

FACILITIES AND EQUIPMENT LEASE AGREEMENT

by and between

METROPOLITAN AIRPORTS COMMISSION,

LESSOR

and

NWA INC.

LESSEE

Dated as of

March 27, 1992

any retirement, pension or similar fund administered by the Minnesota State Board of Investment. For purposes of this Section 20.2(g), "investment" shall include any property delivered to or exchanged with any Person whether against delivery of stock, evidence of indebtedness, or other obligations or security.

(h) Net Worth. At any time that no Major Debt is outstanding, Lessee shall cause NAI to maintain a Tangible Net Worth of not less than \$1,000,000,000.00 and Lessee shall cause NAI to furnish to Lessor a certificate setting forth the Tangible Net Worth and a detailed calculation thereof of NAI as of the end of each calendar quarter at the times and along with the statements required by Section 20.1(a)(ii) and (iii) hereof.

(i) Transactions with Alfred Checchi Associates, Inc. Affiliates. All transactions between Lessee or any Affiliate of the Lessee, and Alfred Checchi Associates, Inc., a Delaware corporation, shall be on terms no less favorable to Lessee (or such Affiliate) than would be available if the Person were not an Affiliate, except that this prohibition shall not apply to (i) normal arrangements between airlines if the aggregate effect of all such arrangements, in the opinion of Lessee's management, is in the best interest of Lessee, (ii) any transaction pursuant to Existing Agreements, or (iii) any transaction between Lessee and a Guarantor or between the Guarantors.

#### **ARTICLE XXI PUBLIC POLICY REPRESENTATIONS AND COVENANTS; REMEDIES**

21.1. Noise. Lessee agrees that it shall cause its Affiliate, NAI, with respect to noise abatement at the Airport to:

- (a) consent to provide its Proportionate Share of Air Carrier Funding for soundproofing, purchase assurance and other project costs for Off-Airport Aircraft Noise Costs of not less than \$2,000,000 per year, beginning in 1994 through the date of termination of the Scheduled Airline Operating Agreement and Terminal Building Lease;
- (b) accept delivery of Stage 3 Aircraft in 1992 having an aggregate Purchase Price of not less than \$390,000,000;
- (c) (i) limit its Proportional Utilization of Stage 2 Aircraft at the Airport beginning in calendar year 1992 (calculated on an annualized basis) to no more than the Proportional Utilization of Stage 2 Aircraft throughout NAI's Domestic system, and (ii) not to increase its Proportional Utilization of Stage 2 Aircraft at the Airport in any calendar year above the prior calendar year's Utilization, beginning in 1993 (as compared with 1992 Utilization); and

- (d) comply with an 11:00 p.m. to 6:00 a.m. curfew at the Airport for scheduled passenger arrivals or departures of NAI Stage 2 Aircraft during such time period.

Section 21.1(c) above shall not be deemed to prevent NAI from increasing its Proportional Utilization of Stage 2 Aircraft at the Airport in the event of force majeure.

21.2. Employment and Headquarters. Lessee agrees that it shall, and shall cause its Affiliates, NATCO and NAI with respect to employment and Corporate Headquarters:

- (a) (Overall Employment) To cause Affiliated Employees to be employed in the Minneapolis-St. Paul metropolitan area and the State of Minnesota at Substantially the level existing as of February 29, 1992 (which was 17,883 persons) (calculated annually); provided, however, Duluth Employees at the Duluth Facility and Hibbing Employees at the Hibbing Facility shall not be included in determining compliance with this provision 21.2(a);
- (b) (Duluth Employment) To cause to be employed at the Duluth Facility Duluth Employees at Substantially the following levels: (i) not less than 300 Duluth Employees not later than June 30, 1995; (ii) after June 30, 1995 until the effective date in (iii) below, an annually increasing number of Duluth Employees and for any day, not less than the number of Duluth Employees that were employed on any preceding day and in no event less than 300 Duluth Employees; and (iii) not less than 1,000 Duluth Employees not later than three (3) years after the Duluth Facility becomes Operational or June 30, 1998, whichever first occurs, and to maintain at least such level of employment (calculated annually thereafter);
- (c) (Hibbing Employment) To cause to be employed at the Hibbing Facility Hibbing Employees at Substantially the following levels: (i) not less than 200 Hibbing Employees not later than September 30, 1995; (ii) after September 30, 1995 until the effective date in (iii) below, an annually increasing number of Hibbing Employees and for any day, not less than the number of Hibbing Employees that were employed on any preceding day and in no event less than 200 Hibbing Employees; and (iv) not less than 500 Hibbing Employees not later than three (3) years after the Hibbing Facility becomes Operational or June 30, 1998, whichever first occurs, and to maintain at least such level of employment (calculated annually thereafter); and
- (d) (Headquarters) To maintain the Corporate Headquarters of NAI in the Minneapolis-St. Paul metropolitan area.

Section 21.2(a)-(d) above shall not be deemed to prevent NAI or its Affiliates:

- (i) from moving particular categories of employment or the facilities or operations associated therewith (other than NAI's Corporate Headquarters) from Minnesota, provided the required employment levels are maintained; or
- (ii) from reducing or changing its Minnesota employment, operations or facilities (other than the location of NAI's Corporate Headquarters) in response to force majeure, business conditions, technological changes or statutory or regulatory changes; provided, except to the extent prohibited by applicable law or contractual obligations, NAI and NWA will use their best efforts to cause any such reductions or changes in Minnesota employment, operations or facilities to be substantially proportional to the comparable reductions or changes occurring elsewhere in its Domestic business locations, taking into account the category and character of employment, facility, or operation.

Lessee represents as of the date of this Agreement that it intends that the Duluth Facility and the Hibbing Facility when Operational shall employ, respectively, Duluth Employees and Hibbing Employees performing the particular functions and subject to the particular ranges of compensation described in Attachments 1 and 2 hereto.

21.3. Hub Covenant. Lessee agrees that it shall cause NAI, with respect to the Airport Hub:

- (a) In order to ensure the continuation of the Hub in Minnesota as a major NAI Hub, NAI will maintain a sufficient proportion of connecting Flights at the Airport such that the number of NAI and NAI Code-Share Airlines enplaned revenue passengers whose Flight travel involves a Flight or Flights which arrive at and depart from the Airport (but whose Flight travel neither originates from nor terminates at the Airport) will not be less than 30% of the total number of NAI and NAI Code-Share Airlines enplaned revenue passengers whose Flight travel involves a Flight or Flights which arrive at or depart from the Airport (calculated annually); and
- (b) NAI will maintain not less than Substantially 187 departing NAI and NAI Code-Share Airlines Flights per day from the Airport, calculated annually (which amount is seventy-five (75%) percent of the 1991 number of such Flights).

The above provision shall not be deemed to prevent NAI from reducing the Airport Hub in response to force majeure or to avoid violations of applicable law, statutes or regulations that would otherwise arise from compliance with such covenant.

21.4. Termination; Remedies.

- (a) In the event Lessee, NAI and NATCO have paid or defeased all amounts owing under the MAC Leases, the Duluth Lease and the Hibbing Lease, then all of the Public Policy Covenants shall terminate.
- (b) The Public Policy Covenants shall be enforceable by the State of Minnesota Department of Finance ("State") and MAC, jointly or individually.
- (c) If it is determined that Lessee has breached any of the Public Policy Covenants, and failed to cure such breach within sixty (60) days, and with respect to the Hub Covenant within six months, after being notified by an authorized official of the State or of Lessor, the State or Lessor (as the case may be) shall be entitled to pursue all remedies provided by law or in equity except as limited below:
  - (i) To the extent Lessee breaches the Noise Covenant set forth in Section 21.1(c) (Proportional Utilization) in either respect in an amount less than five percentage points of the total percentage amounts measured, then Lessee must in the succeeding calendar year modify its performance to be in complete conformance with the requirements of all the terms of such Noise Covenant set forth in Section 21.1(c). To the extent Lessee breaches either or both of the requirements of the Noise Covenant set forth in Section 21.1(c), (A) in any such succeeding calendar year in any amount or (B) in any year in an amount of five percentage points or greater of the total percentage amounts measured, then Lessee must, if any amounts outstanding under the MAC Leases remain unpaid, prepay the MAC Leases in an amount equal to the applicable Noise Pre-Payment Amount in Installments on the applicable Payment Dates; provided, that Lessor may elect the alternative remedy of specific performance of the requirements of the Noise Covenant set forth in Section 21.1(c);

provided that if both elements of the Noise Covenant set forth in Section 21.1(c) shall be breached and not timely

cured, then the remedy shall be applied against that element of the covenant yielding the greater penalty.

- (ii) To the extent NAI breaches the Noise Covenant set forth in Section 21.1(d) (Curfew), Lessee shall pay liquidated damages in the amount of \$10,000 per breach (with one Flight per day deemed to be one breach), to be applied by MAC for noise abatement purposes.
  - (iii) To the extent Lessee breaches any Employment Covenant or the Headquarters Covenant, Lessee must, if any amount outstanding under the MAC Leases remains unpaid, prepay the MAC Leases in an amount equal to the applicable Pre-Payment Amount in Installments payable upon each of the applicable Payment Dates.
  - (iv) To the extent Lessee breaches the Hub Covenant, Lessee must, if any amount outstanding under the MAC Leases remains unpaid, prepay the MAC Leases in an amount equal to the applicable Pre-Payment Amount in Installments payable upon each of the applicable Payment Dates; provided that if both elements of the Hub Covenant shall be breached and not timely cured, then the remedy shall be applied against that element of the covenant yielding the greater penalty.
- (d) With respect to the remedies set forth in Section 21.4(c)(i), (ii), (iii) and (iv) above, the following additional principles apply:
- (i) With respect to the Noise Covenants set forth in Section 21.1(a) and (b), the State or Lessor, as the case may be, shall be entitled to pursue all remedies provided by law or in equity.
  - (ii) With respect to the Noise Covenant set forth in Section 21.1(c) as more fully set forth under Section 21.4(c)(i) above, MAC or the State, as the case may be, may elect specific performance or prepayment of the applicable Lease (i.e., MAC Leases, Duluth Lease and/or Hibbing Lease, as the case may be) as the remedy for each uncured default of the Noise Covenant set forth in Section 21.1(c); provided, however, that (A) only one remedy (i.e., specific performance or prepayment) may be elected for each such default; and (B) the availability of alternative remedies for any such default is expressly intended by the

parties and such alternative remedies shall not be deemed mutually exclusive (i.e., it is not intended that availability of prepayment shall preclude the availability of specific performance or that the availability of specific performance shall preclude the availability of prepayment) although only one such remedy may be elected for each such default.

- (iii) With respect to the Noise Covenant set forth in Section 21.1(d), the remedy stated in Section 21.4(c)(ii) above is the exclusive remedy to MAC or the State, as the case may be, the parties agreeing that the damages for breach of the Noise Covenant set forth in Section 21.1(d) are difficult or impossible to ascertain.
- (iv) With respect to breach of the Employment Covenants, and with respect to the Headquarters Covenant, the remedies set forth in Section 21.4(c)(iii) above shall be the exclusive remedies of the State or MAC, as the case may be.
- (v) With respect to breach of the Hub Covenant, the remedies set forth in Section 21.4(c)(iv) above shall be the exclusive remedies of the State or MAC, as the case may be.
- (vi) The remedies set forth herein have been structured to encourage performance by the Lessee of its obligations under the covenants set forth in this Article XXI collectively and to facilitate receipt by the Lessor, the State of Minnesota and the public at large of the benefits to be provided by such covenants.
- (vii) A determination by a court of competent jurisdiction that any of the provisions of this Article XXI, including the provisions of this Article XXI relating to remedies, are invalid and void under the Act shall not affect the other provisions of this Article XXI or other provisions of this Agreement which shall remain fully valid and enforceable, it being the intent of the parties that each and every provision of this Agreement shall be enforceable to the fullest extent of law. To the extent any remedy is deemed unenforceable as aforesaid, it is the intent of the parties that with respect to any alternative remedy not expressly authorized

under this Article XXI, Lessor shall be entitled to exercise such alternative remedy after giving Lessee notice of such breach and a 60-day period to cure the default (or such other cure period as a court of competent jurisdiction may dictate).

- (e) With respect to the remedies listed under Section 21.4(c)(i), (iii) and (iv) above, the following additional principles apply:
- (i) All amounts prepaid under a lease shall be applied against rents coming due in the inverse order of maturity, subject to Section 21.4(e)(vii).
  - (ii) A breach of any covenant shall be counted as a single breach unless a subsequent breach with respect to such covenant results in a higher Pre-Payment Percentage or Noise Pre-Payment Percentage, as the case may be.
  - (iii) In the event a breach is cured, then any remaining Pre-Payment obligation relating to such breach shall terminate.
  - (iv) In the event a breach is cured but later recurs, the Pre-Payment obligation relating to such breach shall recommence from the date of the new breach and the amount thereof shall be calculated on the basis of such new breach only.
  - (v) The Headquarters Covenant is only susceptible of being a breach one time (unless cured).
  - (vi) With respect to Pre-Payments of the MAC Leases, the portion of each Installment consisting of the Reimbursement Rent Principal Pre-Payment Portion shall be applied in the manner described for partial pre-payments of Reimbursement Rent in Section 3.2. With respect to Pre-Payments of the MAC Leases, the portion of each Installment attributable to Replacement Rent (if any) shall be applied in inverse order of due dates for Principal Components, and shall not reduce the amounts of intervening payments of Replacement Rent.
  - (vii) With respect to Pre-Payments of the MAC Leases, the portion of each Installment consisting of the Defeasance Amount (Breach) and attributable to Pre-Payments of Basic Rent shall be held and deposited by the Lessor in a



deposit account ("Deposit Account") and invested by the Lessor in Defeasance Obligations and shall be irrevocably pledged to the payment of the fast maturing principal and interest due on any outstanding GO Bonds without reducing installments or Basic Rent as a result thereof. Such Deposit Account shall be maintained until such time as the sum of the balances in (A) such Deposit Account, and (B) the Series 9 Bond Account Balance, is an amount sufficient to pay the remaining principal payment obligations on the MAC Leases consisting of the sum of (X) the Reimbursement Balance set forth on Schedule C (as such Schedule may be modified from time to time) with respect to Reimbursement Rent, (Y) the sum of the unpaid Principal Components set forth in Schedule B with respect to Basic Rent together with any Redemption Premium related thereto; and (Z) the unpaid Principal Components set forth in the Replacement Rent Schedule with respect to the Replacement Rent, if any.

- (viii) With respect to any Pre-Payments of the MAC Leases under this Article XXI, there shall be a contribution to each Installment of each such Pre-Payment by each of the Lessees under each of the MAC Leases in an amount equal to their respective Applicable Percentages of each such Installment.

Lessee will cause NAI report annually to the State Department of Finance and MAC concerning compliance with the Public Policy Covenants, which report shall be submitted for a particular calendar year not later than January 31 of the immediately succeeding calendar year; provided, however, that with respect to employment covenants relating to the Duluth Facility and the Hibbing Facility, additional compliance reports shall be submitted not later than thirty (30) days after each of the specified target dates for achievement of specified employment levels.

#### ARTICLE XXII DEFINITIONS

The following terms shall have the meanings herein specified unless the context otherwise requires. Such definitions shall be equally applicable to the singular and plural forms of the terms defined.

"Act" means Chapter 350 of Minnesota Laws, 1991.

"Advance Rate" shall mean the lower of two percent (2%) in excess of the prime rate or reference rate as announced from time to time by First Bank National Association or the highest rate of