means, unless otherwise indicated in this Fourth Amendatory Agreement, those scheduled airlines (but in no event less than fifty percent (50%) of the number of scheduled airlines who have executed agreements similar to or substantially the same as the 1965 Airport Use Agreement, as amended), who have on the date in question, more than fifty percent (50%) of the aggregate revenue aircraft weight landed at the Airport during the immediately preceding Fiscal Year.
- N. "Net Cost" means, with respect to a Capital Improvement, the total cost of the Capital Improvement (including actual construction costs; architectural and engineering fees, program management fees, testing and inspection fees, construction management fees, permit fees, and other direct or allocable fees; interest during construction; and allocable out-of-pocket financing costs) less any federal or state grants-in-aid or passenger facility charge resources used in financing the Capital Improvement.
- O. "Off-Line Aircraft" means, any aircraft operated by an entity other than Airline.
- P. "Useful Life" means the estimated period of time that a Capital Improvement is to be recovered through the Amortization process. Useful Lives will be assigned to Capital Improvements based on generally accepted airport accounting practices, as shown on the attached Exhibit C.

SECTION 3 – RENTALS AND FEES

Section 3.01. General

Airline agrees to pay City for the use of the premises, facilities, rights, licenses, services and privileges granted hereunder the following rentals, fees and charges, designated in the following paragraphs of this Section 3. In the event that the commencement or termination of the term with respect to any of the particular

premises, facilities, rights, licenses, services or privileges as herein provided falls on any date other than the first or last day of a calendar month, the applicable rentals, fees and charges shall be paid for said month pro rata according to the number of days in that month during which said particular premises, facilities, rights, licenses, services or privileges were enjoyed.

Section 3.02. Terminal Building Rentals

- A. Airline shall pay City, for its exclusive and/or preferential use space in the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, East Connector, and International Area, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- B. Airline shall pay City, for its share of non-exclusive use space (baggage claim, baggage makeup and security checkpoint areas) in the Main Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- C. Airline shall pay City, for its exclusive and/or preferential use space in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.
- D. Airline shall pay City, for its share of shared use space (baggage claim, inbound baggage and security checkpoint areas) in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.

Section 3.03. Landing Fees

Airline shall pay City for its use of the Airfield, monthly landing fees based on the landing fee rate calculated each Fiscal Year in accordance with Section 4.04 hereof.

Section 3.04 Other Rentals

Airline Services Building. Airline shall pay City, for its exclusive and/or preferential use space in the Airline Services Building, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.05 hereof.

Section 3.05. Other Fees and Charges

- A. **Utilities.** Airline shall pay all water, sewage, electricity, gas and other utility charges which may be reasonably assessed by City for Airline's use of its leased premises and Airline-installed equipment.

- B. Other Services. Airline shall pay all charges which may be reasonably assessed by City for other services that may be provided by City to Airline from time to time.

Section 3.06. Payment Provisions

- A. Terminal Building Rentals. Rentals for exclusive and/or preferential use Main Terminal and concourse space and exclusive and/or preferential use space in the East Terminal shall be due and payable on the first day of each month based on invoices provided by City. Rentals for non-exclusive use space in the Main Terminal and shared use space in the East Terminal shall be due and payable within twenty (20) days of the date of an invoice from the City.
- B. Landing Fees. Landing fees for each month shall be due and payable within 15 days of receipt of City's invoice, which invoice shall be based on the landed weights reported in Airline's statistical report for the applicable month as required in Section 5 hereof.
- C. Other Fees. All other rentals, fees, and charges required hereunder shall be due and payable within twenty (20) days of the date of the invoice therefor.
- D. Right of City to Verify Airline's Payment. The acceptance of any payment made by Airline shall not preclude City from verifying the accuracy of Airline's report and computations or from recovering any additional payment actually due from Airline, or preclude Airline from later demonstrating that Airline's report was inaccurate and that a lesser amount was properly owed and from recovering any such overpayment.
- E. Form of Payment. Payments shall be made to the order of "Treasurer, City of St. Louis" and shall be mailed to the Airport Assistant Director of Finance, P.O. Box 10036, Lambert Station, St. Louis, Missouri, 63145 or such other place as may be designated by the Director from time to time. City and Airline may cooperate in the development of a procedure for the electronic transfer of funds as the preferred method of payment.

SECTION 4 – RECALCULATION OF AIRLINE RATES AND CHARGES

Section 4.01. General

- A. Effective July 1, 1998 (for the Fiscal Year ending June 30, 1999), and for each Fiscal Year thereafter, airline rates and charges will be recalculated based on the principles and procedures set forth in this Section; provided, however, that, for the period July 1 to December 31, 1998, rates shall be assessed at the previously established rates for Calendar Year 1998, and the rates calculated for the Fiscal Year ending June 30, 1999 shall be placed into effect on January 1, 1999. The methodology for the calculation of airline rentals and fees

described in this Section is illustrated in the report entitled "Calculation of Airline Rates and Charges—Fiscal Year 1998-99, Lambert-St. Louis International Airport," dated December 4, 1998, which report is incorporated herein by reference.

- B. On or about March 1 of each year, City shall provide Airline with the Airport's draft operating budget for the ensuing fiscal year. Within thirty (30) days of providing Airline with the draft operating budget, City shall provide notice of a meeting, at which Airline shall have the opportunity to comment on the Airport's draft operating budget.
- C. On or about April 1 of each year, Airline shall provide the Airport with its estimate of its total landed weight for the ensuing Fiscal Year.
- D. On or about May 1 of each year, City shall provide Airline with the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. For rate setting purposes, the calculations will be made on the basis of costs, expenses, and other factors estimated by City and estimates of total landed weight provided by the signatory airlines (or by City to the extent that certain signatory airlines fail to provide their estimates of landed weight).
- E. On or about June 1 of each year, City shall provide notice of a meeting for the purpose of City presenting the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. City shall give due consideration to the comments and suggestions made by Airline and the other airlines at that meeting. Based on consideration of those comments and suggestions, and upon the Airport's final operating budget approved by the City's Board of Aldermen, City shall prepare a final calculation of airline rates and charges for the ensuing Fiscal Year and provide a copy to Airline no later than the last working day of the month preceding the start of the Fiscal Year. The rates and charges contained in City's final calculation of airline rates and charges shall become effective as of July 1—the first day of the ensuing Fiscal Year.

Section 4.02. Terminal Rental Rates Other Than East Terminal

- A. For each cost center of the terminal complex other than the East Terminal (i.e., the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, the East Connector, and the International Area) the Total Costs of the cost center will be calculated by adding together the following amounts:
 - 1. Direct and indirect Maintenance and Operating Expenses allocable to the particular cost center
 - 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the particular cost center

3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the particular cost center
4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the particular cost center on or after July 1, 1997
5. Deferred Maintenance Charges allocable to the particular cost center

Costs and expenses allocable to the terminal building but not assignable to any particular terminal cost center shall be allocated among the terminal cost centers based on Gross Space.

- B. The annual rental rate for each cost center other than the International Area will then be calculated by dividing the Total Costs allocable to the particular cost center by the Gross Space in the particular cost center. City shall establish rates for the use of the International Area by ordinance.

Section 4.03 Rental Rate for the East Terminal

The annual rental rate for the East Terminal will be calculated in accordance with the Second Amendatory Agreement to the Southwest Airlines Co. Airport Use Agreement dated September 15, 1998 a copy of which is attached as Exhibit "E".

Section 4.04. Landing Fee Rate

- A. The Total Costs of the Airfield cost center will be calculated by adding together the following amounts:
 1. Direct and indirect Maintenance and Operating Expenses allocable to the Airfield
 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airfield
 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airfield
 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airfield on or after July 1, 1997
 5. Interest on the City's investment in Airfield land
 6. Deferred Maintenance Charges allocable to the Airfield
 7. All costs allocable to the sanitary disposal facilities (tritulators)
- B. The Net Costs of the Airfield Area will then be calculated by subtracting revenues from nonsignatory operator landing fees, fuel flowage fees, and field

use fees. The signatory airline landing fee rate will then be calculated by dividing the Net Costs of the Airfield Area by the total aircraft landed weight of all signatory airlines.

- C. The nonsignatory landing fee rate will be set at 125% of the signatory airline landing fee rate.

Section 4.05 Airline Services Building

The Total Costs of the Airline Services Building will be calculated by adding together the following amounts:

1. Direct and indirect Maintenance and Operating Expenses allocable to the Airline Services Building
2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airline Services Building
3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airline Services Building
4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airline Services Building on or after July 1, 1997
5. Deferred Maintenance Charges allocable to the Airline Services Building

The annual rental rate for the Airline Services Building will then be calculated by dividing the Total Costs allocable to the Airline Services Building by the gross area of the Airline Services Building.

Section 4.06. Mid-Year Rate Adjustment

In the event that, at any time during a Fiscal Year, City estimates that the Total Costs of the Airfield Area or any of the terminal cost centers, or the aggregate Total Landed Weight of all airlines, will vary ten percent (10%) or more from the estimates used in setting the landing fee rate and terminal rental rates at the beginning of the Fiscal Year, such rates may be adjusted either up or down for the balance of such Fiscal Year, provided that such adjustment is deemed necessary by City. City shall provide Airline with notice of a meeting, for the purpose of presenting any such rate adjustment, along with a written explanation of the basis for such rate adjustment, thirty (30) days prior to putting such adjustment into effect. Unless extraordinary circumstances warrant additional adjustments, City will seek to limit such mid-year rate adjustments to no more than once each Fiscal Year.

Section 4.07. Year-End Adjustment to Actual and Settlement

- A. On or about 180 days following the close of each Fiscal Year, City shall furnish Airline with an accounting of the costs and expenses actually incurred, revenues and other credits actually realized (reconciled to the audited financial statements of the Airport System), and actual enplaned passengers and landed weights during such Fiscal Year with respect to each of the components of the calculation of terminal rental rates, the landing fee rate, and other rental rates in this Section 4 and shall recalculate the rates, fees, and charges required for the Fiscal Year based on those actual costs and revenues. City shall then provide notice of a meeting, within 30 days after completion of audit, to discuss the calculation of the year-end settlement and shall give due consideration to the comments and suggestions made by the signatory airlines before finalizing the settlement calculations.
- B. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were more than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such excess amount shall be credited to Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- C. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were less than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such deficiency shall be paid by Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- D. For final settlement purposes all calculations will be made on the basis of actual costs and expenses incurred and will be provided to Airline as soon as possible following the completion of the annual audit of the Airport's financial statements.
- E. The settlement for the first half of the last calendar year rates and charges, January 1 – June 30, 1998 will be settled during the period, April 1 – December 31, 1999. This settlement period applies to this stub period only.
- F. It is understood and agreed by the parties hereto that, while the rates billed for the period July 1-December 31, 1998, are the rates previously established for calendar year 1998, the settlement for the Fiscal Year ending June 30, 1999, shall be based on the methodology set forth in this Fourth Amendatory Agreement applied to the full Fiscal Year 1999 (July 1, 1998 - June 30, 1999).

SECTION 5 – STATISTICAL REPORT

Airline shall furnish City, without demand therefore, on or before the 10th day of each month, a written report showing Airline's actual revenue producing arrivals and enplaned passengers at the Airport during the preceding calendar month, which report

shall include the number, the type of aircraft and the maximum gross certificated landed weight of each aircraft type. The number of arrivals so operated at the Airport multiplied by the applicable maximum certificated landing weight for each type of aircraft shall determine the total landed weight for which monthly payment of landing fees shall be made. Airline shall also report the number and type of off-line aircraft serviced by it in order that City can make the appropriate billing.

SECTION 6 – CAPITAL IMPROVEMENTS

Section 6.01. Review of Proposed Capital Improvements

In conjunction with the submission of the draft operating budget in Section 4.01(B) hereof, City shall submit a list of proposed Capital Improvements for the ensuing Fiscal Year together with the estimated Net Costs of those Capital Improvements and shall request airline Majority-in-Interest approval of such proposed Capital Improvements. (This regular process will not preclude City from requesting Majority-in-Interest approval of other proposed Capital Improvements at other times during a Fiscal Year if circumstances warrant.) Airline review of proposed Capital Improvements in the terminal building cost centers shall be governed by Section V of the Amendatory Agreement. Airline review of proposed Capital Improvements in the Airfield Area shall be governed by Section IV of the Third Amendatory Agreement, however where such provision states "calendar year" it shall be deemed to read "Fiscal Year".

Section 6.02. Increases in Costs of Proposed Capital Improvements

If, after the receipt of initial bid(s) or anytime thereafter, the Net Cost of a particular Capital Improvement exceeds the Majority-In-Interest approved cost of that particular Capital Improvement by greater than five percent (5.0%) or \$100,000, whichever is less, then the City shall convene a meeting with the Airlines, if the Airlines so desire, within thirty (30) days of receipt of initial bid(s) to determine whether to:

- i. request MII approval to fund the increase through rates and charges;
- ii. request MII approval to reduce the scope of the Capital Improvement in order to be within the original MII approval amount;
- iii. fund the increase in the Net Cost of the Capital Improvement from the Capital Improvement Fund, or other sources acceptable to the Airlines, at no additional cost to the Airlines; or
- iv. not proceed with the project

The City will immediately notify the Airlines, in writing, of any estimated increase in the Net Cost of a particular Capital Improvement, regardless of whether MII approval

is required. The notice shall include an explanation for the estimated increase as well as identify the funding sources.

SECTION 7 – MISCELLANEOUS PROVISIONS

Section 7.01. Calendar Year to Fiscal Year

Wherever the Agreements refer to the term "calendar year" it shall be deemed to be "Fiscal Year" as defined hereunder.

Section 7.02. Effect on Agreements

All other terms, covenants and conditions of the Agreements not inconsistent with this Fourth Amendatory Agreement are unchanged and are hereby ratified and approved and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement the day and year first above written.

Pursuant to City of St. Louis Ordinance approved , .

NORTHWEST AIRLINES, INC.

Title: Date

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT ST. LOUIS INTERNATIONAL AIRPORT:

The foregoing Agreement was approved by the Airport Commission at its meeting on

Commission Chairman Date

And Director of Airports

The foregoing Agreement was approved by the Board of Estimate and Apportionment at its meeting on

Secretary Date

Board of Estimate & Apportionment

APPROVED AS TO FORM COUNTERSIGNED

City Counselor Date Comptroller Date

City of St. Louis City of St. Louis

ATTEST

Register Date

City of St. Louis

THIRD AMENDATORY AGREEMENT

REGARDING RATES AND CHARGES PROCEDURES

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT

This Third Amendatory Agreement, made and entered into this day of , , by and between the City of St. Louis, a municipal corporation of the State of Missouri (the "City") and Southwest Airlines Co., a corporation organized and existing under and by virtue of the laws of the State of Texas (the "Airline").

WITNESSETH:

WHEREAS, City and Airline have previously entered into several agreements (collectively, the "Agreements") to lease and use areas of Lambert-St. Louis International Airport (the "Airport") consisting of:

Airline's Airport Use Agreement (Lease AL-4) dated December 20, 1989,

Airline's First Southwest Airlines Co. Amendatory Agreement for East Terminal Expansion dated February 17, 1995,

Airline's Second Amendatory Agreement dated September 15, 1998;
and

WHEREAS, the Agreements set forth certain definitions and procedures for calculating and periodically adjusting airline rates and charges at the Airport; and

WHEREAS, by this Third Amendatory Agreement, City and Airline desire to amend but not terminate the Agreements with respect to the definition of certain terms and the procedures to be used in calculating airline rates and charges at the Airport;

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between City and Airline as follows:

SECTION 1 – GENERAL

The purpose and intent of this Third Amendatory Agreement is to supplant and replace those provisions of the Agreements that address the procedures for the calculation of airline rates and charges at the Airport. The intent of the parties is (1) to clarify and consolidate in one place the rates and charges provisions of the Agreements, (2) to change the rates and charges adjustment process from a Calendar Year to a Fiscal Year basis and (3) to change the method of recovery of the costs of Capital Improvements from "depreciation + interest" charges to "amortization" charges. It is further the intent of the parties that all other substantive aspects of the current rates and charges provisions remain unchanged unless in conflict with the provisions of this Third Amendatory Agreement. In the event of such a conflict this Third Amendatory Agreement's provisions shall control. Those provisions to be supplanted and replaced include but are not limited to: Article III of the Airport Use Agreement, Section III of the First Amendatory Agreement and Sections IV and VI of the Second Amendatory Agreement.

SECTION 2 – DEFINITIONS

The following words and phrases, wherever used in this Third Amendatory Agreement, shall, for the purpose of this Third Amendatory Agreement, have the following meanings:

- A. "Airport Cost Centers" means the direct cost areas to be used in accounting for Airport costs for the purposes of calculating compensatory rates and charges hereunder, as depicted in Exhibit "A", Airport Layout and Airfield Cost Center Plan, and Exhibit "B", Terminal Area Cost Center Plan which are attached hereto and incorporated herein, as such areas now exist or may hereafter be modified or expanded and as more particularly described below:
 - 1. "Main Terminal" means the main terminal portion of the terminal complex, together with the upper level terminal roadway which forms the roof of the middle level facilities (baggage claim and administrative office areas).
 - 2. "Terminal Expansion" means the extended portion of the terminal complex, currently used as an airline club, constructed as part of the 1996 "Terminal Expansion and B/C Connector" project.

3. "Concourses A/B/C" means Concourse A, Concourse B, and Concourse C (exclusive of the Concourse C extension).
 4. "Concourse C Extension" means the extended portion of concourse C constructed as part of the 1981 "East Concourse Extension" project.
 5. "Concourse D" means Concourse D constructed as part of the 1983 "Concourse Addition and Improvements" project.
 6. "East Connector" means the space in the connector concourse between the Main Terminal and Concourse D constructed as part of the 1975 "Concourse Improvements and Terminal Expansion" project.
 7. "East Terminal" means the new East Terminal building.
 8. "International Area" means the federal inspection services (FIS) area, Gates E29, E31, and E33 and associated office and operation space, which are operated for the City through an agency agreement.
 9. "Airfield" means the runways, taxiways, and apron areas, navigational aids, hazard designation and warning devices, airfield security roads and fencing, blast fencing, lighting, clear zones and safety areas for landing, taking off and taxiing of aircraft, aviation easements, including land utilized in connection therewith or acquired for such future purpose, and facilities, the acquisition, construction or installation cost of which is wholly or partially paid by the City, as depicted in Exhibit "A".
 10. "Airline Services Building" means that building apart from the Terminal Complex, used to service airline equipment.
- B. "Amortization" means the level annual charge required to recover the Net Cost of a Capital Improvement over the Useful Life of such Capital Improvement at the City's Cost of Capital.
- C. "Capital Improvement" means any improvement or capital asset acquired or constructed by City at the Airport which has a Net Cost in excess of \$10,000 and a Useful Life in excess of three years or a Net Cost in excess of \$25,000 with a useful life in excess of one year.
- D. "Cost of Capital" means (a) for Capital Improvements financed with Airport System Revenue Bonds, the effective interest rate (the "true interest cost" or "TIC") on the Bonds used to finance the particular Capital Improvement and (b) for Capital Improvements financed with other Airport funds, the current Revenue Bond Index of 22-year+, "A" rated bonds published daily in the Wall Street Journal (or successor publication thereto), as of the date the Capital Improvement is placed in service. However, for the purpose of developing

annual rates and charges, the rate index nearest to the date of the rate setting will be used.

- E. "Deferred Maintenance Charge" means the amount to be charged to the airline rate base to fund and replenish City's reserve for deferred maintenance, which charge shall be limited to \$150,000 per year and allocated sixty percent (60%) to the Airfield, thirty percent (30%) to the terminal building (and further allocated to individual terminal cost centers based on Gross Space), and ten percent (10%) to other buildings and facilities. City's reserve for deferred maintenance shall not exceed \$750,000 in the aggregate.
- F. "Depreciation and Interest Charges" means annual depreciation charges associated with Airport assets placed in service on or before June 30, 1997, as determined from the Airport's Fixed Asset Database, unless otherwise excluded pursuant to any prior amendatory Agreements.
- G. "Fiscal Year" refers to City's fiscal year and means the twelve-month period commencing July 1 and extending through June 30 of the following calendar year, or such other fiscal year as City may establish by ordinance.
- H. "Fixed Asset Database" means the database maintained by the Airport to record historical investments in Airport fixed assets, as documented in the report, "Fixed Asset Database and Calculation of FY 1998-99 Depreciation and Interest Charges" dated June 1, 1998, which report is incorporated herein by reference.
- I. "Gross Space" means every square foot of space, measured from the inside of perimeter walls and from the centerline of interior partitions, including but not necessarily limited to leasable, public, concession, City administrative, mechanical and janitorial areas.
- J. "Interest on Assets Financed with Airport Funds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with Airport funds (other than bond proceeds), as documented in the Fixed Asset Database. Such interest charges will be calculated based on the mid-life value (50%) of the City's investment in depreciable assets, unless otherwise excluded pursuant to the First Amendatory Agreement.
- K. "Interest on Assets Financed with Bonds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with bond proceeds (other than airport funds), as documented in the report, "Analysis of the Impact of Bond Refinancings on Airline Rates and Charges" dated March 17, 1995, as supplemented by letter dated April 4, 1995, which report and letter are incorporated herein by reference.
- L. "Maintenance and Operating Expenses" means all reasonable and necessary current expenses of City, paid or accrued, in operating, maintaining, repairing, and administering the Airport as depicted on Exhibit D; including, without necessarily limiting thereto, salaries and wages, fringe benefits, materials and

supplies used for current operations, equipment purchases (items costing \$10,000 or less per item), contractual services, utilities, professional services, police protection services, fire protection services, administrative expenses, insurance premiums, charges of any paying agents and any other depository bank pertaining to the Airport, the payment to the City of 5% of the gross receipts of the Airport as required by Section 504(B) of the Airport's master revenue bond trust indenture, as well as charges by the City for administrative expenses of other City departments whose services are directly related or reasonably allocable to the administration of the Airport; provided, however, Maintenance and Operating Expenses shall not include any allowance for depreciation, payments in lieu of taxes, Capital Improvements, or any charges for the accumulation of reserves for capital replacements. Maintenance and Operating Expenses shall be fairly allocated among Airport Cost Centers in accordance with generally accepted cost accounting practices.

- M. "Majority-in-Interest" means, unless otherwise indicated in this Third Amendatory Agreement, those scheduled airlines (but in no event less than fifty percent (50%) of the number of scheduled airlines who have executed agreements similar to or substantially the same as the 1965 Airport Use Agreement, as amended), who have on the date in question, more than fifty percent (50%) of the aggregate revenue aircraft weight landed at the Airport during the immediately preceding Fiscal Year.
- N. "Net Cost" means, with respect to a Capital Improvement, the total cost of the Capital Improvement (including actual construction costs; architectural and engineering fees, program management fees, testing and inspection fees, construction management fees, permit fees, and other direct or allocable fees; interest during construction; and allocable out-of-pocket financing costs) less any federal or state grants-in-aid or passenger facility charge resources used in financing the Capital Improvement.
- O. "Off-Line Aircraft" means, any aircraft operated by an entity other than Airline.
- P. "Useful Life" means the estimated period of time that a Capital Improvement is to be recovered through the Amortization process. Useful Lives will be assigned to Capital Improvements based on generally accepted airport accounting practices, as shown on the attached Exhibit C.

SECTION 3 – RENTALS AND FEES

Section 3.01. General

Airline agrees to pay City for the use of the premises, facilities, rights, licenses, services and privileges granted hereunder the following rentals, fees and charges, designated in the following paragraphs of this Section 3. In the event that the commencement or termination of the term with respect to any of the particular

premises, facilities, rights, licenses, services or privileges as herein provided falls on any date other than the first or last day of a calendar month, the applicable rentals, fees and charges shall be paid for said month pro rata according to the number of days in that month during which said particular premises, facilities, rights, licenses, services or privileges were enjoyed.

Section 3.02. Terminal Building Rentals

- A. Airline shall pay City, for its exclusive and/or preferential use space in the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, East Connector, and International Area, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- B. Airline shall pay City, for its share of non-exclusive use space (baggage claim, baggage makeup and security checkpoint areas) in the Main Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- C. Airline shall pay City, for its exclusive and/or preferential use space in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.
- D. Airline shall pay City, for its share of shared use space (baggage claim, inbound baggage and security checkpoint areas) in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.

Section 3.03. Landing Fees

Airline shall pay City for its use of the Airfield, monthly landing fees based on the landing fee rate calculated each Fiscal Year in accordance with Section 4.04 hereof.

Section 3.04 Other Rentals

Airline Services Building. Airline shall pay City, for its exclusive and/or preferential use space in the Airline Services Building, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.05 hereof.

Section 3.05. Other Fees and Charges

- A. **Utilities.** Airline shall pay all water, sewage, electricity, gas and other utility charges which may be reasonably assessed by City for Airline's use of its leased premises and Airline-installed equipment.

- B. Other Services. Airline shall pay all charges which may be reasonably assessed by City for other services that may be provided by City to Airline from time to time.

Section 3.06. Payment Provisions

- A. Terminal Building Rentals. Rentals for exclusive and/or preferential use Main Terminal and concourse space and exclusive and/or preferential use space in the East Terminal shall be due and payable on the first day of each month based on invoices provided by City. Rentals for non-exclusive use space in the Main Terminal and shared use space in the East Terminal shall be due and payable within twenty (20) days of the date of an invoice from the City.
- B. Landing Fees. Landing fees for each month shall be due and payable within 15 days of receipt of City's invoice, which invoice shall be based on the landed weights reported in Airline's statistical report for the applicable month as required in Section 5 hereof.
- C. Other Fees. All other rentals, fees, and charges required hereunder shall be due and payable within twenty (20) days of the date of the invoice therefor.
- D. Right of City to Verify Airline's Payment. The acceptance of any payment made by Airline shall not preclude City from verifying the accuracy of Airline's report and computations or from recovering any additional payment actually due from Airline, or preclude Airline from later demonstrating that Airline's report was inaccurate and that a lesser amount was properly owed and from recovering any such overpayment.
- E. Form of Payment. Payments shall be made to the order of "Treasurer, City of St. Louis" and shall be mailed to the Airport Assistant Director of Finance, P.O. Box 10036, Lambert Station, St. Louis, Missouri, 63145 or such other place as may be designated by the Director from time to time. City and Airline may cooperate in the development of a procedure for the electronic transfer of funds as the preferred method of payment.

SECTION 4 – RECALCULATION OF AIRLINE RATES AND CHARGES

Section 4.01. General

- A. Effective July 1, 1998 (for the Fiscal Year ending June 30, 1999), and for each Fiscal Year thereafter, airline rates and charges will be recalculated based on the principles and procedures set forth in this Section; provided, however, that, for the period July 1 to December 31, 1998, rates shall be assessed at the previously established rates for Calendar Year 1998, and the rates calculated for the Fiscal Year ending June 30, 1999 shall be placed into effect on January 1, 1999. The methodology for the calculation of airline rentals and fees

described in this Section is illustrated in the report entitled "Calculation of Airline Rates and Charges—Fiscal Year 1998-99, Lambert-St. Louis International Airport," dated December 4, 1998, which report is incorporated herein by reference.

- B. On or about March 1 of each year, City shall provide Airline with the Airport's draft operating budget for the ensuing fiscal year. Within thirty (30) days of providing Airline with the draft operating budget, City shall provide notice of a meeting, at which Airline shall have the opportunity to comment on the Airport's draft operating budget.
- C. On or about April 1 of each year, Airline shall provide the Airport with its estimate of its total landed weight for the ensuing Fiscal Year.
- D. On or about May 1 of each year, City shall provide Airline with the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. For rate setting purposes, the calculations will be made on the basis of costs, expenses, and other factors estimated by City and estimates of total landed weight provided by the signatory airlines (or by City to the extent that certain signatory airlines fail to provide their estimates of landed weight).
- E. On or about June 1 of each year, City shall provide notice of a meeting for the purpose of City presenting the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. City shall give due consideration to the comments and suggestions made by Airline and the other airlines at that meeting. Based on consideration of those comments and suggestions, and upon the Airport's final operating budget approved by the City's Board of Aldermen, City shall prepare a final calculation of airline rates and charges for the ensuing Fiscal Year and provide a copy to Airline no later than the last working day of the month preceding the start of the Fiscal Year. The rates and charges contained in City's final calculation of airline rates and charges shall become effective as of July 1—the first day of the ensuing Fiscal Year.

Section 4.02. Terminal Rental Rates Other Than East Terminal

- A. For each cost center of the terminal complex other than the East Terminal (i.e., the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, the East Connector, and the International Area) the Total Costs of the cost center will be calculated by adding together the following amounts:
 - 1. Direct and indirect Maintenance and Operating Expenses allocable to the particular cost center
 - 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the particular cost center

3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the particular cost center
4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the particular cost center on or after July 1, 1997
5. Deferred Maintenance Charges allocable to the particular cost center

Costs and expenses allocable to the terminal building but not assignable to any particular terminal cost center shall be allocated among the terminal cost centers based on Gross Space.

- B. The annual rental rate for each cost center other than the International Area will then be calculated by dividing the Total Costs allocable to the particular cost center by the Gross Space in the particular cost center. City shall establish rates for the use of the International Area by ordinance.

Section 4.03 Rental Rate for the East Terminal

The annual rental rate for the East Terminal will be calculated in accordance with the Second Amendatory Agreement to the Southwest Airlines Co. Airport Use Agreement dated September 15, 1998 a copy of which is attached as Exhibit "E".

Section 4.04. Landing Fee Rate

- A. The Total Costs of the Airfield cost center will be calculated by adding together the following amounts:
 1. Direct and indirect Maintenance and Operating Expenses allocable to the Airfield
 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airfield
 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airfield
 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airfield on or after July 1, 1997
 5. Interest on the City's investment in Airfield land
 6. Deferred Maintenance Charges allocable to the Airfield
 7. All costs allocable to the sanitary disposal facilities (tritulators)
- B. The Net Costs of the Airfield Area will then be calculated by subtracting revenues from nonsignatory operator landing fees, fuel flowage fees, and field

use fees. The signatory airline landing fee rate will then be calculated by dividing the Net Costs of the Airfield Area by the total aircraft landed weight of all signatory airlines.

- A. The nonsignatory landing fee rate will be set at 125% of the signatory airline landing fee rate.

Section 4.05 Airline Services Building

The Total Costs of the Airline Services Building will be calculated by adding together the following amounts:

1. Direct and indirect Maintenance and Operating Expenses allocable to the Airline Services Building
2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airline Services Building
3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airline Services Building
4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airline Services Building on or after July 1, 1997
5. Deferred Maintenance Charges allocable to the Airline Services Building

The annual rental rate for the Airline Services Building will then be calculated by dividing the Total Costs allocable to the Airline Services Building by the gross area of the Airline Services Building.

Section 4.06. Mid-Year Rate Adjustment

In the event that, at any time during a Fiscal Year, City estimates that the Total Costs of the Airfield Area or any of the terminal cost centers, or the aggregate Total Landed Weight of all airlines, will vary ten percent (10%) or more from the estimates used in setting the landing fee rate and terminal rental rates at the beginning of the Fiscal Year, such rates may be adjusted either up or down for the balance of such Fiscal Year, provided that such adjustment is deemed necessary by City. City shall provide Airline with notice of a meeting, for the purpose of presenting any such rate adjustment, along with a written explanation of the basis for such rate adjustment, thirty (30) days prior to putting such adjustment into effect. Unless extraordinary circumstances warrant additional adjustments, City will seek to limit such mid-year rate adjustments to no more than once each Fiscal Year.

Section 4.07. Year-End Adjustment to Actual and Settlement

- A. On or about 180 days following the close of each Fiscal Year, City shall furnish Airline with an accounting of the costs and expenses actually incurred, revenues and other credits actually realized (reconciled to the audited financial statements of the Airport System), and actual enplaned passengers and landed weights during such Fiscal Year with respect to each of the components of the calculation of terminal rental rates, the landing fee rate, and other rental rates in this Section 4 and shall recalculate the rates, fees, and charges required for the Fiscal Year based on those actual costs and revenues. City shall then provide notice of a meeting, within 30 days after completion of audit, to discuss the calculation of the year-end settlement and shall give due consideration to the comments and suggestions made by the signatory airlines before finalizing the settlement calculations.
- B. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were more than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such excess amount shall be credited to Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- C. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were less than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such deficiency shall be paid by Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- D. For final settlement purposes all calculations will be made on the basis of actual costs and expenses incurred and will be provided to Airline as soon as possible following the completion of the annual audit of the Airport's financial statements.
- E. The settlement for the first half of the last calendar year rates and charges, January 1 – June 30, 1998 will be settled during the period, April 1 – December 31, 1999. This settlement period applies to this stub period only.
- F. It is understood and agreed by the parties hereto that, while the rates billed for the period July 1-December 31, 1998, are the rates previously established for calendar year 1998, the settlement for the Fiscal Year ending June 30, 1999, shall be based on the methodology set forth in this Third Amendatory Agreement applied to the full Fiscal Year 1999 (July 1, 1998 - June 30, 1999).

SECTION 5 – STATISTICAL REPORT

Airline shall furnish City, without demand therefore, on or before the 10th day of each month, a written report showing Airline's actual revenue producing arrivals and enplaned passengers at the Airport during the preceding calendar month, which report

shall include the number, the type of aircraft and the maximum gross certificated landed weight of each aircraft type. The number of arrivals so operated at the Airport multiplied by the applicable maximum certificated landing weight for each type of aircraft shall determine the total landed weight for which monthly payment of landing fees shall be made. Airline shall also report the number and type of off-line aircraft serviced by it in order that City can make the appropriate billing.

SECTION 6 – CAPITAL IMPROVEMENTS

Section 6.01. Review of Proposed Capital Improvements

In conjunction with the submission of the draft operating budget in Section 4.01(B) hereof, City shall submit a list of proposed Capital Improvements for the ensuing Fiscal Year together with the estimated Net Costs of those Capital Improvements and shall request airline Majority-in-Interest approval of such proposed Capital Improvements. (This regular process will not preclude City from requesting Majority-in-Interest approval of other proposed Capital Improvements at other times during a Fiscal Year if circumstances warrant.) Airline review of proposed Capital Improvements in the terminal building cost centers shall be governed by Section 306 of the Airport Use Agreement. Airline review of proposed Capital Improvements in the Airfield Area shall be governed by Section 306 of the Airport Use Agreement, however where such provision states "calendar year" it shall be deemed to read "Fiscal Year".

Section 6.02. Increases in Costs of Proposed Capital Improvements

If, after the receipt of initial bid(s) or anytime thereafter, the Net Cost of a particular Capital Improvement exceeds the Majority-In-Interest approved cost of that particular Capital Improvement by greater than five percent (5.0%) or \$100,000, whichever is less, then the City shall convene a meeting with the Airlines, if the Airlines so desire, within thirty (30) days of receipt of initial bid(s) to determine whether to:

- i. request MII approval to fund the increase through rates and charges;
- ii. request MII approval to reduce the scope of the Capital Improvement in order to be within the original MII approval amount;
- iii. fund the increase in the Net Cost of the Capital Improvement from the Capital Improvement Fund, or other sources acceptable to the Airlines, at no additional cost to the Airlines; or
- iv. not proceed with the project

The City will immediately notify the Airlines, in writing, of any estimated increase in the Net Cost of a particular Capital Improvement, regardless of whether MII approval

is required. The notice shall include an explanation for the estimated increase as well as identify the funding sources.

SECTION 7 – MISCELLANEOUS PROVISIONS

Section 7.01. Calendar Year to Fiscal Year

Wherever the Agreements refer to the term "calendar year" it shall be deemed to be "Fiscal Year" as defined hereunder.

Section 7.02. Effect on Agreements

All other terms, covenants and conditions of the Agreements not inconsistent with this Third Amendatory Agreement are unchanged and are hereby ratified and approved and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement the day and year first above written.

Pursuant to City of St. Louis Ordinance approved , .

SOUTHWEST AIRLINES CO.

Title: Date

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT ST. LOUIS INTERNATIONAL AIRPORT:

The foregoing Agreement was approved by the Airport Commission at its meeting on

Commission Chairman Date

And Director of Airports

The foregoing Agreement was approved by the Board of Estimate and Apportionment at its meeting on

Secretary Date

Board of Estimate & Apportionment

APPROVED AS TO FORM COUNTERSIGNED

City Counselor Date Comptroller Date

City of St. Louis City of St. Louis

ATTEST

Register Date

City of St. Louis

FIRST AMENDATORY AGREEMENT

REGARDING RATES AND CHARGES PROCEDURES

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT

This First Amendatory Agreement, made and entered into this day of , , by and between the City of St. Louis, a municipal corporation of the State of Missouri (the "City") and Trans States Airlines, Inc., d/b/a Trans World Express, a corporation organized and existing under and by virtue of the laws of the State of Missouri (the "Airline").

WITNESSETH:

WHEREAS, City and Airline have previously entered into several agreements (collectively, the "Agreements") to lease and use areas of Lambert-St. Louis International Airport (the "Airport") consisting of:

Airline's Airport Use Agreement (Lease AL-8) dated August 1, 1989;
and

WHEREAS, the Agreements set forth certain definitions and procedures for calculating and periodically adjusting airline rates and charges at the Airport; and

WHEREAS, by this First Amendatory Agreement, City and Airline desire to amend but not terminate the Agreements with respect to the definition of certain terms and the procedures to be used in calculating airline rates and charges at the Airport;

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between City and Airline as follows:

SECTION 1 – GENERAL

The purpose and intent of this First Amendatory Agreement is to supplant and replace those provisions of the Agreements that address the procedures for the calculation of airline rates and charges at the Airport. The intent of the parties is (1) to clarify and consolidate in one place the rates and charges provisions of the Agreements, (2) to change the rates and charges adjustment process from a Calendar Year to a Fiscal Year basis and (3) to change the method of recovery of the costs of Capital Improvements from "depreciation + interest" charges to "amortization" charges. It is further the intent of the parties that all other substantive aspects of the current rates and charges provisions remain unchanged unless in conflict with the provisions of this First Amendatory Agreement. In the event of such a conflict this First Amendatory Agreement's provisions shall control. Those provisions to be supplanted and replaced include but are not limited to: Article III of the Airport Use Agreement.

SECTION 2 – DEFINITIONS

The following words and phrases, wherever used in this First Amendatory Agreement, shall, for the purpose of this First Amendatory Agreement, have the following meanings:

- A. "Airport Cost Centers" means the direct cost areas to be used in accounting for Airport costs for the purposes of calculating compensatory rates and charges hereunder, as depicted in Exhibit "A", Airport Layout and Airfield Cost Center Plan, and Exhibit "B", Terminal Area Cost Center Plan which are attached hereto and incorporated herein, as such areas now exist or may hereafter be modified or expanded and as more particularly described below:
 - 1. "Main Terminal" means the main terminal portion of the terminal complex, together with the upper level terminal roadway which forms the roof of the middle level facilities (baggage claim and administrative office areas).
 - 2.
 - 3. "Terminal Expansion" means the extended portion of the terminal complex, currently used as an airline club, constructed as part of the 1996 "Terminal Expansion and B/C Connector" project.
 - 4. "Concourses A/B/C" means Concourse A, Concourse B, and Concourse C (exclusive of the Concourse C extension).
 - 5. "Concourse C Extension" means the extended portion of concourse C constructed as part of the 1981 "East Concourse Extension" project.

6. "Concourse D" means Concourse D constructed as part of the 1983 "Concourse Addition and Improvements" project.
 7. "East Connector" means the space in the connector concourse between the Main Terminal and Concourse D constructed as part of the 1975 "Concourse Improvements and Terminal Expansion" project.
 8. "East Terminal" means the new East Terminal building.
 9. "International Area" means the federal inspection services (FIS) area, Gates E29, E31, and E33 and associated office and operation space, which are operated for the City through an agency agreement.
 10. "Airfield" means the runways, taxiways, and apron areas, navigational aids, hazard designation and warning devices, airfield security roads and fencing, blast fencing, lighting, clear zones and safety areas for landing, taking off and taxiing of aircraft, aviation easements, including land utilized in connection therewith or acquired for such future purpose, and facilities, the acquisition, construction or installation cost of which is wholly or partially paid by the City, as depicted in Exhibit "A".
 11. "Airline Services Building" means that building apart from the Terminal Complex, used to service airline equipment.
- B. "Amortization" means the level annual charge required to recover the Net Cost of a Capital Improvement over the Useful Life of such Capital Improvement at the City's Cost of Capital.
- C. "Capital Improvement" means any improvement or capital asset acquired or constructed by City at the Airport which has a Net Cost in excess of \$10,000 and a Useful Life in excess of three years or a Net Cost in excess of \$25,000 with a useful life in excess of one year.
- D. "Cost of Capital" means (a) for Capital Improvements financed with Airport System Revenue Bonds, the effective interest rate (the "true interest cost" or "TIC") on the Bonds used to finance the particular Capital Improvement and (b) for Capital Improvements financed with other Airport funds, the current Revenue Bond Index of 22-year+, "A" rated bonds published daily in the Wall Street Journal (or successor publication thereto), as of the date the Capital Improvement is placed in service. However, for the purpose of developing annual rates and charges, the rate index nearest to the date of the rate setting will be used.
- E. "Deferred Maintenance Charge" means the amount to be charged to the airline rate base to fund and replenish City's reserve for deferred maintenance, which charge shall be limited to \$150,000 per year and allocated sixty percent (60%)

to the Airfield, thirty percent (30%) to the terminal building (and further allocated to individual terminal cost centers based on Gross Space), and ten percent (10%) to other buildings and facilities. City's reserve for deferred maintenance shall not exceed \$750,000 in the aggregate.

- F. "Depreciation and Interest Charges" means annual depreciation charges associated with Airport assets placed in service on or before June 30, 1997, as determined from the Airport's Fixed Asset Database, unless otherwise excluded pursuant to any prior amendatory Agreements.
- G. "Fiscal Year" refers to City's fiscal year and means the twelve-month period commencing July 1 and extending through June 30 of the following calendar year, or such other fiscal year as City may establish by ordinance.
- H. "Fixed Asset Database" means the database maintained by the Airport to record historical investments in Airport fixed assets, as documented in the report, "Fixed Asset Database and Calculation of FY 1998-99 Depreciation and Interest Charges" dated June 1, 1998, which report is incorporated herein by reference.
- I. "Gross Space" means every square foot of space, measured from the inside of perimeter walls and from the centerline of interior partitions, including but not necessarily limited to leasable, public, concession, City administrative, mechanical and janitorial areas.
- J. "Interest on Assets Financed with Airport Funds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with Airport funds (other than bond proceeds), as documented in the Fixed Asset Database. Such interest charges will be calculated based on the mid-life value (50%) of the City's investment in depreciable assets, unless otherwise excluded pursuant to the First Amendatory Agreement.
- K. "Interest on Assets Financed with Bonds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with bond proceeds (other than airport funds), as documented in the report, "Analysis of the Impact of Bond Refinancings on Airline Rates and Charges" dated March 17, 1995, as supplemented by letter dated April 4, 1995, which report and letter are incorporated herein by reference.
- L. "Maintenance and Operating Expenses" means all reasonable and necessary current expenses of City, paid or accrued, in operating, maintaining, repairing, and administering the Airport as depicted on Exhibit D; including, without necessarily limiting thereto, salaries and wages, fringe benefits, materials and supplies used for current operations, equipment purchases (items costing \$10,000 or less per item), contractual services, utilities, professional services, police protection services, fire protection services, administrative expenses, insurance premiums, charges of any paying agents and any other depository bank pertaining to the Airport, the payment to the City of 5% of the gross

receipts of the Airport as required by Section 504(B) of the Airport's master revenue bond trust indenture, as well as charges by the City for administrative expenses of other City departments whose services are directly related or reasonably allocable to the administration of the Airport; provided, however, Maintenance and Operating Expenses shall not include any allowance for depreciation, payments in lieu of taxes, Capital Improvements, or any charges for the accumulation of reserves for capital replacements. Maintenance and Operating Expenses shall be fairly allocated among Airport Cost Centers in accordance with generally accepted cost accounting practices.

- M. "Majority-in-Interest" means, unless otherwise indicated in this First Amendatory Agreement, those scheduled airlines (but in no event less than fifty percent (50%) of the number of scheduled airlines who have executed agreements similar to or substantially the same as the 1965 Airport Use Agreement, as amended), who have on the date in question, more than fifty percent (50%) of the aggregate revenue aircraft weight landed at the Airport during the immediately preceding Fiscal Year.
- N. "Net Cost" means, with respect to a Capital Improvement, the total cost of the Capital Improvement (including actual construction costs; architectural and engineering fees, program management fees, testing and inspection fees, construction management fees, permit fees, and other direct or allocable fees; interest during construction; and allocable out-of-pocket financing costs) less any federal or state grants-in-aid or passenger facility charge resources used in financing the Capital Improvement.
- O. "Off-Line Aircraft" means, any aircraft operated by an entity other than Airline.
- P. "Useful Life" means the estimated period of time that a Capital Improvement is to be recovered through the Amortization process. Useful Lives will be assigned to Capital Improvements based on generally accepted airport accounting practices, as shown on the attached Exhibit C.

SECTION 3 – RENTALS AND FEES

Section 3.01. General

Airline agrees to pay City for the use of the premises, facilities, rights, licenses, services and privileges granted hereunder the following rentals, fees and charges, designated in the following paragraphs of this Section 3. In the event that the commencement or termination of the term with respect to any of the particular premises, facilities, rights, licenses, services or privileges as herein provided falls on any date other than the first or last day of a calendar month, the applicable rentals, fees and charges shall be paid for said month pro rata according to the number of days in that month during which said particular premises, facilities, rights, licenses, services or privileges were enjoyed.

Section 3.02. Terminal Building Rentals

- A. Airline shall pay City, for its exclusive and/or preferential use space in the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, East Connector, and International Area, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- B. Airline shall pay City, for its share of non-exclusive use space (baggage claim, baggage makeup and security checkpoint areas) in the Main Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- C. Airline shall pay City, for its exclusive and/or preferential use space in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.
- D. Airline shall pay City, for its share of shared use space (baggage claim, inbound baggage and security checkpoint areas) in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.

Section 3.03. Landing Fees

Airline shall pay City for its use of the Airfield, monthly landing fees based on the landing fee rate calculated each Fiscal Year in accordance with Section 4.04 hereof.

Section 3.04 Other Rentals

Airline Services Building. Airline shall pay City, for its exclusive and/or preferential use space in the Airline Services Building, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.05 hereof.

Section 3.05. Other Fees and Charges

- A. Utilities. Airline shall pay all water, sewage, electricity, gas and other utility charges which may be reasonably assessed by City for Airline's use of its leased premises and Airline-installed equipment.
- B. Other Services. Airline shall pay all charges which may be reasonably assessed by City for other services that may be provided by City to Airline from time to time.

Section 3.06. Payment Provisions

- A. Terminal Building Rentals. Rentals for exclusive and/or preferential use Main Terminal and concourse space and exclusive and/or preferential use space in the East Terminal shall be due and payable on the first day of each month based on invoices provided by City. Rentals for non-exclusive use space in the Main Terminal and shared use space in the East Terminal shall be due and payable within twenty (20) days of the date of an invoice from the City.
- B. Landing Fees. Landing fees for each month shall be due and payable within 15 days of receipt of City's invoice, which invoice shall be based on the landed weights reported in Airline's statistical report for the applicable month as required in Section 5 hereof.
- C. Other Fees. All other rentals, fees, and charges required hereunder shall be due and payable within twenty (20) days of the date of the invoice therefor.
- D. Right of City to Verify Airline's Payment. The acceptance of any payment made by Airline shall not preclude City from verifying the accuracy of Airline's report and computations or from recovering any additional payment actually due from Airline, or preclude Airline from later demonstrating that Airline's report was inaccurate and that a lesser amount was properly owed and from recovering any such overpayment.
- E. Form of Payment. Payments shall be made to the order of "Treasurer, City of St. Louis" and shall be mailed to the Airport Assistant Director of Finance, P.O. Box 10036, Lambert Station, St. Louis, Missouri, 63145 or such other place as may be designated by the Director from time to time. City and Airline may cooperate in the development of a procedure for the electronic transfer of funds as the preferred method of payment.

SECTION 4 – RECALCULATION OF AIRLINE RATES AND CHARGES

Section 4.01. General

- A. Effective July 1, 1998 (for the Fiscal Year ending June 30, 1999), and for each Fiscal Year thereafter, airline rates and charges will be recalculated based on the principles and procedures set forth in this Section; provided, however, that, for the period July 1 to December 31, 1998, rates shall be assessed at the previously established rates for Calendar Year 1998, and the rates calculated for the Fiscal Year ending June 30, 1999 shall be placed into effect on January 1, 1999. The methodology for the calculation of airline rentals and fees described in this Section is illustrated in the report entitled "Calculation of Airline Rates and Charges—Fiscal Year 1998-99, Lambert-St. Louis International Airport," dated December 4, 1998, which report is incorporated herein by reference.
- B. On or about March 1 of each year, City shall provide Airline with the Airport's draft operating budget for the ensuing fiscal year. Within thirty (30) days of

providing Airline with the draft operating budget, City shall provide notice of a meeting, at which Airline shall have the opportunity to comment on the Airport's draft operating budget.

- C. On or about April 1 of each year, Airline shall provide the Airport with its estimate of its total landed weight for the ensuing Fiscal Year.
- D. On or about May 1 of each year, City shall provide Airline with the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. For rate setting purposes, the calculations will be made on the basis of costs, expenses, and other factors estimated by City and estimates of total landed weight provided by the signatory airlines (or by City to the extent that certain signatory airlines fail to provide their estimates of landed weight).
- E. On or about June 1 of each year, City shall provide notice of a meeting for the purpose of City presenting the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. City shall give due consideration to the comments and suggestions made by Airline and the other airlines at that meeting. Based on consideration of those comments and suggestions, and upon the Airport's final operating budget approved by the City's Board of Aldermen, City shall prepare a final calculation of airline rates and charges for the ensuing Fiscal Year and provide a copy to Airline no later than the last working day of the month preceding the start of the Fiscal Year. The rates and charges contained in City's final calculation of airline rates and charges shall become effective as of July 1—the first day of the ensuing Fiscal Year.

Section 4.02. Terminal Rental Rates Other Than East Terminal

- A. For each cost center of the terminal complex other than the East Terminal (i.e., the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, the East Connector, and the International Area) the Total Costs of the cost center will be calculated by adding together the following amounts:
 - 1. Direct and indirect Maintenance and Operating Expenses allocable to the particular cost center
 - 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the particular cost center
 - 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the particular cost center
 - 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the particular cost center on or after July 1, 1997

5. Deferred Maintenance Charges allocable to the particular cost center

Costs and expenses allocable to the terminal building but not assignable to any particular terminal cost center shall be allocated among the terminal cost centers based on Gross Space.

- B. The annual rental rate for each cost center other than the International Area will then be calculated by dividing the Total Costs allocable to the particular cost center by the Gross Space in the particular cost center. City shall establish rates for the use of the International Area by ordinance.

Section 4.03 Rental Rate for the East Terminal

The annual rental rate for the East Terminal will be calculated in accordance with the Second Amendatory Agreement to the Southwest Airlines Co. Airport Use Agreement dated September 15, 1998 a copy of which is attached as Exhibit "E".

Section 4.04. Landing Fee Rate

- A. The Total Costs of the Airfield cost center will be calculated by adding together the following amounts:
1. Direct and indirect Maintenance and Operating Expenses allocable to the Airfield
 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airfield
 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airfield
 - 4.
 5. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airfield on or after July 1, 1997
 6. Interest on the City's investment in Airfield land
 7. Deferred Maintenance Charges allocable to the Airfield
 8. All costs allocable to the sanitary disposal facilities (tritulators)
- B. The Net Costs of the Airfield Area will then be calculated by subtracting revenues from nonsignatory operator landing fees, fuel flowage fees, and field use fees. The signatory airline landing fee rate will then be calculated by dividing the Net Costs of the Airfield Area by the total aircraft landed weight of all signatory airlines.
- C. The nonsignatory landing fee rate will be set at 125% of the signatory airline landing fee rate.

Section 4.05 Airline Services Building

The Total Costs of the Airline Services Building will be calculated by adding together the following amounts:

1. Direct and indirect Maintenance and Operating Expenses allocable to the Airline Services Building
2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airline Services Building
3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airline Services Building
4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airline Services Building on or after July 1, 1997
5. Deferred Maintenance Charges allocable to the Airline Services Building

The annual rental rate for the Airline Services Building will then be calculated by dividing the Total Costs allocable to the Airline Services Building by the gross area of the Airline Services Building.

Section 4.06. Mid-Year Rate Adjustment

In the event that, at any time during a Fiscal Year, City estimates that the Total Costs of the Airfield Area or any of the terminal cost centers, or the aggregate Total Landed Weight of all airlines, will vary ten percent (10%) or more from the estimates used in setting the landing fee rate and terminal rental rates at the beginning of the Fiscal Year, such rates may be adjusted either up or down for the balance of such Fiscal Year, provided that such adjustment is deemed necessary by City. City shall provide Airline with notice of a meeting, for the purpose of presenting any such rate adjustment, along with a written explanation of the basis for such rate adjustment, thirty (30) days prior to putting such adjustment into effect. Unless extraordinary circumstances warrant additional adjustments, City will seek to limit such mid-year rate adjustments to no more than once each Fiscal Year.

Section 4.07. Year-End Adjustment to Actual and Settlement

- A. On or about 180 days following the close of each Fiscal Year, City shall furnish Airline with an accounting of the costs and expenses actually incurred, revenues and other credits actually realized (reconciled to the audited financial statements of the Airport System), and actual enplaned passengers and landed

weights during such Fiscal Year with respect to each of the components of the calculation of terminal rental rates, the landing fee rate, and other rental rates in this Section 4 and shall recalculate the rates, fees, and charges required for the Fiscal Year based on those actual costs and revenues. City shall then provide notice of a meeting, within 30 days after completion of audit, to discuss the calculation of the year-end settlement and shall give due consideration to the comments and suggestions made by the signatory airlines before finalizing the settlement calculations.

- B. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were more than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such excess amount shall be credited to Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- C. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were less than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such deficiency shall be paid by Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- D. For final settlement purposes all calculations will be made on the basis of actual costs and expenses incurred and will be provided to Airline as soon as possible following the completion of the annual audit of the Airport's financial statements.
- E. The settlement for the first half of the last calendar year rates and charges, January 1 – June 30, 1998 will be settled during the period, April 1 – December 31, 1999. This settlement period applies to this stub period only.
- F. It is understood and agreed by the parties hereto that, while the rates billed for the period July 1-December 31, 1998, are the rates previously established for calendar year 1998, the settlement for the Fiscal Year ending June 30, 1999, shall be based on the methodology set forth in this First Amendatory Agreement applied to the full Fiscal Year 1999 (July 1, 1998 - June 30, 1999).

SECTION 5 – STATISTICAL REPORT

Airline shall furnish City, without demand therefore, on or before the 10th day of each month, a written report showing Airline's actual revenue producing arrivals and enplaned passengers at the Airport during the preceding calendar month, which report shall include the number, the type of aircraft and the maximum gross certificated landed weight of each aircraft type. The number of arrivals so operated at the Airport multiplied by the applicable maximum certificated landing weight for each type of aircraft shall determine the total landed weight for which monthly payment of landing

fees shall be made. Airline shall also report the number and type of off-line aircraft serviced by it in order that City can make the appropriate billing.

SECTION 6 – CAPITAL IMPROVEMENTS

Section 6.01. Review of Proposed Capital Improvements

In conjunction with the submission of the draft operating budget in Section 4.01(B) hereof, City shall submit a list of proposed Capital Improvements for the ensuing Fiscal Year together with the estimated Net Costs of those Capital Improvements and shall request airline Majority-in-Interest approval of such proposed Capital Improvements. (This regular process will not preclude City from requesting Majority-in-Interest approval of other proposed Capital Improvements at other times during a Fiscal Year if circumstances warrant.) Airline review of proposed Capital Improvements in the terminal building cost centers shall be governed by Section 306 of the Airport Use Agreement. Airline review of proposed Capital Improvements in the Airfield Area shall be governed by Section 306 of the Airport Use Agreement, however where such provision states "calendar year" it shall be deemed to read "Fiscal Year".

Section 6.02. Increases in Costs of Proposed Capital Improvements

If, after the receipt of initial bid(s) or anytime thereafter, the Net Cost of a particular Capital Improvement exceeds the Majority-In-Interest approved cost of that particular Capital Improvement by greater than five percent (5.0%) or \$100,000, whichever is less, then the City shall convene a meeting with the Airlines, if the Airlines so desire, within thirty (30) days of receipt of initial bid(s) to determine whether to:

- i. request MII approval to fund the increase through rates and charges;
- ii. request MII approval to reduce the scope of the Capital Improvement in order to be within the original MII approval amount;
- iii. fund the increase in the Net Cost of the Capital Improvement from the Capital Improvement Fund, or other sources acceptable to the Airlines, at no additional cost to the Airlines; or
- iv. not proceed with the project

The City will immediately notify the Airlines, in writing, of any estimated increase in the Net Cost of a particular Capital Improvement, regardless of whether MII approval is required. The notice shall include an explanation for the estimated increase as well as identify the funding sources.

SECTION 7 – MISCELLANEOUS PROVISIONS

Section 7.01. Calendar Year to Fiscal Year

Wherever the Agreements refer to the term "calendar year" it shall be deemed to be "Fiscal Year" as defined hereunder.

Section 7.02. Effect on Agreements

All other terms, covenants and conditions of the Agreements not inconsistent with this First Amendatory Agreement are unchanged and are hereby ratified and approved and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement the day and year first above written.

Pursuant to City of St. Louis Ordinance approved , .

TRANS STATES AIRLINES, INC., D/B/A TRANS WORLD EXPRESS

Title: Date

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT ST. LOUIS INTERNATIONAL AIRPORT:

The foregoing Agreement was approved by the Airport Commission at its meeting on

Commission Chairman Date

And Director of Airports

The foregoing Agreement was approved by the Board of Estimate and Apportionment at its meeting on

Secretary Date

Board of Estimate & Apportionment

APPROVED AS TO FORM COUNTERSIGNED

City Counselor Date Comptroller Date

City of St. Louis City of St. Louis

ATTEST

Register Date

City of St. Louis

SEVENTH AMENDATORY AGREEMENT
REGARDING RATES AND CHARGES PROCEDURES
LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT

This Seventh Amendatory Agreement, made and entered into this day of , , by and between the City of St. Louis, a municipal corporation of the State of Missouri (the "City") and Trans World Airlines, Inc., a corporation organized and existing under and by virtue of the laws of the State of Delaware (the "Airline").

WITNESSETH:

WHEREAS, City and Airline have previously entered into several agreements (collectively, the "Agreements") to lease and use areas of Lambert-St. Louis International Airport (the "Airport") consisting of:

Airline's Airport Use Agreement (Lease AL-14) dated August 1, 1965,

Airline's Amendatory Agreement for Concourse Improvements and Terminal Expansion dated August 1, 1975,

Airline's Second Amendatory Agreement for Concourse Improvements and Terminal Expansion dated January 1, 1977,

Airline's Third Amendatory Agreement for Concourse Improvements dated July 23, 1981,

Airline's Use Amendment 1993 Commercial Airlines Airport Use Agreement, dated November 4, 1993 as amended December 14, 1993, which shall remain intact and unchanged by any provision of this Seventh Amendatory Agreement,

Airline's Sixth Amendatory Agreement to Trans World Airlines, Inc. Airport Use Agreement for Terminal Expansion and B/C Connector, dated August 16, 1996,

Ozark Air Lines Inc. ("Ozark") Airport Use Agreement (Lease AL-11) dated August 1, 1965,

Ozark's Amendatory Agreement for Concourse Improvements and Terminal Expansion dated August 1, 1975,

Ozark's Second Amendatory Agreement for Concourse Improvements and Terminal Expansion dated January 1, 1977,

Ozark's Third Amendatory Agreement for Concourse Improvements dated July 23, 1981,

Ozark's Fourth Amendatory Agreement for Concourse Addition and Improvements dated September 26, 1983, these five agreements with Ozark having been assumed by Airline; and

WHEREAS, the Agreements set forth certain definitions and procedures for calculating and periodically adjusting airline rates and charges at the Airport; and

WHEREAS, by this Seventh Amendatory Agreement, City and Airline desire to amend but not terminate the Agreements with respect to the definition of certain terms and the procedures to be used in calculating airline rates and charges at the Airport;

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between City and Airline as follows:

SECTION 1 – GENERAL

The purpose and intent of this Seventh Amendatory Agreement is to supplant and replace those provisions of the Agreements that address the procedures for the calculation of airline rates and charges at the Airport. The intent of the parties is (1) to clarify and consolidate in one place the rates and charges provisions of the Agreements, (2) to change the rates and charges adjustment process from a Calendar Year to a Fiscal Year basis and (3) to change the method of recovery of the costs of Capital Improvements from "depreciation + interest" charges to "amortization" charges. It is further the intent of the parties that all other substantive aspects of the current rates and charges provisions remain unchanged unless in conflict with the provisions of this Seventh Amendatory Agreement. In the event of such a conflict this Seventh Amendatory Agreement's provisions shall control. Those provisions to be supplanted and replaced include but are not limited to: Article III of the Airport Use Agreement, Sections I and IV of the Amendatory Agreement, Section II of the Second Amendatory Agreement, Section III of Airline's Third Amendatory Agreement, Section II of Ozark's Third Amendatory Agreement, Section III of the Fourth Amendatory Agreement and Section III of the Sixth Amendatory Agreement.

SECTION 2 – DEFINITIONS

The following words and phrases, wherever used in this Seventh Amendatory Agreement, shall, for the purpose of this Seventh Amendatory Agreement, have the following meanings:

- A. "Airport Cost Centers" means the direct cost areas to be used in accounting for Airport costs for the purposes of calculating compensatory rates and charges hereunder, as depicted in Exhibit "A", Airport Layout and Airfield Cost Center Plan, and Exhibit "B", Terminal Area Cost Center Plan which are attached hereto and incorporated herein, as such areas now exist or may hereafter be modified or expanded and as more particularly described below:
1. "Main Terminal" means the main terminal portion of the terminal complex, together with the upper level terminal roadway which forms the roof of the middle level facilities (baggage claim and administrative office areas).
 2. "Terminal Expansion" means the extended portion of the terminal complex, currently used as an airline club, constructed as part of the 1996 "Terminal Expansion and B/C Connector" project.
 3. "Concourses A/B/C" means Concourse A, Concourse B, and Concourse C (exclusive of the Concourse C extension).
 4. "Concourse C Extension" means the extended portion of concourse C constructed as part of the 1981 "East Concourse Extension" project.
 5. "Concourse D" means Concourse D constructed as part of the 1983 "Concourse Addition and Improvements" project.
 6. "East Connector" means the space in the connector concourse between the Main Terminal and Concourse D constructed as part of the 1975 "Concourse Improvements and Terminal Expansion" project.
 7. "East Terminal" means the new East Terminal building.
 8. "International Area" means the federal inspection services (FIS) area, Gates E29, E31, and E33 and associated office and operation space, which are operated for the City through an agency agreement.
 9. "Airfield" means the runways, taxiways, and apron areas, navigational aids, hazard designation and warning devices, airfield security roads and fencing, blast fencing, lighting, clear zones and safety areas for landing, taking off and taxiing of aircraft, aviation easements, including land utilized in connection therewith or acquired for such future purpose, and facilities, the

acquisition, construction or installation cost of which is wholly or partially paid by the City, as depicted in Exhibit "A".

10. "Airline Services Building" means that building apart from the Terminal Complex, used to service airline equipment.
- B. "Amortization" means the level annual charge required to recover the Net Cost of a Capital Improvement over the Useful Life of such Capital Improvement at the City's Cost of Capital.
- C. "Capital Improvement" means any improvement or capital asset acquired or constructed by City at the Airport which has a Net Cost in excess of \$10,000 and a Useful Life in excess of three years or a Net Cost in excess of \$25,000 with a useful life in excess of one year.
- D. "Cost of Capital" means (a) for Capital Improvements financed with Airport System Revenue Bonds, the effective interest rate (the "true interest cost" or "TIC") on the Bonds used to finance the particular Capital Improvement and (b) for Capital Improvements financed with other Airport funds, the current Revenue Bond Index of 22-year+, "A" rated bonds published daily in the Wall Street Journal (or successor publication thereto), as of the date the Capital Improvement is placed in service. However, for the purpose of developing annual rates and charges, the rate index nearest to the date of the rate setting will be used.
- E. "Deferred Maintenance Charge" means the amount to be charged to the airline rate base to fund and replenish City's reserve for deferred maintenance, which charge shall be limited to \$150,000 per year and allocated sixty percent (60%) to the Airfield, thirty percent (30%) to the terminal building (and further allocated to individual terminal cost centers based on Gross Space), and ten percent (10%) to other buildings and facilities. City's reserve for deferred maintenance shall not exceed \$750,000 in the aggregate.
- F. "Depreciation and Interest Charges" means annual depreciation charges associated with Airport assets placed in service on or before June 30, 1997, as determined from the Airport's Fixed Asset Database, unless otherwise excluded pursuant to any prior amendatory Agreements.
- G. "Fiscal Year" refers to City's fiscal year and means the twelve-month period commencing July 1 and extending through June 30 of the following calendar year, or such other fiscal year as City may establish by ordinance.
- H. "Fixed Asset Database" means the database maintained by the Airport to record historical investments in Airport fixed assets, as documented in the report, "Fixed Asset Database and Calculation of FY 1998-99 Depreciation and Interest Charges" dated June 1, 1998, which report is incorporated herein by reference.

- I. "Gross Space" means every square foot of space, measured from the inside of perimeter walls and from the centerline of interior partitions, including but not necessarily limited to leasable, public, concession, City administrative, mechanical and janitorial areas.
- J. "Interest on Assets Financed with Airport Funds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with Airport funds (other than bond proceeds), as documented in the Fixed Asset Database. Such interest charges will be calculated based on the mid-life value (50%) of the City's investment in depreciable assets, unless otherwise excluded pursuant to the First Amendatory Agreement.
- K. "Interest on Assets Financed with Bonds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with bond proceeds (other than airport funds), as documented in the report, "Analysis of the Impact of Bond Refinancings on Airline Rates and Charges" dated March 17, 1995, as supplemented by letter dated April 4, 1995, which report and letter are incorporated herein by reference.
- L. "Maintenance and Operating Expenses" means all reasonable and necessary current expenses of City, paid or accrued, in operating, maintaining, repairing, and administering the Airport as depicted on Exhibit D; including, without necessarily limiting thereto, salaries and wages, fringe benefits, materials and supplies used for current operations, equipment purchases (items costing \$10,000 or less per item), contractual services, utilities, professional services, police protection services, fire protection services, administrative expenses, insurance premiums, charges of any paying agents and any other depository bank pertaining to the Airport, the payment to the City of 5% of the gross receipts of the Airport as required by Section 504(B) of the Airport's master revenue bond trust indenture, as well as charges by the City for administrative expenses of other City departments whose services are directly related or reasonably allocable to the administration of the Airport; provided, however, Maintenance and Operating Expenses shall not include any allowance for depreciation, payments in lieu of taxes, Capital Improvements, or any charges for the accumulation of reserves for capital replacements. Maintenance and Operating Expenses shall be fairly allocated among Airport Cost Centers in accordance with generally accepted cost accounting practices.
- M. "Majority-in-Interest" means, unless otherwise indicated in this Seventh Amendatory Agreement, those scheduled airlines (but in no event less than fifty percent (50%) of the number of scheduled airlines who have executed agreements similar to or substantially the same as the 1965 Airport Use Agreement, as amended), who have on the date in question, more than fifty percent (50%) of the aggregate revenue aircraft weight landed at the Airport during the immediately preceding Fiscal Year.

- N. "Net Cost" means, with respect to a Capital Improvement, the total cost of the Capital Improvement (including actual construction costs; architectural and engineering fees, program management fees, testing and inspection fees, construction management fees, permit fees, and other direct or allocable fees; interest during construction; and allocable out-of-pocket financing costs) less any federal or state grants-in-aid or passenger facility charge resources used in financing the Capital Improvement.
- O. "Off-Line Aircraft" means, any aircraft operated by an entity other than Airline.
- P. "Useful Life" means the estimated period of time that a Capital Improvement is to be recovered through the Amortization process. Useful Lives will be assigned to Capital Improvements based on generally accepted airport accounting practices, as shown on the attached Exhibit C.

SECTION 3 – RENTALS AND FEES

Section 3.01. General

Airline agrees to pay City for the use of the premises, facilities, rights, licenses, services and privileges granted hereunder the following rentals, fees and charges, designated in the following paragraphs of this Section 3. In the event that the commencement or termination of the term with respect to any of the particular premises, facilities, rights, licenses, services or privileges as herein provided falls on any date other than the first or last day of a calendar month, the applicable rentals, fees and charges shall be paid for said month pro rata according to the number of days in that month during which said particular premises, facilities, rights, licenses, services or privileges were enjoyed.

Section 3.02. Terminal Building Rentals

- A. Airline shall pay City, for its exclusive and/or preferential use space in the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, East Connector, and International Area, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- B. Airline shall pay City, for its share of non-exclusive use space (baggage claim, baggage makeup and security checkpoint areas) in the Main Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- C. Airline shall pay City, for its exclusive and/or preferential use space in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.

- D. Airline shall pay City, for its share of shared use space (baggage claim, inbound baggage and security checkpoint areas) in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.

Section 3.03. Landing Fees

Airline shall pay City for its use of the Airfield, monthly landing fees based on the landing fee rate calculated each Fiscal Year in accordance with Section 4.04 hereof.

Section 3.04 Other Rentals

Airline Services Building. Airline shall pay City, for its exclusive and/or preferential use space in the Airline Services Building, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.05 hereof.

Section 3.05. Other Fees and Charges

- A. Utilities. Airline shall pay all water, sewage, electricity, gas and other utility charges which may be reasonably assessed by City for Airline's use of its leased premises and Airline-installed equipment.
- B. Other Services. Airline shall pay all charges which may be reasonably assessed by City for other services that may be provided by City to Airline from time to time.

Section 3.06. Payment Provisions

- A. Terminal Building Rentals. Rentals for exclusive and/or preferential use Main Terminal and concourse space and exclusive and/or preferential use space in the East Terminal shall be due and payable on the first day of each month based on invoices provided by City. Rentals for non-exclusive use space in the Main Terminal and shared use space in the East Terminal shall be due and payable within twenty (20) days of the date of an invoice from the City.
- B. Landing Fees. Landing fees for each month shall be due and payable within 15 days of receipt of City's invoice, which invoice shall be based on the landed weights reported in Airline's statistical report for the applicable month as required in Section 5 hereof.
- C. Other Fees. All other rentals, fees, and charges required hereunder shall be due and payable within twenty (20) days of the date of the invoice therefor.
- D. Right of City to Verify Airline's Payment. The acceptance of any payment made by Airline shall not preclude City from verifying the accuracy of Airline's

report and computations or from recovering any additional payment actually due from Airline, or preclude Airline from later demonstrating that Airline's report was inaccurate and that a lesser amount was properly owed and from recovering any such overpayment.

- E. Form of Payment. Payments shall be made to the order of "Treasurer, City of St. Louis" and shall be mailed to the Airport Assistant Director of Finance, P.O. Box 10036, Lambert Station, St. Louis, Missouri, 63145 or such other place as may be designated by the Director from time to time. City and Airline may cooperate in the development of a procedure for the electronic transfer of funds as the preferred method of payment.

SECTION 4 – RECALCULATION OF AIRLINE RATES AND CHARGES

Section 4.01. General

- A. Effective July 1, 1998 (for the Fiscal Year ending June 30, 1999), and for each Fiscal Year thereafter, airline rates and charges will be recalculated based on the principles and procedures set forth in this Section; provided, however, that, for the period July 1 to December 31, 1998, rates shall be assessed at the previously established rates for Calendar Year 1998, and the rates calculated for the Fiscal Year ending June 30, 1999 shall be placed into effect on January 1, 1999. The methodology for the calculation of airline rentals and fees described in this Section is illustrated in the report entitled "Calculation of Airline Rates and Charges—Fiscal Year 1998-99, Lambert-St. Louis International Airport," dated December 4, 1998, which report is incorporated herein by reference.
- B. On or about March 1 of each year, City shall provide Airline with the Airport's draft operating budget for the ensuing fiscal year. Within thirty (30) days of providing Airline with the draft operating budget, City shall provide notice of a meeting, at which Airline shall have the opportunity to comment on the Airport's draft operating budget.
- C. On or about April 1 of each year, Airline shall provide the Airport with its estimate of its total landed weight for the ensuing Fiscal Year.
- D. On or about May 1 of each year, City shall provide Airline with the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. For rate setting purposes, the calculations will be made on the basis of costs, expenses, and other factors estimated by City and estimates of total landed weight provided by the signatory airlines (or by City to the extent that certain signatory airlines fail to provide their estimates of landed weight).
- E. On or about June 1 of each year, City shall provide notice of a meeting for the purpose of City presenting the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. City shall give due consideration to the

comments and suggestions made by Airline and the other airlines at that meeting. Based on consideration of those comments and suggestions, and upon the Airport's final operating budget approved by the City's Board of Aldermen, City shall prepare a final calculation of airline rates and charges for the ensuing Fiscal Year and provide a copy to Airline no later than the last working day of the month preceding the start of the Fiscal Year. The rates and charges contained in City's final calculation of airline rates and charges shall become effective as of July 1—the first day of the ensuing Fiscal Year.

Section 4.02. Terminal Rental Rates Other Than East Terminal

- A. For each cost center of the terminal complex other than the East Terminal (i.e., the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, the East Connector, and the International Area) the Total Costs of the cost center will be calculated by adding together the following amounts:
1. Direct and indirect Maintenance and Operating Expenses allocable to the particular cost center
 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the particular cost center
 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the particular cost center
 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the particular cost center on or after July 1, 1997
 5. Deferred Maintenance Charges allocable to the particular cost center

Costs and expenses allocable to the terminal building but not assignable to any particular terminal cost center shall be allocated among the terminal cost centers based on Gross Space.

- B. The annual rental rate for each cost center other than the International Area will then be calculated by dividing the Total Costs allocable to the particular cost center by the Gross Space in the particular cost center. City shall establish rates for the use of the International Area by ordinance.

Section 4.03 Rental Rate for the East Terminal

The annual rental rate for the East Terminal will be calculated in accordance with the Second Amendatory Agreement to the Southwest Airlines Co. Airport Use Agreement dated September 15, 1998 a copy of which is attached as Exhibit "E".

Section 4.04. Landing Fee Rate

- A. The Total Costs of the Airfield cost center will be calculated by adding together the following amounts:
1. Direct and indirect Maintenance and Operating Expenses allocable to the Airfield
 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airfield
 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airfield
 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airfield on or after July 1, 1997
 5. Interest on the City's investment in Airfield land
 6. Deferred Maintenance Charges allocable to the Airfield
 7. All costs allocable to the sanitary disposal facilities (tritulators)
- B. The Net Costs of the Airfield Area will then be calculated by subtracting revenues from nonsignatory operator landing fees, fuel flowage fees, and field use fees. The signatory airline landing fee rate will then be calculated by dividing the Net Costs of the Airfield Area by the total aircraft landed weight of all signatory airlines.
- C. The nonsignatory landing fee rate will be set at 125% of the signatory airline landing fee rate.

Section 4.05 Airline Services Building

The Total Costs of the Airline Services Building will be calculated by adding together the following amounts:

1. Direct and indirect Maintenance and Operating Expenses allocable to the Airline Services Building
2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airline Services Building
3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airline Services Building

4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airline Services Building on or after July 1, 1997
5. Deferred Maintenance Charges allocable to the Airline Services Building

The annual rental rate for the Airline Services Building will then be calculated by dividing the Total Costs allocable to the Airline Services Building by the gross area of the Airline Services Building.

Section 4.06. Mid-Year Rate Adjustment

In the event that, at any time during a Fiscal Year, City estimates that the Total Costs of the Airfield Area or any of the terminal cost centers, or the aggregate Total Landed Weight of all airlines, will vary ten percent (10%) or more from the estimates used in setting the landing fee rate and terminal rental rates at the beginning of the Fiscal Year, such rates may be adjusted either up or down for the balance of such Fiscal Year, provided that such adjustment is deemed necessary by City. City shall provide Airline with notice of a meeting, for the purpose of presenting any such rate adjustment, along with a written explanation of the basis for such rate adjustment, thirty (30) days prior to putting such adjustment into effect. Unless extraordinary circumstances warrant additional adjustments, City will seek to limit such mid-year rate adjustments to no more than once each Fiscal Year.

Section 4.07. Year-End Adjustment to Actual and Settlement

- A. On or about 180 days following the close of each Fiscal Year, City shall furnish Airline with an accounting of the costs and expenses actually incurred, revenues and other credits actually realized (reconciled to the audited financial statements of the Airport System), and actual enplaned passengers and landed weights during such Fiscal Year with respect to each of the components of the calculation of terminal rental rates, the landing fee rate, and other rental rates in this Section 4 and shall recalculate the rates, fees, and charges required for the Fiscal Year based on those actual costs and revenues. City shall then provide notice of a meeting, within 30 days after completion of audit, to discuss the calculation of the year-end settlement and shall give due consideration to the comments and suggestions made by the signatory airlines before finalizing the settlement calculations.
- B. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were more than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such excess amount shall be credited to Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.

- C. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were less than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such deficiency shall be paid by Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- D. For final settlement purposes all calculations will be made on the basis of actual costs and expenses incurred and will be provided to Airline as soon as possible following the completion of the annual audit of the Airport's financial statements.
- E. The settlement for the first half of the last calendar year rates and charges, January 1 – June 30, 1998 will be settled during the period, April 1 – December 31, 1999. This settlement period applies to this stub period only.
- F. It is understood and agreed by the parties hereto that, while the rates billed for the period July 1-December 31, 1998, are the rates previously established for calendar year 1998, the settlement for the Fiscal Year ending June 30, 1999, shall be based on the methodology set forth in this Seventh Amendatory Agreement applied to the full Fiscal Year 1999 (July 1, 1998 - June 30, 1999).

SECTION 5 – STATISTICAL REPORT

Airline shall furnish City, without demand therefore, on or before the 10th day of each month, a written report showing Airline's actual revenue producing arrivals and enplaned passengers at the Airport during the preceding calendar month, which report shall include the number, the type of aircraft and the maximum gross certificated landed weight of each aircraft type. The number of arrivals so operated at the Airport multiplied by the applicable maximum certificated landing weight for each type of aircraft shall determine the total landed weight for which monthly payment of landing fees shall be made. Airline shall also report the number and type of off-line aircraft serviced by it in order that City can make the appropriate billing.

SECTION 6 – CAPITAL IMPROVEMENTS

Section 6.01. Review of Proposed Capital Improvements

In conjunction with the submission of the draft operating budget in Section 4.01(B) hereof, City shall submit a list of proposed Capital Improvements for the ensuing Fiscal Year together with the estimated Net Costs of those Capital Improvements and shall request airline Majority-in-Interest approval of such proposed Capital Improvements. (This regular process will not preclude City from requesting Majority-in-Interest approval of other proposed Capital Improvements at other times during a Fiscal Year if circumstances warrant.) Airline review of proposed Capital Improvements in the terminal building cost centers shall be governed by Section V of

the Amendatory Agreement. Airline review of proposed Capital Improvements in the Airfield Area shall be governed by Section VI of the Airline's Third Amendatory Agreement and Section IV of Ozark's Third Amendatory Agreement, however where such provision states "calendar year" it shall be deemed to read "Fiscal Year".

Section 6.02. Increases in Costs of Proposed Capital Improvements

If, after the receipt of initial bid(s) or anytime thereafter, the Net Cost of a particular Capital Improvement exceeds the Majority-In-Interest approved cost of that particular Capital Improvement by greater than five percent (5.0%) or \$100,000, whichever is less, then the City shall convene a meeting with the Airlines, if the Airlines so desire, within thirty (30) days of receipt of initial bid(s) to determine whether to:

- i. request MII approval to fund the increase through rates and charges;
- ii. request MII approval to reduce the scope of the Capital Improvement in order to be within the original MII approval amount;
- iii. fund the increase in the Net Cost of the Capital Improvement from the Capital Improvement Fund, or other sources acceptable to the Airlines, at no additional cost to the Airlines; or
- iv. not proceed with the project

The City will immediately notify the Airlines, in writing, of any estimated increase in the Net Cost of a particular Capital Improvement, regardless of whether MII approval is required. The notice shall include an explanation for the estimated increase as well as identify the funding sources.

SECTION 7 – MISCELLANEOUS PROVISIONS

Section 7.01. Calendar Year to Fiscal Year

Wherever the Agreements refer to the term "calendar year" it shall be deemed to be "Fiscal Year" as defined hereunder.

Section 7.02. Effect on Agreements

All other terms, covenants and conditions of the Agreements not inconsistent with this Seventh Amendatory Agreement are unchanged and are hereby ratified and approved and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement the day and year first above written.

Pursuant to City of St. Louis Ordinance approved , .

TRANS WORLD AIRLINES, INC.

Title: Date

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT ST. LOUIS INTERNATIONAL AIRPORT:

The foregoing Agreement was approved by the Airport Commission at its meeting on

Commission Chairman Date

And Director of Airports

The foregoing Agreement was approved by the Board of Estimate and Apportionment at its meeting on

Secretary Date

Board of Estimate & Apportionment

APPROVED AS TO FORM COUNTERSIGNED

City Counselor Date Comptroller Date

City of St. Louis City of St. Louis

ATTEST

Register Date

City of St. Louis

SECOND AMENDATORY AGREEMENT

REGARDING RATES AND CHARGES PROCEDURES

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT

This Second Amendatory Agreement, made and entered into this day of , , by and between the City of St. Louis, a municipal corporation of the State of Missouri (the

"City") and United Airlines, Inc., a corporation organized and existing under and by virtue of the laws of the State of Delaware (the "Airline").

WITNESSETH:

WHEREAS, City and Airline have previously entered into several agreements (collectively, the "Agreements") to lease and use areas of Lambert-St. Louis International Airport (the "Airport") consisting of:

Airline's Airport Use Agreement (Lease AL-5) dated February 8, 1984,

Airline's First United Airlines Amendatory Agreement dated August 16, 1996; and

WHEREAS, the Agreements set forth certain definitions and procedures for calculating and periodically adjusting airline rates and charges at the Airport; and

WHEREAS, by this Second Amendatory Agreement, City and Airline desire to amend but not terminate the Agreements with respect to the definition of certain terms and the procedures to be used in calculating airline rates and charges at the Airport;

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between City and Airline as follows:

SECTION 1 – GENERAL

The purpose and intent of this Second Amendatory Agreement is to supplant and replace those provisions of the Agreements that address the procedures for the calculation of airline rates and charges at the Airport. The intent of the parties is (1) to clarify and consolidate in one place the rates and charges provisions of the Agreements, (2) to change the rates and charges adjustment process from a Calendar Year to a Fiscal Year basis and (3) to change the method of recovery of the costs of Capital Improvements from "depreciation + interest" charges to "amortization" charges. It is further the intent of the parties that all other substantive aspects of the current rates and charges provisions remain unchanged unless in conflict with the provisions of this Second Amendatory Agreement. In the event of such a conflict this Second Amendatory Agreement's provisions shall control. Those provisions to be supplanted and replaced include but are not limited to: Article III of the Airport Use Agreement.

SECTION 2 – DEFINITIONS

The following words and phrases, wherever used in this Second Ammendatory Agreement, shall, for the purpose of this Second Ammendatory Agreement, have the following meanings:

- A. "Airport Cost Centers" means the direct cost areas to be used in accounting for Airport costs for the purposes of calculating compensatory rates and charges hereunder, as depicted in Exhibit "A", Airport Layout and Airfield Cost Center Plan, and Exhibit "B", Terminal Area Cost Center Plan which are attached hereto and incorporated herein, as such areas now exist or may hereafter be modified or expanded and as more particularly described below:
1. "Main Terminal" means the main terminal portion of the terminal complex, together with the upper level terminal roadway which forms the roof of the middle level facilities (baggage claim and administrative office areas).
 2. "Terminal Expansion" means the extended portion of the terminal complex, currently used as an airline club, constructed as part of the 1996 "Terminal Expansion and B/C Connector" project.
 3. "Concourses A/B/C" means Concourse A, Concourse B, and Concourse C (exclusive of the Concourse C extension).
 4. "Concourse C Extension" means the extended portion of concourse C constructed as part of the 1981 "East Concourse Extension" project.
 5. "Concourse D" means Concourse D constructed as part of the 1983 "Concourse Addition and Improvements" project.
 6. "East Connector" means the space in the connector concourse between the Main Terminal and Concourse D constructed as part of the 1975 "Concourse Improvements and Terminal Expansion" project.
 7. "East Terminal" means the new East Terminal building.
 8. "International Area" means the federal inspection services (FIS) area, Gates E29, E31, and E33 and associated office and operation space, which are operated for the City through an agency agreement.
 9. "Airfield" means the runways, taxiways, and apron areas, navigational aids, hazard designation and warning devices, airfield security roads and fencing, blast fencing, lighting, clear zones and safety areas for landing, taking off and taxiing of aircraft, aviation easements, including land utilized in connection therewith or acquired for such future purpose, and facilities, the

acquisition, construction or installation cost of which is wholly or partially paid by the City, as depicted in Exhibit "A".

10. "Airline Services Building" means that building apart from the Terminal Complex, used to service airline equipment.
- B. "Amortization" means the level annual charge required to recover the Net Cost of a Capital Improvement over the Useful Life of such Capital Improvement at the City's Cost of Capital.
- C. "Capital Improvement" means any improvement or capital asset acquired or constructed by City at the Airport which has a Net Cost in excess of \$10,000 and a Useful Life in excess of three years or a Net Cost in excess of \$25,000 with a useful life in excess of one year.
- D. "Cost of Capital" means (a) for Capital Improvements financed with Airport System Revenue Bonds, the effective interest rate (the "true interest cost" or "TIC") on the Bonds used to finance the particular Capital Improvement and (b) for Capital Improvements financed with other Airport funds, the current Revenue Bond Index of 22-year+, "A" rated bonds published daily in the Wall Street Journal (or successor publication thereto), as of the date the Capital Improvement is placed in service. However, for the purpose of developing annual rates and charges, the rate index nearest to the date of the rate setting will be used.
- E. "Deferred Maintenance Charge" means the amount to be charged to the airline rate base to fund and replenish City's reserve for deferred maintenance, which charge shall be limited to \$150,000 per year and allocated sixty percent (60%) to the Airfield, thirty percent (30%) to the terminal building (and further allocated to individual terminal cost centers based on Gross Space), and ten percent (10%) to other buildings and facilities. City's reserve for deferred maintenance shall not exceed \$750,000 in the aggregate.
- F. "Depreciation and Interest Charges" means annual depreciation charges associated with Airport assets placed in service on or before June 30, 1997, as determined from the Airport's Fixed Asset Database, unless otherwise excluded pursuant to any prior amendatory Agreements.
- G. "Fiscal Year" refers to City's fiscal year and means the twelve-month period commencing July 1 and extending through June 30 of the following calendar year, or such other fiscal year as City may establish by ordinance.
- H. "Fixed Asset Database" means the database maintained by the Airport to record historical investments in Airport fixed assets, as documented in the report, "Fixed Asset Database and Calculation of FY 1998-99 Depreciation and Interest Charges" dated June 1, 1998, which report is incorporated herein by reference.

- I. "Gross Space" means every square foot of space, measured from the inside of perimeter walls and from the centerline of interior partitions, including but not necessarily limited to leasable, public, concession, City administrative, mechanical and janitorial areas.
- J. "Interest on Assets Financed with Airport Funds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with Airport funds (other than bond proceeds), as documented in the Fixed Asset Database. Such interest charges will be calculated based on the mid-life value (50%) of the City's investment in depreciable assets, unless otherwise excluded pursuant to the First Amendatory Agreement.
- K. "Interest on Assets Financed with Bonds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with bond proceeds (other than airport funds), as documented in the report, "Analysis of the Impact of Bond Refinancings on Airline Rates and Charges" dated March 17, 1995, as supplemented by letter dated April 4, 1995, which report and letter are incorporated herein by reference.
- L. "Maintenance and Operating Expenses" means all reasonable and necessary current expenses of City, paid or accrued, in operating, maintaining, repairing, and administering the Airport as depicted on Exhibit D; including, without necessarily limiting thereto, salaries and wages, fringe benefits, materials and supplies used for current operations, equipment purchases (items costing \$10,000 or less per item), contractual services, utilities, professional services, police protection services, fire protection services, administrative expenses, insurance premiums, charges of any paying agents and any other depository bank pertaining to the Airport, the payment to the City of 5% of the gross receipts of the Airport as required by Section 504(B) of the Airport's master revenue bond trust indenture, as well as charges by the City for administrative expenses of other City departments whose services are directly related or reasonably allocable to the administration of the Airport; provided, however, Maintenance and Operating Expenses shall not include any allowance for depreciation, payments in lieu of taxes, Capital Improvements, or any charges for the accumulation of reserves for capital replacements. Maintenance and Operating Expenses shall be fairly allocated among Airport Cost Centers in accordance with generally accepted cost accounting practices.
- M. "Majority-in-Interest" means, unless otherwise indicated in this Second Amendatory Agreement, those scheduled airlines (but in no event less than fifty percent (50%) of the number of scheduled airlines who have executed agreements similar to or substantially the same as the 1965 Airport Use Agreement, as amended), who have on the date in question, more than fifty percent (50%) of the aggregate revenue aircraft weight landed at the Airport during the immediately preceding Fiscal Year.

- N. "Net Cost" means, with respect to a Capital Improvement, the total cost of the Capital Improvement (including actual construction costs; architectural and engineering fees, program management fees, testing and inspection fees, construction management fees, permit fees, and other direct or allocable fees; interest during construction; and allocable out-of-pocket financing costs) less any federal or state grants-in-aid or passenger facility charge resources used in financing the Capital Improvement.
- O. "Off-Line Aircraft" means, any aircraft operated by an entity other than Airline.
- P. "Useful Life" means the estimated period of time that a Capital Improvement is to be recovered through the Amortization process. Useful Lives will be assigned to Capital Improvements based on generally accepted airport accounting practices, as shown on the attached Exhibit C.

SECTION 3 – RENTALS AND FEES

Section 3.01. General

Airline agrees to pay City for the use of the premises, facilities, rights, licenses, services and privileges granted hereunder the following rentals, fees and charges, designated in the following paragraphs of this Section 3. In the event that the commencement or termination of the term with respect to any of the particular premises, facilities, rights, licenses, services or privileges as herein provided falls on any date other than the first or last day of a calendar month, the applicable rentals, fees and charges shall be paid for said month pro rata according to the number of days in that month during which said particular premises, facilities, rights, licenses, services or privileges were enjoyed.

Section 3.02. Terminal Building Rentals

- A. Airline shall pay City, for its exclusive and/or preferential use space in the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, East Connector, and International Area, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- B. Airline shall pay City, for its share of non-exclusive use space (baggage claim, baggage makeup and security checkpoint areas) in the Main Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- C. Airline shall pay City, for its exclusive and/or preferential use space in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.

- D. Airline shall pay City, for its share of shared use space (baggage claim, inbound baggage and security checkpoint areas) in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.

Section 3.03. Landing Fees

Airline shall pay City for its use of the Airfield, monthly landing fees based on the landing fee rate calculated each Fiscal Year in accordance with Section 4.04 hereof.

Section 3.04 Other Rentals

Airline Services Building. Airline shall pay City, for its exclusive and/or preferential use space in the Airline Services Building, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.05 hereof.

Section 3.05. Other Fees and Charges

- A. Utilities. Airline shall pay all water, sewage, electricity, gas and other utility charges which may be reasonably assessed by City for Airline's use of its leased premises and Airline-installed equipment.
- B. Other Services. Airline shall pay all charges which may be reasonably assessed by City for other services that may be provided by City to Airline from time to time.

Section 3.06. Payment Provisions

- A. Terminal Building Rentals. Rentals for exclusive and/or preferential use Main Terminal and concourse space and exclusive and/or preferential use space in the East Terminal shall be due and payable on the first day of each month based on invoices provided by City. Rentals for non-exclusive use space in the Main Terminal and shared use space in the East Terminal shall be due and payable within twenty (20) days of the date of an invoice from the City.
- B. Landing Fees. Landing fees for each month shall be due and payable within 15 days of receipt of City's invoice, which invoice shall be based on the landed weights reported in Airline's statistical report for the applicable month as required in Section 5 hereof.
- C. Other Fees. All other rentals, fees, and charges required hereunder shall be due and payable within twenty (20) days of the date of the invoice therefor.
- D. Right of City to Verify Airline's Payment. The acceptance of any payment made by Airline shall not preclude City from verifying the accuracy of Airline's

report and computations or from recovering any additional payment actually due from Airline, or preclude Airline from later demonstrating that Airline's report was inaccurate and that a lesser amount was properly owed and from recovering any such overpayment.

- E. Form of Payment. Payments shall be made to the order of "Treasurer, City of St. Louis" and shall be mailed to the Airport Assistant Director of Finance, P.O. Box 10036, Lambert Station, St. Louis, Missouri, 63145 or such other place as may be designated by the Director from time to time. City and Airline may cooperate in the development of a procedure for the electronic transfer of funds as the preferred method of payment.

SECTION 4 – RECALCULATION OF AIRLINE RATES AND CHARGES

Section 4.01. General

- A. Effective July 1, 1998 (for the Fiscal Year ending June 30, 1999), and for each Fiscal Year thereafter, airline rates and charges will be recalculated based on the principles and procedures set forth in this Section; provided, however, that, for the period July 1 to December 31, 1998, rates shall be assessed at the previously established rates for Calendar Year 1998, and the rates calculated for the Fiscal Year ending June 30, 1999 shall be placed into effect on January 1, 1999. The methodology for the calculation of airline rentals and fees described in this Section is illustrated in the report entitled "Calculation of Airline Rates and Charges—Fiscal Year 1998-99, Lambert-St. Louis International Airport," dated December 4, 1998, which report is incorporated herein by reference.
- B. On or about March 1 of each year, City shall provide Airline with the Airport's draft operating budget for the ensuing fiscal year. Within thirty (30) days of providing Airline with the draft operating budget, City shall provide notice of a meeting, at which Airline shall have the opportunity to comment on the Airport's draft operating budget.
- C. On or about April 1 of each year, Airline shall provide the Airport with its estimate of its total landed weight for the ensuing Fiscal Year.
- D. On or about May 1 of each year, City shall provide Airline with the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. For rate setting purposes, the calculations will be made on the basis of costs, expenses, and other factors estimated by City and estimates of total landed weight provided by the signatory airlines (or by City to the extent that certain signatory airlines fail to provide their estimates of landed weight).
- E. On or about June 1 of each year, City shall provide notice of a meeting for the purpose of City presenting the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. City shall give due consideration to the

comments and suggestions made by Airline and the other airlines at that meeting. Based on consideration of those comments and suggestions, and upon the Airport's final operating budget approved by the City's Board of Aldermen, City shall prepare a final calculation of airline rates and charges for the ensuing Fiscal Year and provide a copy to Airline no later than the last working day of the month preceding the start of the Fiscal Year. The rates and charges contained in City's final calculation of airline rates and charges shall become effective as of July 1—the first day of the ensuing Fiscal Year.

Section 4.02. Terminal Rental Rates Other Than East Terminal

- A. For each cost center of the terminal complex other than the East Terminal (i.e., the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, the East Connector, and the International Area) the Total Costs of the cost center will be calculated by adding together the following amounts:
1. Direct and indirect Maintenance and Operating Expenses allocable to the particular cost center
 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the particular cost center
 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the particular cost center
 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the particular cost center on or after July 1, 1997
 5. Deferred Maintenance Charges allocable to the particular cost center

Costs and expenses allocable to the terminal building but not assignable to any particular terminal cost center shall be allocated among the terminal cost centers based on Gross Space.

- B. The annual rental rate for each cost center other than the International Area will then be calculated by dividing the Total Costs allocable to the particular cost center by the Gross Space in the particular cost center. City shall establish rates for the use of the International Area by ordinance.

Section 4.03 Rental Rate for the East Terminal

The annual rental rate for the East Terminal will be calculated in accordance with the Second Amendatory Agreement to the Southwest Airlines Co. Airport Use Agreement dated September 15, 1998 a copy of which is attached as Exhibit "E".

Section 4.04. Landing Fee Rate

- A. The Total Costs of the Airfield cost center will be calculated by adding together the following amounts:
1. Direct and indirect Maintenance and Operating Expenses allocable to the Airfield
 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airfield
 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airfield
 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airfield on or after July 1, 1997
 5. Interest on the City's investment in Airfield land
 6. Deferred Maintenance Charges allocable to the Airfield
 7. All costs allocable to the sanitary disposal facilities (tritulators)
- B. The Net Costs of the Airfield Area will then be calculated by subtracting revenues from nonsignatory operator landing fees, fuel flowage fees, and field use fees. The signatory airline landing fee rate will then be calculated by dividing the Net Costs of the Airfield Area by the total aircraft landed weight of all signatory airlines.
- C. The nonsignatory landing fee rate will be set at 125% of the signatory airline landing fee rate.

Section 4.05 Airline Services Building

The Total Costs of the Airline Services Building will be calculated by adding together the following amounts:

1. Direct and indirect Maintenance and Operating Expenses allocable to the Airline Services Building
2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airline Services Building
3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airline Services Building

4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airline Services Building on or after July 1, 1997
5. Deferred Maintenance Charges allocable to the Airline Services Building

The annual rental rate for the Airline Services Building will then be calculated by dividing the Total Costs allocable to the Airline Services Building by the gross area of the Airline Services Building.

Section 4.06. Mid-Year Rate Adjustment

In the event that, at any time during a Fiscal Year, City estimates that the Total Costs of the Airfield Area or any of the terminal cost centers, or the aggregate Total Landed Weight of all airlines, will vary ten percent (10%) or more from the estimates used in setting the landing fee rate and terminal rental rates at the beginning of the Fiscal Year, such rates may be adjusted either up or down for the balance of such Fiscal Year, provided that such adjustment is deemed necessary by City. City shall provide Airline with notice of a meeting, for the purpose of presenting any such rate adjustment, along with a written explanation of the basis for such rate adjustment, thirty (30) days prior to putting such adjustment into effect. Unless extraordinary circumstances warrant additional adjustments, City will seek to limit such mid-year rate adjustments to no more than once each Fiscal Year.

Section 4.07. Year-End Adjustment to Actual and Settlement

- A. On or about 180 days following the close of each Fiscal Year, City shall furnish Airline with an accounting of the costs and expenses actually incurred, revenues and other credits actually realized (reconciled to the audited financial statements of the Airport System), and actual enplaned passengers and landed weights during such Fiscal Year with respect to each of the components of the calculation of terminal rental rates, the landing fee rate, and other rental rates in this Section 4 and shall recalculate the rates, fees, and charges required for the Fiscal Year based on those actual costs and revenues. City shall then provide notice of a meeting, within 30 days after completion of audit, to discuss the calculation of the year-end settlement and shall give due consideration to the comments and suggestions made by the signatory airlines before finalizing the settlement calculations.
- B. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were more than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such excess amount shall be credited to Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.

- C. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were less than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such deficiency shall be paid by Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- D. For final settlement purposes all calculations will be made on the basis of actual costs and expenses incurred and will be provided to Airline as soon as possible following the completion of the annual audit of the Airport's financial statements.
- E. The settlement for the first half of the last calendar year rates and charges, January 1 – June 30, 1998 will be settled during the period, April 1 – December 31, 1999. This settlement period applies to this stub period only.
- F. It is understood and agreed by the parties hereto that, while the rates billed for the period July 1-December 31, 1998, are the rates previously established for calendar year 1998, the settlement for the Fiscal Year ending June 30, 1999, shall be based on the methodology set forth in this Second Amendatory Agreement applied to the full Fiscal Year 1999 (July 1, 1998 - June 30, 1999).

SECTION 5 – STATISTICAL REPORT

Airline shall furnish City, without demand therefore, on or before the 10th day of each month, a written report showing Airline's actual revenue producing arrivals and enplaned passengers at the Airport during the preceding calendar month, which report shall include the number, the type of aircraft and the maximum gross certificated landed weight of each aircraft type. The number of arrivals so operated at the Airport multiplied by the applicable maximum certificated landing weight for each type of aircraft shall determine the total landed weight for which monthly payment of landing fees shall be made. Airline shall also report the number and type of off-line aircraft serviced by it in order that City can make the appropriate billing.

SECTION 6 – CAPITAL IMPROVEMENTS

Section 6.01. Review of Proposed Capital Improvements

In conjunction with the submission of the draft operating budget in Section 4.01(B) hereof, City shall submit a list of proposed Capital Improvements for the ensuing Fiscal Year together with the estimated Net Costs of those Capital Improvements and shall request airline Majority-in-Interest approval of such proposed Capital Improvements. (This regular process will not preclude City from requesting Majority-in-Interest approval of other proposed Capital Improvements at other times during a Fiscal Year if circumstances warrant.) Airline review of proposed Capital Improvements in the terminal building cost centers shall be governed by Section 306

of the Airport Use Agreement. Airline review of proposed Capital Improvements in the Airfield Area shall be governed by Section 306 of the Airport Use Agreement, however where such provision states "calendar year" it shall be deemed to read "Fiscal Year".

Section 6.02. Increases in Costs of Proposed Capital Improvements

If, after the receipt of initial bid(s) or anytime thereafter, the Net Cost of a particular Capital Improvement exceeds the Majority-In-Interest approved cost of that particular Capital Improvement by greater than five percent (5.0%) or \$100,000, whichever is less, then the City shall convene a meeting with the Airlines, if the Airlines so desire, within thirty (30) days of receipt of initial bid(s) to determine whether to:

- i. request MII approval to fund the increase through rates and charges;
- ii. request MII approval to reduce the scope of the Capital Improvement in order to be within the original MII approval amount;
- iii. fund the increase in the Net Cost of the Capital Improvement from the Capital Improvement Fund, or other sources acceptable to the Airlines, at no additional cost to the Airlines; or
- iv. not proceed with the project

The City will immediately notify the Airlines, in writing, of any estimated increase in the Net Cost of a particular Capital Improvement, regardless of whether MII approval is required. The notice shall include an explanation for the estimated increase as well as identify the funding sources.

SECTION 7 – MISCELLANEOUS PROVISIONS

Section 7.01. Calendar Year to Fiscal Year

Wherever the Agreements refer to the term "calendar year" it shall be deemed to be "Fiscal Year" as defined hereunder.

Section 7.02. Effect on Agreements

All other terms, covenants and conditions of the Agreements not inconsistent with this Second Amendatory Agreement are unchanged and are hereby ratified and approved and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement the day and year first above written.

Pursuant to City of St. Louis Ordinance approved , .

UNITED AIRLINES, INC.

Title: Date

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT ST. LOUIS
INTERNATIONAL AIRPORT:

The foregoing Agreement was approved by the Airport Commission at its meeting on

Commission Chairman Date

And Director of Airports

The foregoing Agreement was approved by the Board of Estimate and Apportionment
at its meeting on

Secretary Date

Board of Estimate & Apportionment

APPROVED AS TO FORM COUNTERSIGNED

City Counselor Date Comptroller Date

City of St. Louis City of St. Louis

ATTEST

Register Date

City of St. Louis

FOURTH AMENDATORY AGREEMENT
REGARDING RATES AND CHARGES PROCEDURES
LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT

This Fourth Amendatory Agreement, made and entered into this day of , , by and between the City of St. Louis, a municipal corporation of the State of Missouri (the "City") and US Airways, Inc., a corporation organized and existing under and by virtue of the laws of the State of Delaware (the "Airline").

WITNESSETH:

WHEREAS, City and Airline have previously entered into several agreements (collectively, the "Agreements") to lease and use areas of Lambert-St. Louis International Airport (the "Airport") consisting of:

Allegheny Airlines, Inc. (Allegheny) Airport Use Agreement (Lease AL-1) dated August 1, 1965,

Allegheny's Amendatory Agreement for Concourse Improvements and Terminal Expansion dated August 1, 1975,

Allegheny's Second Amendatory Agreement for Concourse Improvements and Terminal Expansion dated January 1, 1977, these three agreements with Allegheny having been assumed by Airline,

Airline's Third Amendatory Agreement for Concourse Improvements dated June 30, 1982,

Piedmont Aviation, Inc. (Piedmont) Airport Use Agreement (Lease AL-181) (Piedmont AUA) dated July 1, 1985, this agreement with Piedmont having been assumed by Airline; and

WHEREAS, the Agreements set forth certain definitions and procedures for calculating and periodically adjusting airline rates and charges at the Airport; and

WHEREAS, by this Fourth Amendatory Agreement, City and Airline desire to amend but not terminate the Agreements with respect to the definition of certain terms and the procedures to be used in calculating airline rates and charges at the Airport;

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between City and Airline as follows:

SECTION 1 – GENERAL

The purpose and intent of this Fourth Amendatory Agreement is to supplant and replace those provisions of the Agreements that address the procedures for the calculation of airline rates and charges at the Airport. The intent of the parties is (1) to clarify and consolidate in one place the rates and charges provisions of the Agreements, (2) to change the rates and charges adjustment process from a Calendar Year to a Fiscal Year basis and (3) to change the method of recovery of the costs of Capital Improvements from "depreciation + interest" charges to "amortization" charges. It is further the intent of the parties that all other substantive aspects of the current rates and charges provisions remain unchanged unless in conflict with the provisions of this Fourth Amendatory Agreement. In the event of such a conflict this Fourth Amendatory Agreement's provisions shall control. Those provisions to be supplanted and replaced include but are not limited to: Article III of the Airport Use Agreement, Sections I and IV of the Amendatory Agreement, Section II of the Second Amendatory Agreement and Section II of the Third Amendatory Agreement.

SECTION 2 – DEFINITIONS

The following words and phrases, wherever used in this Fourth Amendatory Agreement, shall, for the purpose of this Fourth Amendatory Agreement, have the following meanings:

- A. "Airport Cost Centers" means the direct cost areas to be used in accounting for Airport costs for the purposes of calculating compensatory rates and charges hereunder, as depicted in Exhibit "A", Airport Layout and Airfield Cost Center Plan, and Exhibit "B", Terminal Area Cost Center Plan which are attached hereto and incorporated herein, as such areas now exist or may hereafter be modified or expanded and as more particularly described below:
 - 1. "Main Terminal" means the main terminal portion of the terminal complex, together with the upper level terminal roadway which forms the roof of the middle level facilities (baggage claim and administrative office areas).
 - 2. "Terminal Expansion" means the extended portion of the terminal complex, currently used as an airline club, constructed as part of the 1996 "Terminal Expansion and B/C Connector" project.
 - 3. "Concourses A/B/C" means Concourse A, Concourse B, and Concourse C (exclusive of the Concourse C extension).
 - 4. "Concourse C Extension" means the extended portion of concourse C constructed as part of the 1981 "East Concourse Extension" project.
 - 5. "Concourse D" means Concourse D constructed as part of the 1983 "Concourse Addition and Improvements" project.

6. "East Connector" means the space in the connector concourse between the Main Terminal and Concourse D constructed as part of the 1975 "Concourse Improvements and Terminal Expansion" project.
 7. "East Terminal" means the new East Terminal building.
 8. "International Area" means the federal inspection services (FIS) area, Gates E29, E31, and E33 and associated office and operation space, which are operated for the City through an agency agreement.
 9. "Airfield" means the runways, taxiways, and apron areas, navigational aids, hazard designation and warning devices, airfield security roads and fencing, blast fencing, lighting, clear zones and safety areas for landing, taking off and taxiing of aircraft, aviation easements, including land utilized in connection therewith or acquired for such future purpose, and facilities, the acquisition, construction or installation cost of which is wholly or partially paid by the City, as depicted in Exhibit "A".
 10. "Airline Services Building" means that building apart from the Terminal Complex, used to service airline equipment.
- B. "Amortization" means the level annual charge required to recover the Net Cost of a Capital Improvement over the Useful Life of such Capital Improvement at the City's Cost of Capital.
- C. "Capital Improvement" means any improvement or capital asset acquired or constructed by City at the Airport which has a Net Cost in excess of \$10,000 and a Useful Life in excess of three years or a Net Cost in excess of \$25,000 with a useful life in excess of one year.
- D. "Cost of Capital" means (a) for Capital Improvements financed with Airport System Revenue Bonds, the effective interest rate (the "true interest cost" or "TIC") on the Bonds used to finance the particular Capital Improvement and (b) for Capital Improvements financed with other Airport funds, the current Revenue Bond Index of 22-year+, "A" rated bonds published daily in the Wall Street Journal (or successor publication thereto), as of the date the Capital Improvement is placed in service. However, for the purpose of developing annual rates and charges, the rate index nearest to the date of the rate setting will be used.
- E. "Deferred Maintenance Charge" means the amount to be charged to the airline rate base to fund and replenish City's reserve for deferred maintenance, which charge shall be limited to \$150,000 per year and allocated sixty percent (60%) to the Airfield, thirty percent (30%) to the terminal building (and further allocated to individual terminal cost centers based on Gross Space), and ten

percent (10%) to other buildings and facilities. City's reserve for deferred maintenance shall not exceed \$750,000 in the aggregate.

- F. "Depreciation and Interest Charges" means annual depreciation charges associated with Airport assets placed in service on or before June 30, 1997, as determined from the Airport's Fixed Asset Database, unless otherwise excluded pursuant to any prior amendatory Agreements.
- G. "Fiscal Year" refers to City's fiscal year and means the twelve-month period commencing July 1 and extending through June 30 of the following calendar year, or such other fiscal year as City may establish by ordinance.
- H. "Fixed Asset Database" means the database maintained by the Airport to record historical investments in Airport fixed assets, as documented in the report, "Fixed Asset Database and Calculation of FY 1998-99 Depreciation and Interest Charges" dated June 1, 1998, which report is incorporated herein by reference.
- I. "Gross Space" means every square foot of space, measured from the inside of perimeter walls and from the centerline of interior partitions, including but not necessarily limited to leasable, public, concession, City administrative, mechanical and janitorial areas.
- J. "Interest on Assets Financed with Airport Funds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with Airport funds (other than bond proceeds), as documented in the Fixed Asset Database. Such interest charges will be calculated based on the mid-life value (50%) of the City's investment in depreciable assets, unless otherwise excluded pursuant to the First Amendatory Agreement.
- K. "Interest on Assets Financed with Bonds" means interest charges associated with Airport assets placed in service on or before June 30, 1997, and financed with bond proceeds (other than airport funds), as documented in the report, "Analysis of the Impact of Bond Refinancings on Airline Rates and Charges" dated March 17, 1995, as supplemented by letter dated April 4, 1995, which report and letter are incorporated herein by reference.
- L. "Maintenance and Operating Expenses" means all reasonable and necessary current expenses of City, paid or accrued, in operating, maintaining, repairing, and administering the Airport as depicted on Exhibit D; including, without necessarily limiting thereto, salaries and wages, fringe benefits, materials and supplies used for current operations, equipment purchases (items costing \$10,000 or less per item), contractual services, utilities, professional services, police protection services, fire protection services, administrative expenses, insurance premiums, charges of any paying agents and any other depository bank pertaining to the Airport, the payment to the City of 5% of the gross receipts of the Airport as required by Section 504(B) of the Airport's master revenue bond trust indenture, as well as charges by the City for administrative

expenses of other City departments whose services are directly related or reasonably allocable to the administration of the Airport; provided, however, Maintenance and Operating Expenses shall not include any allowance for depreciation, payments in lieu of taxes, Capital Improvements, or any charges for the accumulation of reserves for capital replacements. Maintenance and Operating Expenses shall be fairly allocated among Airport Cost Centers in accordance with generally accepted cost accounting practices.

- M. "Majority-in-Interest" means, unless otherwise indicated in this Fourth Amendatory Agreement, those scheduled airlines (but in no event less than fifty percent (50%) of the number of scheduled airlines who have executed agreements similar to or substantially the same as the 1965 Airport Use Agreement, as amended), who have on the date in question, more than fifty percent (50%) of the aggregate revenue aircraft weight landed at the Airport during the immediately preceding Fiscal Year.
- N. "Net Cost" means, with respect to a Capital Improvement, the total cost of the Capital Improvement (including actual construction costs; architectural and engineering fees, program management fees, testing and inspection fees, construction management fees, permit fees, and other direct or allocable fees; interest during construction; and allocable out-of-pocket financing costs) less any federal or state grants-in-aid or passenger facility charge resources used in financing the Capital Improvement.
- O. "Off-Line Aircraft" means, any aircraft operated by an entity other than Airline.
- P. "Useful Life" means the estimated period of time that a Capital Improvement is to be recovered through the Amortization process. Useful Lives will be assigned to Capital Improvements based on generally accepted airport accounting practices, as shown on the attached Exhibit C.

SECTION 3 – RENTALS AND FEES

Section 3.01. General

Airline agrees to pay City for the use of the premises, facilities, rights, licenses, services and privileges granted hereunder the following rentals, fees and charges, designated in the following paragraphs of this Section 3. In the event that the commencement or termination of the term with respect to any of the particular premises, facilities, rights, licenses, services or privileges as herein provided falls on any date other than the first or last day of a calendar month, the applicable rentals, fees and charges shall be paid for said month pro rata according to the number of days in that month during which said particular premises, facilities, rights, licenses, services or privileges were enjoyed.

Section 3.02. Terminal Building Rentals

- A. Airline shall pay City, for its exclusive and/or preferential use space in the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, East Connector, and International Area, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- B. Airline shall pay City, for its share of non-exclusive use space (baggage claim, baggage makeup and security checkpoint areas) in the Main Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.02 hereof.
- C. Airline shall pay City, for its exclusive and/or preferential use space in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.
- D. Airline shall pay City, for its share of shared use space (baggage claim, inbound baggage and security checkpoint areas) in the East Terminal, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.03 hereof.

Section 3.03. Landing Fees

Airline shall pay City for its use of the Airfield, monthly landing fees based on the landing fee rate calculated each Fiscal Year in accordance with Section 4.04 hereof.

Section 3.04 Other Rentals

Airline Services Building. Airline shall pay City, for its exclusive and/or preferential use space in the Airline Services Building, monthly rentals computed based on the annual compensatory rental rates calculated each Fiscal Year in accordance with Section 4.05 hereof.

Section 3.05. Other Fees and Charges

- A. Utilities. Airline shall pay all water, sewage, electricity, gas and other utility charges which may be reasonably assessed by City for Airline's use of its leased premises and Airline-installed equipment.
- B. Other Services. Airline shall pay all charges which may be reasonably assessed by City for other services that may be provided by City to Airline from time to time.

Section 3.06. Payment Provisions

- A. Terminal Building Rentals. Rentals for exclusive and/or preferential use Main Terminal and concourse space and exclusive and/or preferential use space in

the East Terminal shall be due and payable on the first day of each month based on invoices provided by City. Rentals for non-exclusive use space in the Main Terminal and shared use space in the East Terminal shall be due and payable within twenty (20) days of the date of an invoice from the City.

- B. Landing Fees. Landing fees for each month shall be due and payable within 15 days of receipt of City's invoice, which invoice shall be based on the landed weights reported in Airline's statistical report for the applicable month as required in Section 5 hereof.
- C. Other Fees. All other rentals, fees, and charges required hereunder shall be due and payable within twenty (20) days of the date of the invoice therefor.
- D. Right of City to Verify Airline's Payment. The acceptance of any payment made by Airline shall not preclude City from verifying the accuracy of Airline's report and computations or from recovering any additional payment actually due from Airline, or preclude Airline from later demonstrating that Airline's report was inaccurate and that a lesser amount was properly owed and from recovering any such overpayment.
- E. Form of Payment. Payments shall be made to the order of "Treasurer, City of St. Louis" and shall be mailed to the Airport Assistant Director of Finance, P.O. Box 10036, Lambert Station, St. Louis, Missouri, 63145 or such other place as may be designated by the Director from time to time. City and Airline may cooperate in the development of a procedure for the electronic transfer of funds as the preferred method of payment.

SECTION 4 – RECALCULATION OF AIRLINE RATES AND CHARGES

Section 4.01. General

- A. Effective July 1, 1998 (for the Fiscal Year ending June 30, 1999), and for each Fiscal Year thereafter, airline rates and charges will be recalculated based on the principles and procedures set forth in this Section; provided, however, that, for the period July 1 to December 31, 1998, rates shall be assessed at the previously established rates for Calendar Year 1998, and the rates calculated for the Fiscal Year ending June 30, 1999 shall be placed into effect on January 1, 1999. The methodology for the calculation of airline rentals and fees described in this Section is illustrated in the report entitled "Calculation of Airline Rates and Charges—Fiscal Year 1998-99, Lambert-St. Louis International Airport," dated December 4, 1998, which report is incorporated herein by reference.
- B. On or about March 1 of each year, City shall provide Airline with the Airport's draft operating budget for the ensuing fiscal year. Within thirty (30) days of providing Airline with the draft operating budget, City shall provide notice of a

meeting, at which Airline shall have the opportunity to comment on the Airport's draft operating budget.

- C. On or about April 1 of each year, Airline shall provide the Airport with its estimate of its total landed weight for the ensuing Fiscal Year.
- D. On or about May 1 of each year, City shall provide Airline with the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. For rate setting purposes, the calculations will be made on the basis of costs, expenses, and other factors estimated by City and estimates of total landed weight provided by the signatory airlines (or by City to the extent that certain signatory airlines fail to provide their estimates of landed weight).
- E. On or about June 1 of each year, City shall provide notice of a meeting for the purpose of City presenting the Airport's preliminary calculation of airline rates and charges for the ensuing Fiscal Year. City shall give due consideration to the comments and suggestions made by Airline and the other airlines at that meeting. Based on consideration of those comments and suggestions, and upon the Airport's final operating budget approved by the City's Board of Aldermen, City shall prepare a final calculation of airline rates and charges for the ensuing Fiscal Year and provide a copy to Airline no later than the last working day of the month preceding the start of the Fiscal Year. The rates and charges contained in City's final calculation of airline rates and charges shall become effective as of July 1—the first day of the ensuing Fiscal Year.

Section 4.02. Terminal Rental Rates Other Than East Terminal

- A. For each cost center of the terminal complex other than the East Terminal (i.e., the Main Terminal, Terminal Expansion, Concourses A/B/C, Concourse C Extension, Concourse D, the East Connector, and the International Area) the Total Costs of the cost center will be calculated by adding together the following amounts:
 - 1. Direct and indirect Maintenance and Operating Expenses allocable to the particular cost center
 - 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the particular cost center
 - 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the particular cost center
 - 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the particular cost center on or after July 1, 1997
 - 5. Deferred Maintenance Charges allocable to the particular cost center

Costs and expenses allocable to the terminal building but not assignable to any particular terminal cost center shall be allocated among the terminal cost centers based on Gross Space.

- B. The annual rental rate for each cost center other than the International Area will then be calculated by dividing the Total Costs allocable to the particular cost center by the Gross Space in the particular cost center. City shall establish rates for the use of the International Area by ordinance.

Section 4.03 Rental Rate for the East Terminal

The annual rental rate for the East Terminal will be calculated in accordance with the Second Amendatory Agreement to the Southwest Airlines Co. Airport Use Agreement dated September 15, 1998 a copy of which is attached as Exhibit "E".

Section 4.04. Landing Fee Rate

- A. The Total Costs of the Airfield cost center will be calculated by adding together the following amounts:
 - 1. Direct and indirect Maintenance and Operating Expenses allocable to the Airfield
 - 2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airfield
 - 3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airfield
 - 4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airfield on or after July 1, 1997
 - 5. Interest on the City's investment in Airfield land
 - 6. Deferred Maintenance Charges allocable to the Airfield
 - 7. All costs allocable to the sanitary disposal facilities (tritulators)
- B. The Net Costs of the Airfield Area will then be calculated by subtracting revenues from nonsignatory operator landing fees, fuel flowage fees, and field use fees. The signatory airline landing fee rate will then be calculated by dividing the Net Costs of the Airfield Area by the total aircraft landed weight of all signatory airlines.
- C. The nonsignatory landing fee rate will be set at 125% of the signatory airline landing fee rate.

Section 4.05 Airline Services Building

The Total Costs of the Airline Services Building will be calculated by adding together the following amounts:

1. Direct and indirect Maintenance and Operating Expenses allocable to the Airline Services Building
2. Amortization of the net cost of budgeted equipment purchases which cost \$10,000 or more per item and which are allocable to the Airline Services Building
3. Depreciation and interest charges associated with assets in service as of June 30, 1997, which are assigned or allocated to the Airline Services Building
4. Amortization of the net cost of each Capital Improvement placed in service in, or allocated to, the Airline Services Building on or after July 1, 1997
5. Deferred Maintenance Charges allocable to the Airline Services Building

The annual rental rate for the Airline Services Building will then be calculated by dividing the Total Costs allocable to the Airline Services Building by the gross area of the Airline Services Building.

Section 4.06. Mid-Year Rate Adjustment

In the event that, at any time during a Fiscal Year, City estimates that the Total Costs of the Airfield Area or any of the terminal cost centers, or the aggregate Total Landed Weight of all airlines, will vary ten percent (10%) or more from the estimates used in setting the landing fee rate and terminal rental rates at the beginning of the Fiscal Year, such rates may be adjusted either up or down for the balance of such Fiscal Year, provided that such adjustment is deemed necessary by City. City shall provide Airline with notice of a meeting, for the purpose of presenting any such rate adjustment, along with a written explanation of the basis for such rate adjustment, thirty (30) days prior to putting such adjustment into effect. Unless extraordinary circumstances warrant additional adjustments, City will seek to limit such mid-year rate adjustments to no more than once each Fiscal Year.

Section 4.07. Year-End Adjustment to Actual and Settlement

- A. On or about 180 days following the close of each Fiscal Year, City shall furnish Airline with an accounting of the costs and expenses actually incurred, revenues and other credits actually realized (reconciled to the audited financial statements of the Airport System), and actual enplaned passengers and landed weights during such Fiscal Year with respect to each of the components of the calculation of terminal rental rates, the landing fee rate, and other rental rates in

this Section 4 and shall recalculate the rates, fees, and charges required for the Fiscal Year based on those actual costs and revenues. City shall then provide notice of a meeting, within 30 days after completion of audit, to discuss the calculation of the year-end settlement and shall give due consideration to the comments and suggestions made by the signatory airlines before finalizing the settlement calculations.

- B. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were more than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such excess amount shall be credited to Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- C. In the event that Airline's rentals, fees, and charges billed during the Fiscal Year were less than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such deficiency shall be paid by Airline in equal monthly installments over the next consecutive six (6) month period following the settlement meeting.
- D. For final settlement purposes all calculations will be made on the basis of actual costs and expenses incurred and will be provided to Airline as soon as possible following the completion of the annual audit of the Airport's financial statements.
- E. The settlement for the first half of the last calendar year rates and charges, January 1 – June 30, 1998 will be settled during the period, April 1 – December 31, 1999. This settlement period applies to this stub period only.
- F. It is understood and agreed by the parties hereto that, while the rates billed for the period July 1-December 31, 1998, are the rates previously established for calendar year 1998, the settlement for the Fiscal Year ending June 30, 1999, shall be based on the methodology set forth in this Fourth Amendatory Agreement applied to the full Fiscal Year 1999 (July 1, 1998 - June 30, 1999).

SECTION 5 – STATISTICAL REPORT

Airline shall furnish City, without demand therefore, on or before the 10th day of each month, a written report showing Airline's actual revenue producing arrivals and enplaned passengers at the Airport during the preceding calendar month, which report shall include the number, the type of aircraft and the maximum gross certificated landed weight of each aircraft type. The number of arrivals so operated at the Airport multiplied by the applicable maximum certificated landing weight for each type of aircraft shall determine the total landed weight for which monthly payment of landing fees shall be made. Airline shall also report the number and type of off-line aircraft serviced by it in order that City can make the appropriate billing.

SECTION 6 – CAPITAL IMPROVEMENTS

Section 6.01. Review of Proposed Capital Improvements

In conjunction with the submission of the draft operating budget in Section 4.01(B) hereof, City shall submit a list of proposed Capital Improvements for the ensuing Fiscal Year together with the estimated Net Costs of those Capital Improvements and shall request airline Majority-in-Interest approval of such proposed Capital Improvements. (This regular process will not preclude City from requesting Majority-in-Interest approval of other proposed Capital Improvements at other times during a Fiscal Year if circumstances warrant.) Airline review of proposed Capital Improvements in the terminal building cost centers shall be governed by Section V of the Amendatory Agreement and Section of 306 of the Piedmont AUA. Airline review of proposed Capital Improvements in the Airfield Area shall be governed by Section IV of the Third Amendatory Agreement and Section 306 of the Piedmont AUA, however where such provision states "calendar year" it shall be deemed to read "Fiscal Year".

Section 6.02. Increases in Costs of Proposed Capital Improvements

If, after the receipt of initial bid(s) or anytime thereafter, the Net Cost of a particular Capital Improvement exceeds the Majority-In-Interest approved cost of that particular Capital Improvement by greater than five percent (5.0%) or \$100,000, whichever is less, then the City shall convene a meeting with the Airlines, if the Airlines so desire, within thirty (30) days of receipt of initial bid(s) to determine whether to:

- i. request MII approval to fund the increase through rates and charges;
- ii. request MII approval to reduce the scope of the Capital Improvement in order to be within the original MII approval amount;
- iii. fund the increase in the Net Cost of the Capital Improvement from the Capital Improvement Fund, or other sources acceptable to the Airlines, at no additional cost to the Airlines; or
- iv. not proceed with the project

The City will immediately notify the Airlines, in writing, of any estimated increase in the Net Cost of a particular Capital Improvement, regardless of whether MII approval is required. The notice shall include an explanation for the estimated increase as well as identify the funding sources.

SECTION 7 – MISCELLANEOUS PROVISIONS

Section 7.01. Calendar Year to Fiscal Year

Wherever the Agreements refer to the term "calendar year" it shall be deemed to be "Fiscal Year" as defined hereunder.

Section 7.02. Effect on Agreements

All other terms, covenants and conditions of the Agreements not inconsistent with this Fourth Amendatory Agreement are unchanged and are hereby ratified and approved and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement the day and year first above written.

Pursuant to City of St. Louis Ordinance approved , .

US AIRWAYS, INC.

Title: Date

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT ST. LOUIS INTERNATIONAL AIRPORT:

The foregoing Agreement was approved by the Airport Commission at its meeting on

Commission Chairman Date

And Director of Airports

The foregoing Agreement was approved by the Board of Estimate and Apportionment at its meeting on

Secretary Date

Board of Estimate & Apportionment

APPROVED AS TO FORM COUNTERSIGNED

City Counselor Date Comptroller Date

City of St. Louis City of St. Louis

ATTEST

Register Date

City of St. Louis

ATTACHMENT "1"

RELEASE OF AN INTEREST IN LAND

WITNESSETH THAT:

WHEREAS, BI-STATE DEVELOPMENT AGENCY OF THE MISSOURI-ILLINOIS METROPOLITAN DISTRICT (the "Grantor" or "Bi-State"), a body politic and corporation organized and existing pursuant to Chapter 70 of the Revised Statutes of Missouri, as amended, with offices located at 707 N. First Street, St. Louis, Missouri 63102, by an Easement Agreement dated July 23, 1993 and recorded in the Recorder's office, in and for the County of St. Louis, State of Missouri 63103, in Book 09936 at Page 1705-1713, (the "Easement Agreement") conveyed to THE CITY OF ST. LOUIS, a municipal corporation of the State of Missouri, with business offices located at 1200 Market Street, St. Louis, Missouri (the "Grantee" or "City"), an exclusive perpetual easement and right-of-way (the "Utility Easement") over, under, and across certain property of Bi-State more particularly described in EXHIBIT "A" attached hereto and incorporated herein by reference (the "Easement Area");

WHEREAS, the Utility Easement over, under, and across the Easement Area was granted and conveyed to the City for the purpose of installing, operating, and maintaining three (3) LDA Lead In Lights on and over the Easement Area, and for the purpose of doing any and all matters that are legal and lawful and that may be necessary or desirable in connection with the operation and maintenance of the LDA Lead In Lights as authorized and approved by the Federal Aviation Administration (the "FAA") on and over the Easement Area;

WHEREAS, the City and Bi-State desire to terminate the Easement Agreement as the LDA Lead In Lights have been decommissioned by the Federal Aviation Administration ("FAA") and the Easement Area has been restored by the City and the FAA to its original condition as required in Section 4 of the Easement Agreement; and

WHEREAS, the City and Bi-State do hereby agree that it is to their mutual benefit to terminate the Easement Agreement effective upon execution of this Release Of An Interest In Land by the City and Bi-State.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00) paid by Bi-State and other good and valuable consideration the sum of which is hereby acknowledged, does by these presents hereby RELEASE, ABANDON, REMISE, TRANSFER, CONVEY and QUIT CLAIM unto Bi-State, its successors

and assigns, the Easement Area and all interests and rights therein TO HAVE AND TO HOLD the same, with all appurtenances thereto belonging free and clear of any rights of the City, its successors or assigns under the Easement Agreement or any other rights of the City, its successors or assigns.

IN WITNESS WHEREOF, the City and Bi-State have caused this Release Of An Interest In Land to be executed on its behalf by their duly authorized representatives as of the date last written below.

APPROVED AS TO FORM: CITY OF ST. LOUIS:

Thomas J. Ray, Date Clarence Harmon, Date

City Counselor Mayor, City of St. Louis

ATTEST: CITY OF ST. LOUIS:

Rita M. Krapf, Date Darlene Green, Date

Register, City of St. Louis Comptroller, City of St. Louis

STATE OF MISSOURI)

) SS.

CITY OF ST. LOUIS)

On this day of , 2000, before me appeared Clarence Harmon and Darlene Green, to me personally known, who being by me duly sworn, did say that they are the Mayor and the Comptroller of the City of Saint Louis, respectively, and that the seal affixed to this instrument is the corporate seal of the City of St. Louis and that they are authorized to execute this instrument on behalf of the City of St. Louis, and acknowledge said instrument to be the free act and deed of the City of Saint Louis.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid, the day and year first above written.

Notary Public

My term expires:

THE BI-STATE DEVELOPMENT AGENCY OF

THE MISSOURI-ILLINOIS METROPOLITAN DISTRICT:

By:

Name Date

Title

ATTEST:

By:

Date

STATE OF MISSOURI)

) SS.

CITY OF ST. LOUIS)

On this day of , 2000, before me appeared , to me personally known, who being by me duly sworn, did say that he/she is the of the Bi-State Development Agency of the Missouri-Illinois Metropolitan District, a body politic and corporation organized and existing pursuant to Chapter 70 of the Revised Statutes of Missouri, as amended, that the seal affixed to the foregoing instrument is the corporate seal of said agency, and said ,acknowledge said instrument to be the free act and deed of said agency.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid, the day and year first above written.

Notary Public

My term expires:

The Exhibits for this Attachment have been intentionally omitted. The Exhibits for this Attachment are identical to the Exhibits for Attachment 1.

Exhibit Summary

Exhibit A – Airport Layout and Airfield Cost Center Plan

Exhibit B – Terminal Area Cost Center Plan

Exhibit C – Summary of Useful Lives – By Asset Category

Exhibit D – Division of Responsibility for Maintenance and Operation

Exhibit E – Second Amendatory Agreement to the Southwest Airlines Co. Airport Use Agreement dated September 15, 1998

Legislative History				
1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND
11/09/00	11/09/00	T&C		
2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
01/12/01			01/19/01	01/19/01
ORDINANCE	VETOED	VETO OVR	SIGNED BY MAYOR	
65140			01/26/01	