

10-R-1325

(Do Not Write Above This Line)

A RESOLUTION  
BY TRANSPORTATION COMMITTEE

A RESOLUTION AUTHORIZING THE MAYOR OR HIS DESIGNEE TO EXECUTE AN AGREEMENT TO AMEND AND EXTEND THE CPTC LEASE, USE AGREEMENT AND CERTAIN OTHER SPACE USE AGREEMENTS WITH UNITED AIR LINES, INC., AMERICAN AIRLINES, INC., CONTINENTAL AIRLINES, INC., AND US AIRWAYS, INC., ("SPOKE AIRLINES") COVERING THE EXTENSION OF THE TERM OF THE AGREEMENTS BY SEVEN YEARS ON THE TERMS AND CONDITIONS SPECIFIED THEREIN; AND FOR OTHER PURPOSES ADOPTED BY

JUL 19 2010

COUNCIL

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred

Referred To:

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First Reading

Committee \_\_\_\_\_  
 Date \_\_\_\_\_  
 Chair JA  
 Referred To \_\_\_\_\_

Committee  
TRANSPORTATION

Date  
7-14-10

Chair  
JA

Action  
Fav, Adv, Hold (see rev. side)  
Other

Members

[Signature]  
[Signature]  
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Refer To

Committee

Date

Chair

Action  
Fav, Adv, Hold (see rev. side)  
Other

Members

Refer To

Committee

Date

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Action  
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Other

Members

Refer To

Committee

Date

Chair

Action  
Fav, Adv, Hold (see rev. side)  
Other

Members

Refer To

FINAL COUNCIL ACTION  
 2nd     1st & 2nd     3rd  
 Readings  
 Consent     V Vote     RC Vote

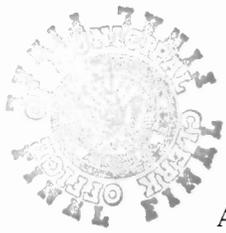
CERTIFIED

CERTIFIED  
 JUL 19 2010  
 ATLANTA CITY COUNCIL PRESIDENT  
[Signature]

CERTIFIED  
 JUL 19 2010  
 Ronda Daughin Johnson  
 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED  
 JUL 27 2010  
[Signature]  
 MAYOR



**A RESOLUTION  
BY TRANSPORTATION COMMITTEE**

**A RESOLUTION AUTHORIZING THE MAYOR OR HIS DESIGNEE TO EXECUTE AN AGREEMENT TO AMEND AND EXTEND THE CPTC LEASE, USE AGREEMENT AND CERTAIN OTHER SPACE USE AGREEMENTS WITH UNITED AIR LINES, INC., AMERICAN AIRLINES, INC., CONTINENTAL AIRLINES, INC., AND US AIRWAYS, INC., ("SPOKE AIRLINES") COVERING THE EXTENSION OF THE TERM OF THE AGREEMENTS BY SEVEN YEARS ON THE TERMS AND CONDITIONS SPECIFIED THEREIN; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City owns and operates the Hartsfield-Jackson Atlanta International Airport ("Airport"), located in the Counties of Fulton and Clayton, Georgia, on which there exists certain terminal buildings and concourse buildings and related facilities for the use of airlines engaged in the transportation of persons and property by scheduled and unscheduled aircraft service, such buildings and facilities are referred to as the Central Passenger Terminal Complex ("CPTC"); and

**WHEREAS**, the City and United Air Lines, Inc. ("United"), are parties to an Agreement and Lease of Premises ("CPTC Lease") dated June 1, 1984, as heretofore amended covering the occupancy and use by the Airline of certain premises and facilities in the CPTC; and

**WHEREAS**, the City and United are parties to an Airport Use Agreement ("AUA") dated December 18, 1984, as heretofore amended covering the use of the Airport; and

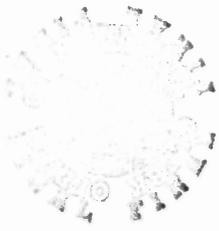
**WHEREAS**, the City and American Airlines, Inc. ("American"), are parties to a CPTC Lease dated June 21, 1985, as heretofore amended covering the occupancy and use by the Airline of certain premises and facilities in the CPTC; and

**WHEREAS**, the City and American are parties to an AUA dated December 18, 1984, as heretofore amended covering the use of the Airport; and

**WHEREAS**, the City and American are parties to certain other agreements with respect to disputes regarding the CPTC Lease; and

**WHEREAS**, the City and Continental Airlines, Inc. ("Continental"), are parties to a CPTC Lease dated May 6, 1985, as heretofore amended covering the occupancy and use by the Airline of certain premises and facilities in the CPTC; and

**WHEREAS**, the City and Continental are parties to an AUA dated August 21, 1987, as heretofore amended covering the use of the Airport; and



**WHEREAS**, the City and US Airways, Inc. ("US Air"), are parties to a CPTC Lease dated March 22, 1977, as heretofore amended covering the occupancy and use by the Airline of certain premises and facilities in the CPTC; and

**WHEREAS**, the City and US Air are parties to an AUA dated June 2, 1986, as heretofore amended covering the use of the Airport; and

**WHEREAS**, the City and US Air are parties to an HJAIA Lease dated January 8, 2009, covering the occupancy and use by the Airline of certain premises and facilities in the CPTC; and

**WHEREAS**, the City and Spoke Airlines desire to amend and extend the CPTC Leases, AUAs and HJAIA Leases.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA**, that the Mayor or his designee be and hereby is authorized to execute on behalf of the City of Atlanta the Agreements to Amend and Extend the CPTC Leases, Airport Use Agreements and Certain Other Space Use Agreements with the Spoke Airlines, substantially as the form attached as Exhibit A.

**BE IT FINALLY RESOLVED** that said Agreements to Amend and Extend the CPTC Leases, Airport Use Agreements and HJAIA Leases shall not become binding upon the City, and the City shall incur no obligation or liability thereunder until same have been signed by the Mayor and delivered to the Spoke Airlines.

A true copy,

*Rhonda Daughin Johnson*  
Municipal Clerk

ADOPTED by the Atlanta City Council  
APPROVED by Mayor Kasim Reed

JUL 19, 2010  
JUL 27, 2010

## EXHIBIT A

### NON-HUB SIGNATORY AIRLINE AGREEMENT TO AMEND AND EXTEND CPTC LEASES, USE AGREEMENTS AND CERTAIN OTHER SPACE USE AGREEMENTS

This Agreement (the "Agreement") to Amend and Extend the CPTC Lease (as defined below) and the Airport Use Agreement (as defined below) between XXXXXX ("Airline") and the City of Atlanta, Georgia (the "City"), and certain related matters, is made by and among Airline and the City as of \_\_\_\_\_, 2010.

**WHEREAS**, the City and Airline are parties to an Agreement and Lease of Premises, dated XXXXXX, and supplemental agreements and amendments thereto, as well as certain short term space permits (hereinafter collectively referred to as and now included as the "CPTC Lease") governing Airline's occupancy and use of facilities in the Terminal Building and Concourses of the Central Passenger Terminal Complex ("CPTC") at Hartsfield-Jackson Atlanta International Airport ("Airport"); and

**WHEREAS**, the City and Airline entered into an Airport Use Agreement, dated XXXXX, and various amendments approved by the City Council and executed by the parties (collectively the "Use Agreement"); and

**WHEREAS**, the CPTC Lease and the Use Agreement expire on September 20, 2010;  
and

**WHEREAS**, the City and Airline desire to extend the term of the CPTC Lease and Use Agreement; and

**WHEREAS**, the City and Airline desire to amend certain terms and conditions of the CPTC Lease and the Airline Use Agreement; and

**WHEREAS**, the parties also desire to address certain other matters as specified in this Agreement providing for use of premises at the CPTC by Airline.

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

#### ARTICLE I

#### GENERAL OBLIGATIONS



Section 1.1. Amendments to CPTC Lease and Use Agreement. The City and Airline hereby agree to amend and extend their respective CPTC Lease and Use Agreement in accordance with the terms and conditions of this Agreement.

Section 1.2. Prior Majority-in-Interest Approvals; Future Conflicts of Interest.

- (a) All airline Majority-in-Interest approvals previously granted under the CPTC Lease and Use Agreement shall continue to be valid and in full force and effect during the Extension Period, except to the extent (i) subsequently modified in writing or (ii) inconsistent with the provisions of this Agreement.
- (b) Reference is hereby made to that certain Majority-in-Interest approval received by the City in connection with a Master Plan submitted by the City to the Signatory Airlines in 1999 (the "1999 MII Approval") through a certain voting ballot and attachments (the "1999 Voting Ballot"). The parties recognize that as part of the 1999 MII approval process, the Signatory Airlines approved an implementation process (the "1999 Implementation Process") set forth in an attachment to the 1999 Voting Ballot titled "Attachment C: Review and Implementation Process for MII Approved Projects" pursuant to which an Executive Committee (consisting of the Aviation General Manager and the Chairman of an Airline Steering Committee) was given the authority to make certain binding decisions on the City and the Signatory Airlines. The parties hereby further recognize that the Executive Committee has met and made numerous decisions pursuant to the 1999 Implementation Process that are binding on the parties. The parties hereby confirm and ratify that the actions taken by the Executive Committee pursuant to the 1999 Implementation Process are binding on the City and the Signatory Airlines to the extent approved in documents executed by the Executive Committee representatives (identified as such in the documents) and have not been modified, superseded or repealed by further Executive Committee action, in documents executed by the Executive Committee representative (identified as such in the documents), or MII approvals or any applicable agreement. The parties hereby represent and warrant to each other that they do not know of any actions by the Executive Committee that are beyond the authority granted to the Executive Committee.
- (c) The 1999 Implementation Process shall continue to be valid and effective during the Extension Period.
- (d) In the event that Majority-in-Interest approval is required of a contract subject to competing bids, and a bid is submitted by an entity in which Airline has a material financial interest, Airline shall abstain from participation in the Majority-in-Interest approval relating to such contract until all other airlines have had the opportunity to submit their ballots (the "Disinterested Airlines"). Once the Disinterested Airlines have submitted their ballots, Airline shall be deemed to have cast their respective ballots in the same manner as the majority in number of the Disinterested Airlines. This same requirement shall apply to each airline



having a Majority-in-Interest vote with respect to a bid submitted by an entity in which such airline has a material financial interest. This voting restriction shall not apply with respect to any bid or proposal by the Atlanta Airlines Terminal Corporation ("AATC") or any multi-airline consortium or entity where each airline has an equal vote if all airlines entitled to a Majority-in-Interest vote shall each waive in writing their approval rights.

Section 1.3. Atrium Concession Dispute The City and Airline are parties to a dispute (the "Dispute") between the City and the CPTC Lease Contracting Airlines and Non-Hub Contracting Airlines over whether and to what extent the Contracting Airlines and Non-Hub Contracting Airlines are entitled to a share of concession revenues generated by concessions in the atrium area and obligated for a portion of the costs and expenses for such atrium area, which is located between the North and South Terminal Buildings (the "Atrium Area"). The City and Airlines agree to settle and resolve the Dispute as between themselves on the following basis:

- (a) The City and Airline agree for purposes of this settlement that the Contracting Airlines' and Non-Hub Contracting Airlines' share of Atrium Area past concession revenues under the CPTC Lease is deemed to be \$5.0 million. The City shall pay Airline its allocable share of such \$5.0 million as determined using Airline's combined average concession revenue credit percentage for the last eight (8) calendar years. Such payment will be made in six (6) equal monthly installments as credits against rent then due and owing and commencing approximately sixty (60) days after Closing, or sooner at the discretion of the City.
- (b) The City and Airline agree for purposes of this settlement that the City and Airline hereby release and forever discharge each other of and from any and all claims of any kind or nature whatsoever arising under the Dispute, whether known or unknown, suspected or unsuspected, which the City and Airlines ever had, now have or may have in the future resulting from, arising out of or in any way connected to the Dispute, including any claims for costs, expenses or attorneys' fees in connection with the Dispute.
- (c) Beginning on the date of Closing of this Agreement certain space in the Atrium Area as shown on Exhibit CC in Attachment 6 will be added to the CPTC Lease as Joint Leased Premises and City Reserved Space. Accordingly, Airline thereafter shall bear their proportionate share of imputed annual debt service requirement of \$1,310,026.65, and their proportionate share of operating and maintenance ("O&M") costs associated with the Joint Leased Premises commencing on the date of payment in full of its allocable share of the \$5 million as provided in 1.3(a) above. On the same date Airline shall also be entitled to their proportionate share of concession credits as provided for elsewhere in the CPTC Lease.
- (d) The provisions of the Settlement Agreement by and among the City of Atlanta, American Airlines, Inc. and Delta Air Lines, Inc. dated August 1, 1997 ("Settlement Agreement") requiring and related to Delta's use of its Concourse T gates for origin and destination ("O&D") service shall no longer be effective after



the Closing of this Agreement. Notwithstanding any provision in the CPTC Lease, until DBO of the MHJIT, international departures may be operated from Concourse T, subject to all necessary federal governmental approvals. The City hereby releases and forever discharges Delta of and from any and all claims of any kind or nature whatsoever arising from such uses by Delta, whether known or unknown, suspected or unsuspected, which the City ever had, now has or may have in the future resulting from, arising out of or in any way connected to such uses by Delta, including any claims for costs, expenses or attorneys' fees in connection therewith.

- (e) The above settlement shall not affect the rights or claims of the City and the other Contracting Airlines and Non-Hub Contracting Airlines with respect to such Dispute.

Section 1.4. Submission and Review by FAA; Resolution of FAA Objections. Unless the parties otherwise agree, upon execution of this Agreement, the parties agree to promptly and jointly present the Agreement to the FAA and to seek in good faith the FAA's confirmation in advance of September 20, 2010, that the Agreement complies with applicable legal and regulatory requirements. If the FAA at any time provides the City with written notice that certain provisions of the Agreement violate federal law or regulations or will cause the denial or withdrawal of federal funding, the City and Airline shall immediately meet and negotiate in good faith to attempt to resolve such objections in a manner that minimizes the adverse effect on the parties' rights and obligations under this Agreement and the underlying CPTC Lease and Use Agreement. In the event the City and Airline cannot agree on modifications of this Agreement which resolve such FAA objections within sixty (60) days after the receipt of written notice of such objections from the FAA, any party shall have the right to petition the United States District Court for the Northern District of Georgia (or if said court does not have or exercise jurisdiction there-over, then any other court of competent jurisdiction) seeking equitable reformation of this Agreement to most nearly achieve the intent of the parties with respect to this Agreement in a manner that resolves such FAA objections in a manner that minimizes the above-referenced adverse effect. Any party may elect to challenge in any administrative or judicial proceeding any such potentially adverse action, ruling or objection of the FAA.

Section 1.5. Other Airlines. Except as provided in this Agreement, the City may enter into other arrangements or agreements with other Signatory and non-Signatory Airlines as are mutually agreed by the City and such airline or airlines. Nothing in this Agreement shall limit Airline's rights under Section 9.35 of the CPTC Leases.

Section 1.6. Dispute Resolution. Except in respect to proceedings in unlawful detainer, in the event of any dispute, claim or controversy arising out of or relating to this Agreement (references in this Section to "Agreement" are deemed to also include the underlying CPTC Lease and Use Agreement) or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this commitment to arbitrate, the parties shall use their best efforts to settle the dispute by negotiation. If they do not reach a resolution within 60 days of written notice by either party of the existence of a dispute, then, upon written notice



by either party to the other, all disputes shall be finally settled by arbitration administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures (“JAMS Rules”) before a single arbitrator. In addition to any discovery permitted under the JAMS Rules and agreed to by the parties, each party to the arbitration may serve written interrogatories and requests for production on the other parties and each party may take up to five (5) depositions. To the extent the JAMS Rules conflict with anything in this provision, this provision governs. The hearing shall be held within six (6) months of JAMS’ receipt of written notice of a dispute arising under this provision. The parties intend that a decision be issued within 30 days after the close of the hearing. The place of arbitration shall be Atlanta, Georgia. This Agreement is governed by and all disputes arising under or in connection with this Agreement shall be resolved in accordance with the laws of the State of Georgia. The parties acknowledge that this agreement evidences a transaction involving interstate commerce. The United States Arbitration Act shall govern the interpretation, enforcement and proceedings pursuant to this agreement to arbitrate. The federal courts of the Northern District of Georgia shall have exclusive jurisdiction over any proceedings relating to the arbitration, including entry of judgment on the Award; provided, however, if said court does not have or exercise jurisdiction thereover, then relief may be sought in any other court of competent jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from the Northern District of Georgia (or from any other court of competent jurisdiction if the Northern District does not have or exercise jurisdiction).

Section 1.7. Support of Bond Offerings. Airline understands and acknowledges that the City has initiated the processes for the issuance, sale and delivery of General Airport Revenue Bonds (GARBs) for the purpose of refinancing existing airport debt (the “Refunding Bonds”) ,for new funding for the completion of MHJIT and for the construction of other projects impacting the Non-Hub Contracting Airlines contemplated herein. In consideration of the extension to the terms of the CPTC Lease and Use Agreement pursuant to this Agreement and the other matters addressed in this Agreement, Airline agrees to not oppose these transactions and any additional related financing transactions; provided, however, that in no event shall Airline have any obligation to make any statement or take any action that it is advised by counsel would constitute a violation of applicable laws. The City shall have the right upon the issuance of the Refunding Bonds, such bonds to have the maximum legally permissible term that does not exceed thirty (30) years (subject to any limitations (i) on the maximum legally permissible term of such bonds in accordance with the State of Georgia bond laws or the provisions of the Internal Revenue Code and the regulations promulgated thereunder, or (ii) the maximum permissible term of such bonds in accordance with generally accepted accounting principles), to include the annual Refunding Bonds level debt service amortization amount plus a twenty (20) percent coverage in the airlines’ rate base.

Section 1.8 Non-Hub Contracting Airline Preferential Gates, Non-Hub Contracting Airline Preferential Space and Non-Hub Contracting Airline Common Use Aircraft Gates and Related Space. The intent of the parties is that all Non Hub Contracting and Non-Hub Signatory Airlines executing this Agreement will optimize, relocate and consolidate its airline operations to gates and related support space on Concourse T North at the Hartsfield-Jackson Atlanta International Airport. In exchange for the Non-Hub Contracting Airlines financial commitment to pay for its share of the costs allocable to the optimization and expansion of Concourse T North as outlined in Section 1.11 below, the Aviation General Manager shall designate, upon expiration of the Non Hub Airline CPTC Lease Extension Agreement

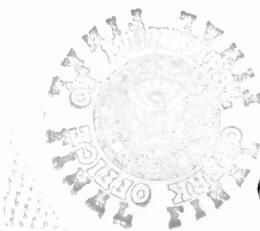
EXHIBIT A 7-2-2010



CPTC Leases, certain former CPTC leasehold space and certain CPTC leasehold gates under lease or use by a Non-Hub Contracting Airline as depicted in Attachment 2, XX, and XX as Non – Hub Contracting Airline Preferential Gates, Non-Hub Contracting Airline Preferential Space and Non- Hub Contracting Airline Common Use Aircraft Gates. Such space will be assigned to Non-Hub Contracting or Non-Hub Signatory Airlines as defined herein. It is also the intent of the parties to optimize and expand Concourse T North (“The Concourse T North Expansion Project”) immediately following the expiration of the existing CPTC Lease (“The Expansion Period”) so as to accommodate the Non-Hub Contracting/Signatory Airlines as of the Effective Date of this Extension Agreement within the optimized and expanded Concourse T facility. With respect to any Non – Hub Contracting Airline Preferential Gates and Non-Hub Contracting Airline Preferential Space, rates and charges shall be determined on the same basis as CPTC Lease Preferential Use Premises. Gate(s) initially designated as Non-Hub Contracting Airline Common Use Gate(s) may in the future be designated as Non-Hub Contracting Airline Preferential Gate(s).

Section 1.9 Concourse T North Expansion Project. The parties acknowledge that optimization and expansion of facilities located on Concourse T North will be required to accommodate the Non Hub Contracting/Signatory Airlines operations. Optimization and expansion shall include but will not be limited to the upgrade, renovation, expansion and construction of the necessary facilities to increase the number of Gated Aircraft Parking Positions as outlined in Section 1.10 below. Upgrades, renovation and construction will also be to generally improve the overall space and customer service by expanding passenger hold rooms, restrooms, concessions spaces and circulation areas as needed.

Section 1.10 Expansion Period –. The parties acknowledge that the optimization and expansion of Concourse T North required to accommodate the Non-Hub Contracting/Signatory Airlines’ operations will extend beyond the expiration of the existing CPTC Leases. Such period beyond the expiration of the aforementioned leases and until the full optimization and expansion of Concourse T North is complete shall be deemed the Expansion Period and shall be subdivided into four (4) phases; (i) Phase 1 – Facility Optimization; (ii) Phase 2 – Interim Customer Service and Operational Improvements; (iii) Phase 3 – Expansion and Widening of the Concourse to the West (where possible) and (iv) Phase 4 – Facility Expansion to the west from the North end of the Concourse to Include Additional Gated Aircraft Parking Positions . Upon execution of this Agreement by the Non-Hub Contracting Airlines as defined herein, the City agrees to provide a preliminary schedule and budget for Phase 1 and Phase 2 of the Concourse T North Expansion Project. It is the intent of the parties to immediately commence the necessary requirements so as to comply with the Phase 1 and Phase 2 completion dates as outlined in Section 1.10 (a) and (b). To facilitate compliance with the Concourse T North Expansion Project scope and schedule, the Non-Hub Contracting Airlines shall, at their discretion, designate a third party project manager to lead project coordination, liaison with City departments and represent airline requirements. The parties understand and agree that the scope, budget, financing and other terms and conditions agreed to by the parties for the Concourse T North expansion Project will need to be approved by the City in the form of an additional Amendment to this Non-Hub Signatory Airline Agreement. Any Amendments to this Non-Hub Signatory Airline Agreement will generally include but not be limited to the following phased scope of work;

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- (a) Phase 1- By no later than December 31, 2010, or six months after execution of this Agreement, whichever is later, Airline and City agree to complete this Phase 1 of the Concourse T North Expansion Project by optimizing the existing Concourse T North aircraft parking layout for the purpose of relocating Continental Airlines to Concourse T North. Continental's vacated leasehold on Concourse D will be immediately returned to the City and the vacated Concourse D gates will be designated as Non-Hub Contracting Airline Common Use Gates. Continental will move from Concourse D to Concourse T as early as practical during the completion of Phase 2.
- (b) Phase 2 – By no later than July 31, 2012, Airline and City agree to complete this Phase 2 of the Concourse T North Expansion Project by modifying the Concourse T North premises to include the expansion of gate hold rooms, expansion of the building envelope into the aircraft nose notch areas, addition of fuel pits and jetways and possibly the addition of concessions spaces, advertising and/or the construction of a common use or airline specific premium customer lounge. With respect to the development and construction of any premium customer lounge, Continental Airlines shall have the first right of refusal to develop any space that may be designated for such a facility.
- (c) Phase 3 – By no later than April 1, 2013, Airline and City agree to commence this Phase 3 of the Concourse T North Expansion Project. The Phase 3 scope of work is to include the widening of Concourse T North to the west where possible to improve customer circulation space and to further expand hold room seating capacity and concessions. It is agreed that the Phase 3 scope of work may be deleted from the Concourse T North Expansion Project and pursued by the City as a separate project
- (d) Phase 4 – By no later than April 1, 2015, Airline and City agree to commence this Phase 4 of the Concourse T North Expansion Project. The Phase 4 scope of work is to include further expansion of the Concourse T North premises to include the construction of new concourse building, the construction of aircraft parking ramps, installation of fuel pits and other related aircraft support facilities required to relocate US Airways and Midwest.

Airlines shall have the right to occupy and use the Non – Hub Contracting Airline Preferential Gates, Non-Hub Contracting Airline Preferential Space and Non- Hub Contracting Airline Common Use Aircraft Gates and related space assigned pursuant to this Agreement through the Expansion Period as outlined above and as further delineated in Attachment 2. The parties acknowledge that during optimization and expansion construction certain facility-related disruptions may occur; however, both parties will endeavor and coordinate to minimize such



temporary disruptions and to prioritize customer service levels. Any Airline that executes this Agreement and withdraws from the Concourse T North Expansion Project before its completion for any reasons other than those specified in Section 4.8 of this Agreement, shall lose all Non-Hub Contracting/Signatory Airline rights as contained herein. Space occupied by any such Airline shall convert to Non Hub Common Use Space as defined in this Agreement.

As part of the T North Expansion Project, the Non-Hub Contracting Airline(s) will be required to make certain project related decisions on behalf of the airlines. Except for decisions relating to only one Airline (which shall be made by that Airline), all Non-Hub Contracting Airlines' decisions impacting the T North Expansion Project shall be unanimous (with an abstaining decision deemed to be agreement). In the event that the Non-Hub Contracting Airlines' decision is not unanimous, each Non-Hub Contracting Airlines shall present its decision and justification to the City and the City will decide which course to pursue. The City's decision will be final.

Section 1.11 – Airline Option to Complete the Concourse T North Expansion Project - Should a majority in number of the Non-Hub Contracting Airlines determine that the project construction is being unreasonably delayed ('unreasonably' considered greater than 120 days delayed from the agreed upon schedule) by the City and that the phasing schedule as agreed to in Section 1.10 cannot be met, Airlines shall advise the City in writing of their intent to exercise their option to assume project and construction management so as to complete the project as outlined in this agreement. Upon receipt of written notification from Airlines, City agrees to relinquish its management of the project without delay, however, under no circumstances is any Airline released from compliance with City permitting, approval, construction, inspection, commissioning and other related requirements. Airlines shall have the right to complete the project to include the installation of equipment, systems, and fixtures provided, however, that all such alterations, installations, or improvements shall be commenced only after plans and specifications therefore have been approved by Aviation General Manager. Notwithstanding anything contained in this Section 1.11, City may, at its discretion, request the Airlines to assume project and construction management so as to complete the project as outlined in this agreement. Such request shall be in writing and directed to Airline and its designated City liaison.

Section 1.12. Financing of the Concourse T North Expansion Project. The City agrees to finance the Concourse T Expansion Project with Passenger Facility Charges (PFC), to the maximum extent that the project or portions of the project are eligible for PFC funding and to the extent that such PFC funds are available. PFC funding will be provided for the Concourse T North Expansion Project only if the City has sufficient capacity to provide PFC funding for all other projects and commitments that have been approved prior to the execution of this Agreement and which are further outlined in Section 1.14 below (c). The City will pursue PFC funding for the T North Expansion Project in good faith and using reasonable and customary efforts.

The City further agrees to provide financing for any project costs not eligible for PFC funding either through (i); General Airport Revenue Bonds (GARB), (ii) Renewal and Extension (R&E)



funds or (iii) any grants or discretionary funding to the extent that these funds are made available for the Concourse T North Expansion Project. City may also, at its discretion, pursue financing for construction of special facilities to include concessions areas, common use premium passenger facilities, and other non-airline space. Additional City financing will be provided for the Concourse T North Expansion Project only if the City has sufficient capacity to provide GARB and/or R&E funds for all other projects and commitments that have been approved prior to the execution of this Agreement and to which are further outlined in Section 1.14 (a) and (b) below. Rates for gates on Concourse T North will be equalized before, during and after the completion of the T North Expansion Project. It is the intent of the parties that in no event shall the costs for the Non – Hub Contracting Airline Preferential Gates, Non-Hub Contracting Airline Preferential Space and Non- Hub Contracting Airline Common Use Aircraft Gates result in rental rates that would be materially less or more than similar domestic facilities used by the Contracting Airlines at the Airport. For the purposes of opening any future discussions on the costs for the Non – Hub Contracting Airline Preferential Gates, Non-Hub Contracting Airline Preferential Space and Non- Hub Contracting Airline Common Use Aircraft Gates, a material difference would be any variance in rates between the costs for the Non – Hub Contracting Airline Preferential Gates, Non-Hub Contracting Airline Preferential Space and Non- Hub Contracting Airline Common Use Aircraft Gates and similar domestic facilities occupied by the Contracting Airlines of more than ten percent annually (10%). Project funding under this section will only be provided to the extent that funds are available and are subject to the provisions of Section 1.14 below.

Section 1.13 – Airline Option to Finance the Concourse T North Expansion Project – In the event that the City is unable to provide funding to complete the Concourse T North Expansion Project or to the extent that the resultant costs from the combined PFC and City financing sources to occupy the Concourse T North Construction be unacceptable to Airline, Airline may provide its own financing to reduce its costs and/or complete the project.

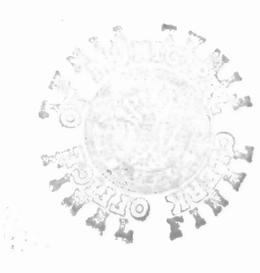
Section 1.14. Financing of GAP Projects.

- (a) Airline recognizes that given the age of the CPTC facility, there are systems, terminal finishes and equipment that must be replaced or repaired during the Extension Period. Accordingly, Airline agrees to cause the Chairman of the Airline Steering Committee to approve on even date herewith the GAP Projects in accordance with the terms hereof and their being implemented in accordance with the 1999 Implementation Process. For the avoidance of doubt, notwithstanding the application of the 1999 MII Implementation Process to the GAP Projects, Airline shall not disapprove any of the GAP Projects. For each GAP Project, the costs that will be included in the airlines' respective rentals shall not exceed the respective amount shown for the GAP Project in Attachment 8 plus a share of a five percent (5%) contingency of the aggregate GAP Projects amounts (the "Contingency Amount") if and to the extent used for such project. In the event such amount is exceeded, the City may proceed with the applicable GAP Project, but may not include any amount in excess of the GAP Project amount in Attachment 8 Contingency Amount in the airlines' rentals. The GAP Projects shall be financed by GARBS issued specifically for the GAP Projects for a term



of not less than thirty (30) years (subject to any limitations (i) on the maximum legally permissible term of such bonds in accordance with the State of Georgia bond laws or the provisions of the Internal Revenue Code and the regulations promulgated there-under, or (ii) the maximum permissible term of such bonds in accordance with generally accepted accounting principles) in the amount not to exceed the amount set forth in Attachment 8, plus the Contingency Amount, capitalized interest and financing costs. Any unused bond amounts shall be used to reduce the amount of such outstanding GARBS. Related rentals for the GAP Projects shall commence as of DBO of the applicable project and will be based on level debt service amortization from DBO through the balance of the maximum scheduled term remaining on related outstanding GARBS plus a coverage factor of twenty percent (20%).

- (b) The City shall include the amounts in section (a) in its proposed 2010 series of general airport revenue bonds to be issued by the City other than the Refunding Bonds and MHJIT Project bonds referenced in Section 1.7 hereof. In the event that market conditions do not permit the City to raise sufficient funds from the issuance of the 2010 series of general airport revenue bonds on commercially reasonable terms to refund (i) all outstanding commercial paper, (ii) the funding of Phase I GAP Projects, (iii) the sum of \$69,161,022.00 (the "Additional Amount"), (iv) **[The AirTran Additional Amount –amount to TBD]** and (v) any additional GARB funding requirements for the Concourse T North Expansion Project as outlined in Section 1.10 ("T North Amount"), then (i) the refunding of outstanding commercial paper, Phase I GAP Projects, the Additional Amount and the AirTran Additional Amount shall have funding priority over financing of the T North Amount, to the extent that those projects are currently defined and budgeted. The T North Amount will have funding priority over any replacement projects due to reduced scope of the above projects. The City agrees to use reasonable efforts to issue the general airport revenue bonds described herein. Upon receipt of proceeds for the financing of amounts for the Concourse T North Expansion Project 1.11, the City shall make the funding available to Airline and will recover said amounts based on airline rates and charges that would be produced by bonds with a term of not less than thirty (30) years (subject to any limitations (i) on the maximum legally permissible term of such bonds in accordance with the State of Georgia bond laws or the provisions of the Internal Revenue Code and the regulations promulgated thereunder, or (ii) the maximum permissible term of such bonds in accordance with generally accepted accounting principles) and amortization from reimbursement through the maximum remaining scheduled term of such bonds, plus capitalized interest and finance costs related to these bonds, at a rate equal to the 25 Bond Revenue Index Rate (as published by the Bond Buyer) plus 300 basis points. Nothing herein shall require the City issue any bonds unless the same are available on commercially reasonable terms.
- (c) Airline recognizes and acknowledges that City has made certain commitments to utilize its PFCs for other purposes and that these other commitments and purposes



have priority over funding of the Concourse T North Expansion Project to the extent that those projects are currently defined and budgeted. The T North Amount will have PFC funding priority over any replacement projects due to reduced scope of the above commitments. In the event that PFC funding is available and to the extent that the Concourse T North Expansion Project or any portion thereof is eligible for PFC funding, the Airline agrees that Concourse T North Expansion Project funding will follow the projects in Section 1.14(b) to the extent that those projects are currently defined and budgeted. The T North Amount will have funding priority over any replacement projects due to reduced scope of the above projects. The City agrees that the Concourse T North Expansion Project will have priority for PFC funding over all other projects except those noted above.

Section 1.15. Emergency Repairs. Notwithstanding substantial renovations and improvements to the CPTC, airfield and other areas of the Airport during the last thirty years, Airline and City acknowledge that there may on occasion arise emergencies caused by failures of facilities at the CPTC or airfield. For purposes of this Section, emergencies are unplanned, atypical events that must be addressed immediately in order to prevent (i) impairment or failure of a facility or system, (ii) a condition or situation that could halt, hamper, interrupt or prevent Airline or aircraft operations, or (iii) a risk to the public safety; in each case described in clauses (i), (ii) and (iii) above which cannot be prevented or managed on a reasonable basis without making immediate temporary or permanent repairs or improvements. Accordingly, Airline agrees to vote in favor of an MII ballot authorizing an increase in the Airline rate base for charges resulting from expenditures for such emergencies as defined above, subject to the following conditions: (a) the total of all emergency expenditures so authorized shall not exceed \$6 million in any fiscal year; (b) any dispute over whether the expenditure is a reasonably required emergency expenditure shall be subject to the arbitration process of this Agreement; (c) any such emergency expense shall be included in the rate base for all airlines (and the City to the extent it pays costs as if it were a Contracting Airline); and (d) such emergency expenditures up to \$6 million will be financed by the City over a period of ten (10) years at 25 Bond Revenue Index Rate (as published by the Bond Buyer), and will be paid through airline rentals.

Section 1.16 Negotiations for a Successor Agreement or Further Extension Agreement(s) Pursuant to Section 4.12 below, it is agreed that any material lease discussions and negotiations with the hub carrier(s), whether formal or informal, shall include the Non-Hub Contracting Airlines and that bilateral negotiations between the City and the hub carrier(s) regarding issues that affect all classes of airlines will not be permitted without material inclusion and participation by the Non-Hub Contracting/Signatory Airlines.

Section 1.17 Terms and Provisions of this Agreement Subject to Additional Modification. Reference is hereby made to that certain Agreement to Amend and Extend CPTC Leases, Use Agreements and Certain Other Space Use Agreements by and among Delta Air Lines, Inc., Northwest Airlines, Inc. and the City dated as of December 18, 2008 (the "Delta Extension Agreement"). In the event that the City amends (formally by amendment or informally by change in the ordinary course of business) the rental and other charges provisions of the Delta



Extension Agreement which by their nature apply formulas and cost allocations designed to apply to all domestic Airlines, the City shall notify Airline of such changes and this Extension Agreement shall be deemed to be automatically amended to reflect such changes.

## ARTICLE II

### AMENDMENT XX TO CPTC LEASE

Section 2.1. Amendment of CPTC Lease. The CPTC Lease is amended as follows:

- (a) Additional Definitions. Title I of the CPTC Lease is amended to add the following definitions which shall also apply to this Agreement:

“City Reserved Space” shall mean the premises designated on Exhibits C, D, E and Y in Attachment 1 (until September 20, 2010), and on Exhibits C, D, E and Y in Attachment 4 (after September 20, 2010) for which City will be obligated only for capital costs and actual heating, air conditioning and lighting expenses until such space is leased as Preferential Use Space to one or more Contracting Airlines or Non-Hub Contracting Airlines, MHJIT Lessee Airlines or other tenants, including but not limited to space designated as Department of Aviation vacant space in such Exhibits/Attachments.

“Common Use” shall mean the use of Common Use Gates or other terminal facilities by an airline for its flights and passengers in common with other airlines in accordance with the provisions of the Common Use Regulations.

“Common Use Aircraft Gates with Priority Scheduling” shall mean during the Extension Period any gate, apron area, hold room, and the associated loading bridge and equipment to which a “Contracting Airline” or “Signatory Airline” as defined herein, shall have the right in advance of all other airlines to use and to schedule its flights as provided for in their respective Agreement to Amend and Extend CPTC Leases, Use Agreements and Certain Other Space Use Agreements.

“Common Use Regulations” shall mean the Terminal Common Use Regulations adopted by City of Atlanta Ordinance on May 7, 2007, as they may be revised or supplemented from time to time. The provisions of the Common Use Regulations shall apply to Common Use Premises but not to Common Use Aircraft Gates with Priority Scheduling.

“Concourse Buildings” shall mean the buildings so described on Exhibits B, C, D, E, F and Y in Attachment 1 (until September 20, 2010) and on Exhibits B, C, D, E, F and Y in Attachment 4 (after September 20, 2010).



“Contracting Airline” or “Signatory Airline” shall mean an entity holding a commercial air carrier operating certificate (or its parent or holding company) in good standing with the FAA providing service at the Airport and signatory to a current CPTC Lease or Use Agreement, an extension of a CPTC Lease or Use Agreement, a new lease or use agreement with terms and conditions regarding Majority-In-Interest approvals and rates and charges provisions substantially similar to the CPTC Lease and Use Agreements as amended herein and having a term of two (2) years or more or any or all of the foregoing; provided that an airline (i) that is only a signatory to a Use Agreement, extension thereof or new use agreement as set forth in this definition, shall only be considered a “Signatory Airline” for purposes of such use agreement or extension thereof and (ii) that is a signatory to a CPTC Lease, extension thereof or new lease agreement as set forth in this definition, shall only be considered a “Contracting Airline” or “Signatory Airline” for purposes of such lease agreement or extension thereof.

“CPI” shall mean the annual average Consumer Price Index for All Urban Consumers, U.S. City Average, All Items and Major Group Figures (1982-84=100) (“CPI-U”), published by the Bureau of Labor Statistics of the United States Department of Labor (the “Bureau”). If (i) the Bureau ceases to use the 1982-84 average of 100 as the basis of calculation and the Bureau does not recalculate the then applicable CPI-U number for all years including 1982-84, or (ii) the Parties mutually agree in writing that the CPI-U does not accurately reflect the purchasing power of the dollar, or (iii) the CPI-U is discontinued for any reason, then the Parties shall thereafter accept and use such other reasonably comparable consumer price index or other statistics on the cost of living for the United States as shall be computed and published by an agency of the United States or by a responsible financial periodical of recognized authority selected by both Parties.

“GAP Projects” shall mean the airport-wide projects listed in Attachment 8 and in the Element Level Information Package approved by the Executive Committee of even date hereto, in the not to exceed project amounts specified therein, a copy of which is attached hereto as Exhibit A to Attachment 8.

“GARBS” or “Airport Revenue Bonds” shall mean the general airport revenue bonds issued by the City, from time to time, having a lien on the general revenues of the Airport in accordance with the Restated and Amended Master Bond Ordinance authorizing the issuance of City of Atlanta Airport Revenue Bonds adopted by the City Council on March 20, 2000, as subsequently amended and supplemented. Terms defined in the Bond Ordinance shall have those meanings for the purposes of the Agreement.

“Handling Agreement” means a written agreement between Airline and/or any of their service contractors or by any of them with another airline for any air transportation related services to be provided by any of them or their contractors



to the other at or in connection with use of any premises, systems and/or equipment of any airline or the City at the airport, or any airline's operations at, to or from the airport. Such services may include but are not limited to providing, managing and/or handling, some or all of ticketing, passenger check-in, documents verification and other passenger services; baggage handling; cargo handling; mail handling; aircraft positioning, deicing, cleaning, load and balance control and other services; ramp handling; fueling; maintenance; janitorial; security services; skycap services; provisioning; and any other air transportation related services. Such services may be provided at any premises leased, used or otherwise occupied by Airline, the handling company, the handled company, any handling contractor or another airline

“Handled Airline” shall mean an air carrier that has a Handling Agreement or other form of agreement with a Non-Hub Contracting/Signatory Airline and the Non-Hub Contracting/Signatory Airline permits the Handled Airline to utilize the Non-Hub Contracting/Signatory Airline leased premises.

“MHJIT” or “the Maynard Holbrook Jackson Jr. International Terminal” shall mean the International Terminal Building, Concourse E and Concourse F, together with the associated Aircraft Parking Area and Ramp Area, all as shown on Exhibits YY and ZZ as shown in Attachment 7.

“MHJIT Lessee Airlines” shall mean the airlines who have signed a CPTC Lease or other type of lease with the City for premises in MHJIT.

“MHJIT Users” shall mean all entities, including but not limited to MHJIT Lessee Airlines, Signatory Airlines, Non-Hub Contracting Airlines, charter operators or itinerant aircraft operators, that may utilize any portion of the MHJIT, as shown on Exhibits YY and ZZ in Attachment 7, in any manner and for any act or thing that may be done which is connected with or incidental to the operation of the transportation system of that airline. Airline may not utilize its existing CPTC domestic gates for international departures unless there does not exist an available gate or one that could be made available by relocation of an inactive aircraft for such departure. Only MHJIT gates may be utilized for international arrivals. Check-in and baggage claim facilities for all International Passengers and Precleared Passengers shall be provided at MHJIT, except that DAL shall have the right to process international passengers who arrive at its preferential use facilities elsewhere in the west Landside Terminal Building provided that for purpose of rates and charges and related MHJIT payment obligations of the airlines, all international passenger calculations, including revenues, shall be allocated to MHJIT irrespective where the processing takes place.



“Minimum Gate Utilization Standard” shall mean an average of six hundred (600) total departing seats on outbound domestic flights per gate, per day for the previous twelve (12) calendar months.

“Non-Hub Contracting Airline” or “Non – Hub Signatory Airline” shall mean an entity occupying nine (9) or fewer but not less than one (1) Preferential Use Gates holding a commercial air carrier operating certificate (or its parent or holding company) in good standing with the FAA providing service at the Airport and signatory to a current CPTC Lease or Airport Use Agreement, an extension of a CPTC Lease or Airport Use Agreement, a new lease or use agreement with terms and conditions regarding Majority-In-Interest approvals and rates and charges provisions substantially similar to the CPTC Lease and Use Agreements as amended herein and having a term of two (2) years or more; provided that an airline (i) that is only a signatory to a Use Agreement, extension thereof or new use agreement as set forth in this definition, shall only be considered a “Non-Hub Signatory Airline” for purposes of such use agreement or extension thereof and (ii) that is a signatory to a CPTC Lease, extension thereof or new lease agreement as set forth in this definition, shall only be considered a “Non-Hub Contracting Airline” or “Non-Hub Signatory Airline” for purposes of such lease agreement or extension thereof. Airlines that meet the requirements as outlined herein who qualify to enter into a Non Hub Contracting or Non-Hub Signatory Airline Agreement to Amend and Extend CPTC Leases, Use Agreements and Certain Other Space Use Agreements will be limited to American Airlines, United Airlines, US Airways, Continental Airlines and Midwest Airlines and their respective assigns and successors in interest. It is understood and agreed that additional air carriers that meet the definition of Non-Hub Contracting Airline herein, shall not be assigned Non-Hub Contracting Airline Preferential Use Gates on Concourse T North unless separately agreed to by a majority in number of the remaining Non-Hub Contracting Airlines. For determining an Airline’s rights, calculation of cost allocations and utilization of leased premises, “Airline” and “Non-Hub Contracting Airline” shall include, as if one and the same, the activities and operations of their affiliates and/or code share partners, commuter airlines and Handled Airlines (collectively “Airline Users”). For determining Midwest’s rights, calculation of cost allocations and utilization of leased premises, Frontier Airline’s activities and operations shall be included with those of Midwest.

“Non – Hub Contracting Airline Minimum Gate Utilization Standard” shall mean an average of six hundred (600) total departing seats on outbound domestic flights per gate, per day for the previous twelve (12) calendar months. The Non-Hub Contracting Airline Minimum Gate Utilization Standard will become effective twelve months after the completion of Phase 4 of the Concourse T North Expansion Project.

“Non-Hub Contracting Airline Preferential Use Aircraft Gate” or “Non-Hub Preferential Gate” shall mean during the Extension Period any gate, apron area,



hold room and the associated loading bridge and equipment as shown on Exhibits B, C, D and E in Attachment 4, which Airline shall have the right of use as provided in Attachment 2.

“Non-Hub Contracting Airline Preferential Use Space” shall mean during the Extension Period space in the CPTC as shown on Exhibits B, C, D and E in Attachment 4 for which the Airline has the right of use as provided in Attachment 2. Such areas may include, but shall not be limited to, ticket counter, queuing, skycap podiums and/or baggage make-up space assignments (excluding airline ticket offices).

“Non – Hub Contracting Airline Common Use Aircraft Gates” or “Non-Hub Contracting Common Gates” shall mean during the Extension Period any gate, apron area, hold room, and the associated loading bridge and equipment which Airline shall have the right in advance of all other airlines to use and to schedule its flights as provided in Attachment 2. Non – Hub Contracting Airline Common Use Aircraft Gates include any gates recaptured from Airline and any gates gained by the City on Concourse D by the optimization and expansion of Concourse T North. Any airline with 10 or more Preferential Use Gates will be prohibited from scheduling operations on the Non-Hub Common Use Gates during such times that the City has a total of 10 or fewer Common Use Gates and Non-Hub Common Use Gates. Non-Hub Contracting Airline Common Use Gates, all of which are initially on Concourse D, will be subject to the Common Use Regulations and will be equipped with Common Use Terminal Equipment (CUTE) as required by the City.

“Phase I GAP Projects” means the GAP projects identified as Phase I GAP Projects in Attachment 8.

“Preferential Use Aircraft Gate” shall mean during the Extension Period any gate, apron area, hold room and the associated loading bridge and equipment as shown on Exhibits B, C and D in Attachment 4, which Airline shall have the right of use as provided in Attachment 2.

“Preferential Use Space” shall mean during the Extension Period space in the CPTC as shown on Exhibits B, C, D, E and Y in Attachment 4 and Exhibit YY in Attachment 7 (replacing Exhibit Y effective upon DBO of the MHJIT), for which the Airline has the right of use as provided in Attachment 2. Such areas may include, but shall not be limited to, ticket counter, queuing, skycap podiums and/or baggage make-up space assignments (excluding airline ticket offices).

“Priority Scheduling” shall mean the right in advance of all other airlines to use the premises and schedule its flights.

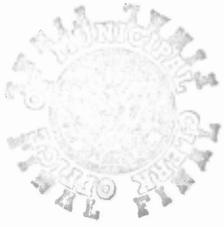


“Terminal Building Area” shall mean the area within the “Terminal Building Area Lease Limits” and as shown in Attachments 1 and 4, as amended by this Amendment XX in which the Aircraft Parking and Ramp Area, the Concourse Buildings, the Landside Terminal Buildings, the Mechanical Buildings, MHJIT FIS Facility, the pedestrian mall (including the elevators and escalators and associated therewith) and other facilities, including the MHJIT Landside Terminal Building and the associated curb space, are, or will be, situated, but such area shall not include the AGTS or the facilities designated for “MARTA” as shown on Exhibits B, C and Y in Attachments 1 and 4, and Exhibit YY in Attachment 7.

- (b) Extension Term. The lease term set forth in Section 2.01 of the CPTC Lease is extended from September 20, 2010, to September 20, 2017 (the “Extension Period”).
- (c) Leased Premises. The Premises leased by Airline as of the Closing date of this Agreement under the CPTC Leases only are shown on Exhibits B, C, D and E in Attachment 1 hereto. Within sixty (60) days of the Closing referenced in Section 4.15 of this Agreement, the parties will in good faith update Exhibits B, C, D and E in Attachments 1 and 4 to the extent necessary to correct any errors and variances in actual dimensions, layout or square footages of space assigned to Airline under the CPTC Leases and then will substitute the updated drawings for Exhibits B, C, D and E to the current CPTC Leases. On and after September 20, 2010, the Premises under the CPTC Leases shall be shown on Exhibits B, C, D and E in Attachment 4 hereto, which on that date shall replace Exhibits B, C, D and E in Attachment 1 hereto.
- (d) A new Section 2.08 [**Check reference**] is added to the CPTC Lease to read as follows:

Section 2.08 – Assignment of Non-Hub Contracting Airline Preferential Use Aircraft Gates.

Non-Hub Contracting Airline Preferential Use Aircraft Gates, Non-Hub Contracting Airline Preferential Use Space and Non-Hub Contracting Airline Common Use Aircraft Gates. For the Extension Period, the parties agree to convert CPTC Lease, permit or other exclusive use ticketing, baggage handling, airline support and passenger hold room space into Non-Hub Contracting Airline Preferential Use Aircraft Gates, Non-Hub Contracting Airline Preferential Use Space or Non-Hub Contracting Airline Common Use Aircraft Gates based on the requirements outlined in this Agreement and Attachment 2 hereto and as such premises are shown on Exhibits B, C, D and E in Attachment 4 hereto. During the Extension Period, the City is allowed to permit the use of the Non-Hub Contracting Airline Preferential Use Aircraft Gates and related Non-Hub Contracting Airline Preferential Use Space by a Requesting Airline in accordance with the provisions set out in Attachment 2 hereto. In certain circumstances



provided for in Attachment 2, the City may also recapture premises and, in addition, provide for accommodation for use by a Requesting Airline, in each case in accordance with the provisions set out in Attachment 2 hereto. Should City recapture premises under this Section 2.08, City shall reimburse Airline for any unamortized costs for the improvements outlined in Exhibit XX attached hereto. Airline shall not be required to provide a Requesting Airline the use of any proprietary systems or information. The City shall not grant any other airline exclusive use rights with respect to any premises without allowing Airline to convert an equivalent proportionate share of its Non-Hub Contracting Airline Preferential Use Aircraft Gates and Non-Hub Contracting Airline Preferential Use Space back into exclusive leased premises. References in the CPTC Lease to exclusive leased premises and leased premises shall apply to Non-Hub Contracting Airline Preferential Use Aircraft Gates and Non-Hub Contracting Airline Preferential Use Space, including, without limitation, provisions providing Airline with concession revenue credits. Domestic use rates will be set equivalent to rates set for use of common use domestic gates pursuant to the Common Use Regulations with all revenue generated for the use of domestic operations in the MHJIT to be credited against international use rates and charges. References in the CPTC Lease to exclusive leased premises and leased premises shall apply to Preferential Use Aircraft Gates and Preferential Use Space, Common Use Aircraft Gates with Priority Scheduling, Non-Hub Contracting Airline Preferential Use Aircraft Gates and Non-Hub Contracting Airline Preferential Use Space including, without limitation, provisions providing Airline with concession revenue credits. Other than as differentiated in this Agreement, any right given to or obligation placed on the Contracting Airlines in the previously amended CPTC Lease will be a right or obligation of the Non-Hub Contracting Airlines.

- (e) Upon completion of the MHJIT, Concourse E shall be accounted for together with the MHJIT and together with MHJIT will form a single international terminal cost/revenue center, except that concession credits shall be limited to Inside Concessions, and that Concourse E concession credits will continue to accrue, and be shared with, the Contracting Airlines and Non-Hub Contracting Airlines.
- (f) Gate assignment protocols at MHJIT will be on a common use basis consistent with those currently followed on Concourse E, but with the largest international carrier serving HJAIA (as defined by number of daily international seat departures) selecting (within sixty (60) days of the execution of this Agreement) and receiving Scheduling Priority over six (6) of the twelve (12) Concourse F gates. Such preference will be for wide-body flights that are in the top 15% of the airline's international flights ranked by O&D passengers. "Scheduling Priority" shall mean the right to schedule flights on the gates in advance of any other carrier for the duration of the Extended Period. In the event the Scheduling Priority airline has not scheduled in advance that priority gate for a Group V aircraft at a time another airline would like to schedule it for a Group V aircraft international operation, the Scheduling Priority airline shall permit such use and scheduling if another Concourse F Group V gate is not available at the time in



question and provided another Concourse E or F gate is available for any displaced operation. Once such reassignment occurs, the Scheduling Priority Airline may not displace the other scheduled flight of the airline, which flight would have precedence under the scheduling protocols for the MHJIT unless such airline ceases to schedule the priority gate for a Group V Aircraft.

Section 2.2. Continuation of Rentals and Charges. Notwithstanding anything to the contrary in the CPTC Lease, all rates and charges under the CPTC Lease shall continue to be payable during the Extension Period to the City by Airline according to the CPTC Lease, the applicable rates and charges methodology, relevant MII approvals, relevant amortization periods and historical and current practices with respect to setting and adjusting rates and charges. Without limiting the generality of the foregoing, the following provision of Section 5.08(A) [**Check reference**] of the CPTC Lease shall have no effect and is hereby deemed deleted from the CPTC Leases: "Accordingly, it is agreed that Facilities Rental payments shall be payable only for a total period of thirty (30) years and such Facilities Rental payments, except for the land rental element provided for in Section 5.04(A)(2) [**Check reference**] of this Agreement, shall cease after thirty (30) years, notwithstanding the fact that the thirty (30) year lease term will continue for an additional period of time until expiration."

### ARTICLE III

#### AMENDMENT XX TO USE AGREEMENT

Section 3.1. Amendment of Use Agreements. The Use Agreement is amended as follows: The term of the Use Agreement set forth in Article II of the Use Agreement is extended to September 20, 2017.

Section 3.2. Continuation of Rentals and Charges and Supplementary Payments.

Notwithstanding anything to the contrary in the Use Agreement prior to its amendment by this Amendment, all landing fees and other charges under the Use Agreement shall continue during the Extension Period according to the Use Agreement, the applicable rates and charges methodology, relevant MII approvals, relevant amortization periods and historical and current practices with respect to setting and adjusting rates and charges. The parties expressly acknowledge and agree that from and after September 20, 2010, the Supplemental Landing Fee provided for in Amendment 8 to the Use Agreement shall no longer apply. Without limiting the foregoing, the monthly payments under Article VIII of the Use Agreement shall continue to be in full force and effect through the applicable amortization period during the Extension Period.

### ARTICLE IV

#### MISCELLANEOUS



Section 4.1. Governing Law. This Agreement has been made in and shall be construed in accordance with the laws of the State of Georgia.

Section 4.2. Conflicting Provisions; Effect of this Agreement. The parties intend the provisions of this Agreement to be interpreted as consistent with the CPTC Lease and Use Agreement to the extent possible; provided, however, that the provisions of this Agreement shall supersede and control over all conflicting or inconsistent provisions of the CPTC Lease and Use Agreement. Except as otherwise expressly provided in this Agreement, the provisions of the CPTC Lease and Use Agreement shall continue to be in full force and effect during the Extension Period.

Section 4.3. Complete Agreement; Amendments. This Agreement, together with the CPTC Lease and Use Agreement, as previously amended and supplemented, contains the entire and exclusive agreement of the parties with reference to the matters addressed. This Agreement supersedes all prior commitments, drafts, communications, discussions and understandings, oral or written, with respect hereto. This Agreement may not be modified, amended or otherwise altered except as agreed in writing by the parties.

Section 4.4. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under all applicable laws and regulations. If, however, any provision of this Agreement shall be prohibited by or invalid under any such law or regulation in any jurisdiction, it shall, as to such jurisdiction, be deemed modified to conform to the minimum requirements of such law or regulation, or, if for any reason it is not deemed so modified, it shall be ineffective and invalid only to the extent of such prohibition or invalidity without affecting the remaining provisions of this Agreement, or the validity or effectiveness of such provision in any other jurisdiction.

Section 4.5. Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute but one and the same agreement.

Section 4.6. Assignment or Transfer. Airline shall not sell, assign or transfer this Agreement, together with the CPTC Lease and Use Agreement, as previously amended and supplemented, without the prior written consent of City; provided, however, this Agreement, together with the CPTC Lease and Use Agreement, as previously amended and supplemented, may be assigned by Airline without such consent to any successors-in-interest of Airline, as the case may be, with or into which Airline, as the case may be, may merge or consolidate or which may succeed to the assets of Airline, as the case may be, or a major portion thereof related to its air transportation business.

Section 4.7. Waiver. No waiver by any party at any time of any of the terms, conditions, covenants or agreements of this Agreement, or noncompliance therewith, shall be deemed or taken as a waiver at any time thereafter of the same or any other term, condition, covenant or agreement herein contained, nor of the strict and prompt performance thereof by the other. No option, right, power, remedy or privilege of any party shall be construed as being exhausted or



discharged by the exercise thereof in one or more instances. It is agreed that each and all of the rights, powers, options or remedies given to each party by this Agreement are cumulative and no one of them shall be exclusive of the other or exclusive of any remedies provided by law except as specifically provided herein, and that the exercise of one right, power, option or remedy by any party shall not impair its right to any other right, power, option or remedy, except as specifically provided herein.

Section 4.8. Force Majeure. Neither City nor Airline shall be deemed to be in breach of this Agreement, by reason of failure to perform any of its obligations hereunder if, while and to the extent that such failure is due to or results from any force majeure event including strikes, boycotts, labor disputes, embargoes, shortages of materials, acts of God, acts of the public enemy, acts of superior governmental authority, floods, riots, rebellion, sabotage or any other circumstances for which it is not responsible and which are not within its control. This provision shall not apply to failure by Airline to pay the rentals and charges provided for herein except in those cases where provision is made elsewhere in this Agreement for the abatement of such rentals and charges under such circumstances; and this provision shall not prevent any party from exercising its rights of termination under the CPTC Lease or Use Agreement. Force majeure shall also apply to any failure to meet the Minimum Gate Utilization Standard in Attachment 2. Notwithstanding anything to the contrary herein, with respect to the Minimum Gate Utilization Standard in Attachment 2, force majeure with respect to strikes, boycotts and labor disputes related directly to Airline shall not exceed a period of forty-five (45) days following which Airline shall have forty-five (45) days to ramp back up operations for the purpose of Airline meeting the Minimum Gate Utilization Standard ("Ramp-up Period"). In determining Minimum Gate Utilization Standard compliance for any year during which force majeure is applicable under the sentence immediately above, the calculation shall exclude (i) the force majeure period and the Ramp-up Period; and (ii) the seats for those same days. A party claiming force majeure must provide written notice to the other parties of the alleged occurrence of force majeure within ten (10) days of the occurrence of the force majeure event setting forth the alleged date of the event.

Section 4.9. No Personal Liability. No elected official, director, officer or employee of either party shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution or attempted execution thereof.

Section 4.10. Relationship Between Parties. City is neither a joint venturer with nor a partner or associate of Airline with respect to any matter provided for in this Agreement. Nothing herein contained shall be construed to create any such relationship between the parties or to subject City to any obligation of Airline whatsoever or to subject Airline to any obligation of City whatsoever except as set forth in this Agreement and the CPTC Lease and Use Agreement as amended.

Section 4.11. Time of Essence. Time is of the essence of this Agreement.

Section 4.12. Commence Negotiations. The parties agree to commence negotiations on another extension or successor agreement at least two years prior to the expiration of this Agreement.



Section 4.13. Headings. The headings contained herein are for convenience in reference and are not intended to define or limit the scope or any provisions of this Agreement.

Section 4.14. Notices. All notices, consents and approvals to be given hereunder shall be in writing and signed by a duly authorized representative of the party by or on whose behalf they are given and shall be deemed given when deposited in the United States mail by addressee, postage pre-paid, certified or registered, addressed as follows (or to such other address as from time to time may be designated by either party by written notice to the other party).

- A. City:  
City of Atlanta  
Department of Aviation  
Hartsfield-Jackson Atlanta International Airport  
P. O. Box 20509  
Atlanta, Georgia 30320  
Attention: Aviation General Manager
- B. Airline:  
  
Attention:

Section 4.15. Necessary Approvals; Effectiveness. This Agreement requires legislative approval by the City Council and approval by Airline's Board of Directors. It will not be effective or legally binding until such approvals are granted. Furthermore, this Agreement will not become binding on the City and the City will incur no liability or obligation under it until it has been executed by the Mayor, attested to by the Municipal Clerk, approved as to form by the City Attorney and delivered to Airline (the "Closing"); provided further that this Agreement will not become binding on Airline and Airline will not incur any liability or obligation under it until it has been executed by the authorized representative of each. Except for Sections and all Sections of Article IV which shall be effective upon Closing, all the provisions of this Agreement shall become effective upon September 20, 2010.

Section 4.16. Cross-references; Incorporation of Attachments. Cross-references in this Agreement are to Airline's CPTC Lease and Use Agreement. All Attachments to this Agreement are hereby incorporated herein and made a part of this Agreement and the underlying CPTC Lease and Use Agreement as appropriate.

**IN WITNESS WHEREOF**, the parties, acting by and through their duly constituted officers, have caused this instrument to be executed this \_\_\_ day of \_\_\_\_\_, 2010.

ATTEST:

**XXXXXXXXXXXXX (Seal)**

\_\_\_\_\_  
Title:

by \_\_\_\_\_  
Title:

-----

ATTEST:

**CITY OF ATLANTA (Seal)**

\_\_\_\_\_  
Municipal Clerk

by \_\_\_\_\_  
Mayor

APPROVED AS TO INTENT:

APPROVED:

\_\_\_\_\_  
Aviation General Manager

\_\_\_\_\_  
Chief Procurement Officer

APPROVED AS TO FORM:

RECOMMENDED:

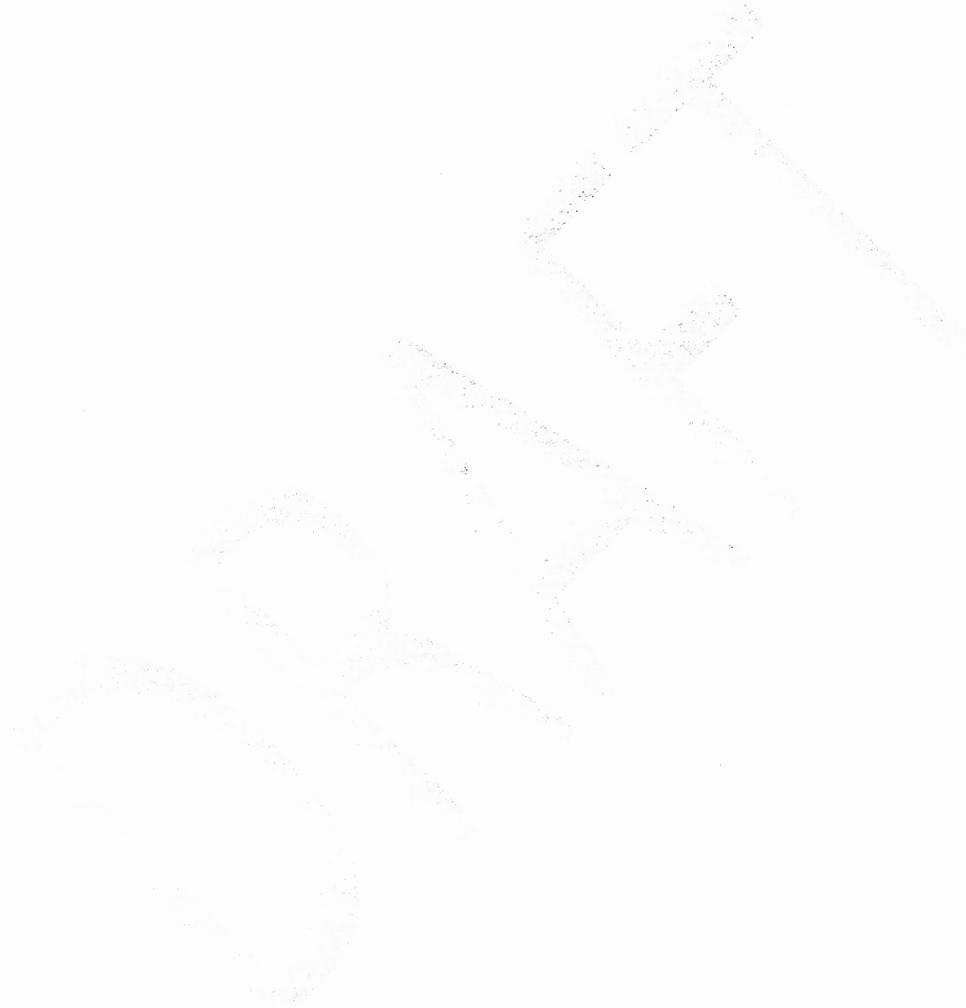
\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Chief Operating Officer



**ATTACHMENT 1**

**EXHIBITS B, C, D and E  
XXXXXXX CPTC LEASE SPACE DRAWING**





## ATTACHMENT 2

### Assignment of Non – Hub Contracting Airline Preferential Use Aircraft Gates and Non – Hub Contracting Airline Common Use Aircraft Gates

1. Assignment. Effective on the commencement of the Extension Period, Airline is hereby assigned the CPTC Lease Non-Hub Contracting Airline Preferential Use Aircraft Gates, Non-Hub Contracting Airline Common Use Aircraft Gates, related support space, ticketing and other Non-Hub Contracting Airline Preferential Use Space as shown in Attachment 4 hereto. Such gate or gates are located on Concourse T – North and on Concourse D and are identified based on Attachment 4 and will include any future gates as the T North facility is optimized and expanded. As indicated on Attachment 4 the respective number of aircraft gates assigned as the Non-Hub Contracting Airline Preferential Use Aircraft Gates and Non-Hub Contracting Airline Common Use Aircraft Gates for Airline effective from the expiration of the CPTC Lease through the completion of Phase 1 are as follows:

Location Concourse T North and Concourse D	Non Hub Contracting Airline Preferential Use Aircraft Gates	Non Hub Contracting Airline Common Use Aircraft Gates
American	4	0
Continental	1	3
Midwest	1	0
United	3	0
<u>US Airways</u>	<u>3</u>	<u>0</u>
Total	12	3

Effective with the completion of Phase 1 and during the completion of Phases 2 and 3, the respective number of aircraft Gates assigned as the Non-Hub Contracting Airline Preferential Use Aircraft Gates and Non-Hub Contracting Airline Common Use Aircraft Gates for Airline is as follows:

<u>Location</u> <u>Concourse T North</u>	Non Hub Contracting Airline Preferential Use Aircraft Gates	Non Hub Contracting Airline Common Use Aircraft Gates
American	4	0
Continental	3	0



United	3	0
Total	10	0

Location  
Concourse D

City (unassigned)	0	4
Midwest	1	0
US Airways	3	0
Total	4	4

Effective with the completion of Phase 4, the respective number of aircraft gates assigned as the Non-Hub Contracting Airline Preferential Use Aircraft Gates and Non-Hub Contracting Airline Common Use Aircraft Gates for Airline is as follows:

<u>Location Concourse T North</u>	Non Hub Contracting Airline Preferential Use Aircraft Gates	Non Hub Contracting Airline Common Use Aircraft Gates
American	4	0
Continental	4	0
Midwest	1	0
United	3	0
US Airways	3	0
Total	15	0

Location  
Concourse D

City (unassigned)	0	8
Total	0	8

This assignment of Gates and related support space is determined by the following process:

- 
- (a) The City has established as a measure of appropriate utilization of a Non-Hub Contracting Airline Preferential Use Gate for-assignment the operation of an average of 750 total aircraft seats on outbound domestic flights per Gate, per day.
- (b) Notwithstanding the above metric and process, the Airline and the City have agreed on the assignment of the number of Non Hub Contracting Airline Preferential Use Aircraft Gates and Non Hub Contracting Airline Common Use Aircraft Gates as set forth in the chart above in this Section 1 of Attachment 2.

## 2. Non-Hub Contracting Airline Preferential Use Rights – Generally.

- (a) It is expressly agreed and understood that the Non-Hub Contracting Airline Preferential Use Aircraft Gates and Non-Hub Contracting Airline Preferential Use Space confer a non-exclusive right of use as defined in this Attachment 2 and are not a real property right and shall not be assigned or otherwise alienated or hypothecated in any manner whatsoever by the Airline without the written consent of the Aviation General Manager, except that in the case of an assignment or transfer for which the City has no consent rights under the terms of Article 9.26 of the CPTC Lease, Airline's preferential use and Non-Hub Contracting Airline Common Use Aircraft Gates shall be transferable to the successor airline; and provided further, that Airline shall have the right to enter into use agreements of such Non-Hub Contracting Airline Preferential Use Aircraft Gates, Non-Hub Contracting Airline Preferential Use Space and Non-Hub Contracting Airline Common Use Aircraft Gates (and in each case including the right to use Joint Lease Premises) with the Aviation General Manager's written consent which shall not be unreasonably withheld and Handling Agreements with other airlines at such premises or otherwise without the Aviation General Manager's or the City's consent (such use agreement and Handling Agreement airlines collectively the "Use Arrangement Airlines"). Such uses shall be subject to all rights and limitations held by the City. Airline shall promptly provide the City with notice and a copy of each Handling Agreement with respect to services being provided at its gates or space covered by Attachment 2, but in no event later than thirty (30) days after the Airlines enter into a Handling Agreement. Wherever in this Section "Non-Hub Contracting Airline Preferential Use Aircraft Gates" is used, the same rights and obligations shall apply to "Non-Hub Contracting Airline Common Use Aircraft Gates."
- (b) Airline shall have the right to permit its affiliate or code share partners, commuter airlines and Use Arrangement Airlines (collectively "Airline

Users”) to have access to Airline’s Non-Hub Contracting Airline Preferential Use Aircraft Gates and Non-Hub Contracting Airline Preferential Use Space.

- (c) Airline and Airline Users shall have priority at all times using Airline’s Non-Hub Contracting Airline Preferential Use Aircraft Gates and Non-Hub Contracting Airline Preferential Use Space, with Airline determining the priority of use among Airline Users.
- (d) Such preferential use rights shall extend to the preferential right to use the aircraft parking positions adjacent to such Non-Hub Contracting Airline Preferential Use Aircraft Gates, as shown on Attachment 4, for the parking of aircraft and support vehicles and the loading and unloading of passengers and cargo.

### 3. Adjustment and Reallocation

- (a) Policy. The City is committed to maintain a policy of providing open access to the Airport and achieving a balanced utilization of Airport facilities. To achieve that goal, the City reserves the right (i) to reassign Non-Hub Contracting Airline Preferential Use Aircraft Gates and Non-Hub Contracting Airline Common Use Aircraft Gates pursuant to Subsection 3(b) and (ii) to require shared use of Non-Hub Contracting Airline Preferential Use Aircraft Gates and Non-Hub Contracting Airline Preferential Use Space as described in Subsection 3(c).
- (b) Substantial Reduction in Utilization. If the combined utilization of Airline and their Airline Users, and any Requesting Airlines accommodated in Airline’s Gates under this Attachment 2 of Non-Hub Contracting Airline Preferential Use Aircraft Gates and Non-Hub Contracting Airline Common Use Aircraft Gates of Airline is materially less than the Non-Hub Contracting Airline Minimum Gate Utilization Standard at the end of each one year period (and based on the average activity for the entire one year period) following September 20, 2010 (September 20, 2011; September 20, 2012; September 20, 2013; September 20, 2014; September 20, 2015; and September 20, 2016), the City shall have the right to recapture certain such Gates. Within ninety (90) days after each such one year period, the City shall determine whether Airline is in compliance with the Non-Hub Contracting Airline Minimum Gate Utilization Standard. If the City determines that Airline has not been in compliance with the Non-Hub Contracting Airline Minimum Gate Utilization Standard, the Aviation General Manager, upon sixty (60) days written notice to Airline, may reclassify Airline’s Non-Hub Contracting Airline Preferential Use Aircraft Gates to Non – Hub Contracting Airline Common Use Aircraft Gates as necessary to bring Airline into compliance with the Non-Hub Contracting Airline Minimum Gate Utilization Standard. If reclassification occurs, the Aviation General Manager shall have the right to designate from the Gates affected by reclassification which Gate(s) to reclassify, provided that such Gates on any



concourse shall be adjacent to or in close proximity to one another if more than one Gate is reclassified. It is understood and agreed that the City's rights to recapture and reclassify gates, is the only remedy of the City under this Agreement in the event of non-compliance with the Non-Hub Contracting Airline Minimum Gate Utilization Standard and that any gate recaptured and reclassified shall include any reimbursement to Airline for unamortized improvements and acknowledge any private property and equipment of Airline. If the combined utilization of the Gates on Concourse T North by the Non-Hub Contracting Airlines falls below four turns per day, the City shall have the right to reclassify as many of the Non-Hub Contracting Airline Common Use Gates as Common Use Gates as is necessary to bring the combined utilization up to the required four turns per day. It is further understood and agreed that as part of the Expansion Period, the City's rights to recapture and reclassify gates will not be exercised so as to provide for proper accommodation and access to gates by the Non-Hub Contracting/Signatory Airlines.

(c) Adjustments Necessary to Accommodate Other Carriers

- (1) Notwithstanding Airline's satisfying the Non-Hub Contracting Airline Minimum Gate Utilization Standard, if an airline occupying nine (9) or fewer Preferential Use Gates, including any airline seeking to expand its service or an airline seeking entry into the Airport (in each case a "Requesting Airline"), is in need of space or facilities at the Airport, which need cannot be met by use of then Common Use Gates, Non-Hub Contracting Airline Common Use Gates or un-leased premises, if any, the City shall direct such Requesting Airline to request the use of leased space or facilities from other airlines leasing space on a voluntary basis. Airline, other Signatory Airlines and other airlines leasing space shall make reasonable efforts to accommodate such requests in a timely manner from any Preferential Use Aircraft Gates, Preferential Use Space, Non-Hub Contracting Airline Preferential Use Aircraft Gates, and Non-Hub Contracting Airline Preferential Use Space assigned to them.
- (2) The process for such adjustment to accommodate another carrier shall be implemented as follows:
  - (i) the City receives a written request from a Requesting Airline requesting space or facilities of a type granted to Signatory Airlines, Non-Hub Signatory Airlines or other airlines on a preferential use basis, together with evidence concerning the Requesting Airline's efforts to communicate with all Signatory Airlines, Non-Hub Signatory Airlines and other airlines to arrange for such space or facilities;



- (ii) the City determines that the Requesting Airline has made commercially reasonable efforts to communicate with Signatory Airlines, which efforts may include communications by e-mail, and airlines but despite such commercially reasonable efforts, has not been able to find reasonable accommodation for its proposed operations and the space or facilities it needs; and
  - (iii) the City determines that:
    - (A) such Requesting Airline needs the requested space or facilities to accommodate passengers or aircraft; and
    - (B) the City cannot provide such space or facilities to such airline on a timely basis; then
  - (iv) the City may grant such Requesting Airline the right of temporary or shared use of a designated portion of a Signatory Airline's, Non-Hub Signatory Airline's or other airline's Preferential Use Aircraft Gates, Preferential Use Space, Common Use Aircraft Gates with Priority Scheduling Assignment, Non-Hub Contracting Airline Preferential Use Aircraft Gates, and Non-Hub Contracting Airline Preferential Use Space including, but not limited to, the use of passenger loading bridges and other appurtenant equipment which are reasonably necessary for the effective use of such space, whether owned by airline or the City, as well as the aircraft parking positions adjacent to such space, but excluding airline's member-only airline clubs within airline's Preferential Use Aircraft Gates and Preferential Use Space.
- (3) In the event the City determines that a Requesting Airline's needs require granting such Requesting Airline the right to share or temporarily use Preferential Use Aircraft Gates, Preferential Use Space, Non-Hub Contracting Airline Preferential Use Aircraft Gates, and /or Non-Hub Contracting Airline Preferential Use, the City shall serve written notice to all Signatory Airlines, Non-Hub Signatory Airlines and other airline's assigned Preferential Use Aircraft Gates, Preferential Use Space, Non-Hub Contracting Airline Preferential Use Aircraft Gates, and Non-Hub Contracting Airline Preferential Use Space of that determination and notice of the City's intention to make a further determination, in not less than 15 calendar days, as to how the Requesting Airline will be accommodated.
- (4) In accordance with the rules and priorities set forth in Subsection 3(c)(6) [**Check Reference**] below, the City may grant the Requesting Airline the right of shared or temporary use of a designated portion of Airline's Preferential Use Aircraft Gates, Preferential Use Space (excluding Airline's member-only



airline clubs), Non-Hub Contracting Airline's Preferential Use Aircraft Gates, and Non-Hub Contracting Airline's Preferential Use Space (excluding Non-Hub Contracting Airline's member-only airline clubs) as well as rights of ingress and egress, the right to use the aircraft parking positions adjacent thereto and the right to use passenger loading bridges and other appurtenant equipment which are reasonably necessary for the effective use of such space, provided, that:

- (i) such Requesting Airline provides the Airline with indemnification and proof of insurance relating to claims arising due to Requesting Airline's use of Airline's assigned space satisfactory to Lessee; provided, however, that Airline may not require any indemnification more favorable to it than that which Airline provides to the City hereunder;
  - (ii) such Requesting Airline agrees to pay the Airline the sum of the following:
    - (A) an amount equal to a pro rata share of the sum of the terminal rentals and any other applicable payments, fees or taxes payable by Airline hereunder with respect to such areas during such shared or temporary use period as calculated herein; and
    - (B) additional amounts sufficient to recover Airline's direct costs and operation and maintenance expenses, if any, of such shared or temporary use, including a reasonable allocation of any capital and equipment costs for property and equipment owned by Airline;
  - (iii) such Requesting Airline enters into a written agreement with Airline therefore, which agreement shall not be inconsistent with the terms and conditions stated herein and shall be submitted to the City for written approval prior to the effective date thereof.
- (5) Airline agrees to make reasonable efforts to facilitate the temporary or shared accommodation of the Requesting Airline's scheduled operations, including the use of passenger loading bridges used or owned by Airline and other portions of Airline's Preferential Use Aircraft Gates, Preferential Use Space (excluding Airline's member-only airline clubs), Non-Hub Contracting Airline's Preferential Use Aircraft Gates, and Non-Hub Contracting Airline's Preferential Use Space (excluding Non-Hub Contracting Airline's member-only airline clubs) as may be reasonably necessary to accommodate the Requesting Airline in the event the City requires such use. In the event that the Requesting Airline and Airline are not able to agree to a form of written agreement with thirty (30) days pursuant to Subsection 3(c)(4) [**Check**



**Reference]** above after reasonable efforts by both parties, the City shall have the right, at any time after consultation with both parties, to set the final terms of such written agreement, which shall provide no less protection of the Airline's interests than Airline provides for the City's interest hereunder, and be binding on both the Requesting Airline and Airline.

- (6) In the event that, pursuant to Subsection 3(c)(2) [**Check Reference]** above, the City determines that a Requesting Airline is in need of facilities to accommodate passengers or aircraft and such facilities should be made available from Preferential Use Aircraft Gates, Preferential Use Space, Non-Hub Contracting Airline Preferential Use Aircraft Gates, and/or Non-Hub Contracting Airline Preferential Use Space of any Signatory Airline, Non-Hub Signatory Airline or other airline, the City will follow the following rules and priorities in designating the specific premises for temporary or shared use by the requesting airline:
- (a) Preferential Use Aircraft Gates, Preferential Use Space, Non-Hub Contracting Airline Preferential Use Aircraft Gates, and Non-Hub Contracting Airline Preferential Use Space shall be designated for temporary or shared use in the reverse order of the magnitude of the then present utilization by Signatory Airlines, Non-Hub Signatory Airlines and other airlines. Utilization by Airline shall be evaluated based on all operations at their Preferential Use Aircraft Gates, Preferential Use Space, Common Use Aircraft Gates, Non-Hub Contracting Airline Preferential Use Aircraft Gates, Non-Hub Contracting Airline Preferential Use Space and Non-Hub Contracting Airline Common Use Aircraft Gates.
  - (b) In assessing the degree of such utilization by Signatory Airlines, Non-Hub Signatory Airlines and other airlines, the City will use reasonable efforts to consider all the following factors:
    - (i) maintaining hub connection times and efficiency;
    - (ii) the average number of flight arrivals and departures per aircraft parking position per day;
    - (iii) flight scheduling considerations;
    - (iv) potential labor conflicts;
    - (v) the number, availability and type (e.g. wide-body or narrow-body) of aircraft parking position locations;



(vi) the preferences of the Signatory Airlines and Non-Hub Signatory Airlines as to which of their specific premises are designated for temporary or shared use by the Requesting Airline; and

(vii) maintaining connecting service and other benefits of the hub.

(c) In the event City requires Airline to share Airline's Preferential Use Aircraft Gates, Preferential Use Space, Non-Hub Contracting Airline Preferential Use Aircraft Gates and Non-Hub Contracting Airline Preferential Use Space, Airline shall have priority in all aspects of usage of such shared premises over all other airlines (and other of the Airline Users shall have priority over any Requesting Airline); provided that Airline or any of such Airline Users shall not change its scheduling or ordinary course usage of such premises in a manner that would interfere with the usage of such premises by a Requesting Airline sharing such premises.

(7) Once the City determines that a Requesting Airline must be permitted shared use of Preferential Use Aircraft Gates, Preferential Use Space, Non-Hub Contracting Airline Preferential Use Aircraft Gates and Non-Hub Contracting Preferential Use Space and the Requesting Airline begins using such space, the Airline shall not be allowed to displace such Requesting Airline from such sharing as long as the Requesting Airline continues to schedule in advance the use of the Gate or space at that time for its flight operations. Notwithstanding the Requesting Airline's sharing herein, Airline shall be permitted to adjust previously scheduled flights in order to maximize its hub connectivity.

(8) During the use of Airline's Preferential Use Aircraft Gates, Preferential Use Space, Non-Hub Contracting Airline Preferential Use Aircraft Gates and Non-Hub Contracting Airline Preferential Use Space or other related facilities by a Requesting Airline scheduled by the City pursuant to this Section, Airline shall not be held liable by the City with regard to any claim for damages or personal injury arising out of or in connection with such Requesting Airline's use of Airline's Preferential Use Aircraft Gates, Preferential Use Space, Non-Hub Contracting Airline Preferential Use Aircraft Gates and Non-Hub Contracting Airline Preferential Use Space or other related facilities, unless caused by the negligence of Airline, its employees or agents.



**ATTACHMENT 4**

**EXHIBITS B, C, D and E**

**AIRLINE PREFERENTIAL CPTC LEASE SPACE DRAWING**



**ATTACHMENT 5**  
**Exhibit MM-1**



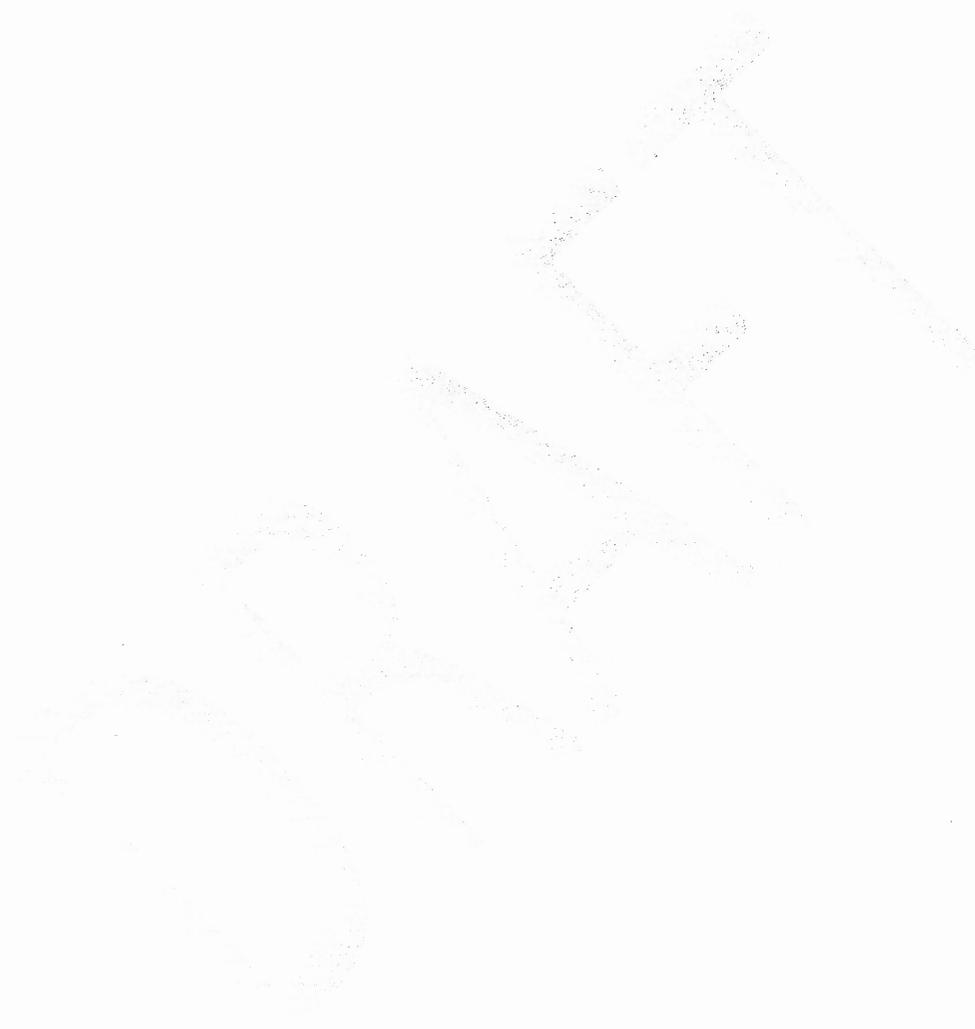
**ATTACHMENT 6**  
**Exhibit CC**  
**ATRIUM AREA**



**ATTACHMENT 7**

**Exhibits YY and ZZ**

**Maynard Holbrook Jackson Jr. International Terminal**





**ATTACHMENT 8**

**GAP PROJECTS**

	<u>Project</u>	<u>WBS</u>	<u>Project Cost</u>	<u>Phase 1 (*)</u>
1	WiFi & MUFIDS Equipment Room Upgrade	H.03.90.009	\$976,200	\$976,200
2	Vertical Transportation Upgrade - Phase 2	H.03.90.201	\$57,500,000	\$57,500,000
3	Concourse A Electrical Equipment Renovations	H.03.91.005	\$8,604,000	\$8,604,000
4	APM Power Distribution System Equipment Upgrade	H.03.08.031	\$3,250,000	\$3,250,000
5	APM Tunnel Structural Repair	H.03.08.041	\$4,320,000	\$4,320,000
6	APM Rail, Grout Pads Repair	H.03.08.042	\$2,000,000	\$2,000,000
7	APM Running Surface Structural Repairs	H.03.08.043	\$2,000,000	\$2,000,000
8	APM Communications Systems Replacement	H.03.08.051	\$3,600,000	\$3,600,000
9	West Crossover Improvements Phases 1-3	H.03.10.017	\$3,500,000	\$3,500,000
10	People Mover Mall Flight Paths Art Installation (Between Concourses A & B)	H.03.08.XXX	\$3,975,000	\$3,975,000
11	Terminal HVAC Upgrades (Design Only)	H.03.10.100	\$59,336,000	\$5,933,600
12	Concourse C Midpoint Expansion (Design Only)	H.03.50.050	\$45,771,000	\$4,577,100
<b>Phase 1 - CPTC / Gap List Projects Sub-Total</b>				<b>\$100,235,900</b>
				<b><u>Phase 2 (*)</u></b>
13	Concourse T & Terminal Electrical Equipment Renovations	H.03.91.001	\$15,635,000	\$15,635,000
14	Concourse D Electrical Equipment Renovations	H.03.91.006	\$3,714,000	\$3,714,000
15	APM Mezzanine Lighting & Finishes Replacement	H.03.08.XXX	\$854,000	\$854,000
16	CPTC Cosmetic Improvements	H.03.XX.XXX	\$3,300,000	\$3,300,000
17	CPTC Mechanical, Electrical & Plumbing Improvements	H.03.XX.XXX	\$3,300,000	\$3,300,000
18	Terminal HVAC Upgrades (Construction)	H.03.10.100	\$59,336,000	\$53,402,400
19	Concours C Midpoint Expansion (Construction)	H.03.50.050	\$45,771,000	\$41,193,900
<b>Phase 2 – CPTC / Gap List Projects Sub-Total</b>				<b>\$121,399,300</b>
<b>Phases 1 &amp; 2 Total</b>				<b>\$221,635,200</b>

(\*) Excludes G&A and AMPT cost allocations at rates negotiated by Airlines and the City of Atlanta Department of Aviation.

EXHIBIT A

ELEMENT LEVEL INFORMATION PACKAGE

RCS# 449  
7/19/10  
3:09 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

EXCEPT 10-O-1227

ADOPT

YEAS: 11  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 1  
EXCUSED: 0  
ABSENT 4

B Smith	Y Archibong	Y Moore	Y Bond
Y Hall	Y Wan	B Martin	Y Watson
Y Young	B Shook	B Bottoms	Y Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell

CONSENT I

		07-19-10
ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT	
1. 10-O-0808	39. 10-R-1286	59. 10-R-1302
2. 10-O-1206	40. 10-R-1287	60. 10-R-1303
3. 10-O-1207	41. 10-R-1325	61. 10-R-1304
4. 10-O-1248	42. 10-R-1326	62. 10-R-1305
5. 10-O-1250	43. 10-R-1332	63. 10-R-1306
6. 10-O-1346	44. 10-R-1288	64. 10-R-1307
7. 10-O-0305	45. 10-R-1289	65. 10-R-1308
8. 10-O-1204	46. 10-R-1290	66. 10-R-1309
9. 10-O-1220	47. 10-R-1291	67. 10-R-1310
10. 10-O-1214	48. 10-R-1292	68. 10-R-1311
11. 10-O-1337	49. 10-R-1293	69. 10-R-1312
12. 10-O-1251	50. 10-R-1293	70. 10-R-1313
13. 10-R-1259	51. 10-R-1294	71. 10-R-1314
14. 10-R-1260	52. 10-R-1295	72. 10-R-1315
15. 10-R-1261	53. 10-R-1296	73. 10-R-1316
16. 10-R-1263	54. 10-R-1297	74. 10-R-1317
17. 10-R-1264	55. 10-R-1298	75. 10-R-1318
18. 10-R-1265	56. 10-R-1299	76. 10-R-1319
19. 10-R-1266	57. 10-R-1300	77. 10-R-1320
20. 10-R-1267	58. 10-R-1301	78. 10-R-1321
21. 10-R-1268		79. 10-R-1322
22. 10-R-1269		80. 10-R-1323
23. 10-R-1270		81. 10-R-1324
24. 10-R-1271		
25. 10-R-1280		
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27. 10-R-1282		
28. 10-R-1283		
29. 10-R-1331		
30. 10-R-1273		
31. 10-R-1344		
32. 10-R-1274		
33. 10-R-1275		
34. 10-R-1336		
35. 10-R-1277		
36. 10-R-1278		
37. 10-R-1284		
38. 10-R-1285		