

AIRPORT USE LICENSE AGREEMENT

Between

The

CITY OF ATLANTA

and

OFFICIAL AIRLINE NAME
(referred to as "AIRLINE")

At

The Hartsfield - Jackson
Atlanta International Airport

Atlanta, Georgia

Airline Name

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AIRPORT USE LICENSE AGREEMENT

GEORGIA. . . .FULTON COUNTY & CLAYTON COUNTY

THIS AGREEMENT, made and entered into on the ___ day of _____, 201_, by and between the CITY OF ATLANTA, a municipal corporation of said state and county, hereinafter referred to as the "City," and AIRLINE a corporation organized and existing under and by virtue of the laws of XXXXXX, hereinafter referred to as the "Airline",

W I T N E S S E I H T H A T :

WHEREAS, the City owns and operates an airport known as the Hartsfield – Jackson Atlanta International Airport ("Airport"), located partially in Fulton County and partially in Clayton County, Georgia; and

WHEREAS, the Airline is engaged in the business of air transportation with respect to persons, property, cargo and mail; and

WHEREAS, the Airline desires to use certain premises, facilities, rights and privileges in connection with the use of the Airport, and City is willing to grant the same to the Airline upon the terms and conditions hereinafter stated.

WHEREAS, the execution of this Agreement on the part of the City has been authorized by the Council of the City by resolution adopted _____, and approved _____, a copy of same being attached hereto as Appendix I and made a part hereof by reference.

NOW THEREFORE, FOR AND IN CONSIDERATION of the premises and mutual covenants and agreements herein contained, the parties hereto do hereby agree, each for itself and its successors and assigns, as follows:

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I. TERM

The rights and privileges granted under this instrument shall be effective on the _____, and continuing thereafter until September 20, 2017 (the "Term"); provided, however, that either party may terminate this agreement by giving at least thirty (30) days prior written notice to the other party.

II. CITY TO MAINTAIN AND OPERATE AIRPORT

The City shall maintain and keep in good repair the Airport, its appurtenances, facilities, and services and shall maintain and operate the Airport in all respects in a manner at least equal to generally accepted standards for other airports in the United States of similar size and character.

III. RIGHTS AND PRIVILEGES

The Airline shall have the right in common with others to use the Airport and common-use appurtenances, together with all facilities, improvements, equipment, and services of the Airport, not exclusively leased to others, and the right of free ingress and egress to, from, and over said Airport, and any and all roads which the City controls leading thereto and therefrom, which rights shall be for the benefit of the Airline, its employees, passengers, suppliers of materials, furnishers of services, patrons, and invitees. In its use of the Airport, the Airline and its employees may use, in common with other licensees and lessees at the Airport and their employees, any vehicular parking spaces which may be designated by Airport management for the use of such persons; and the Airline shall have the right, in any premises leased by it from the City,

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or otherwise available for such purposes, in common with others to locate, maintain, and operate full aircraft servicing facilities, storage space for aircraft, equipment, machinery, and any and all other materials necessary for the conduct of its business, repair shops for the repairing and servicing of its aircraft, engines, run-up stands, instruments, propellers, accessories, and other machinery, tools, automobiles, trucks, tractors, and any and all other facilities and equipment as may be needed or used by the Airline in the conduct of its business, a general office, and any other facilities necessary or convenient to the operation of an air transport business. The Airline shall have the right to exchange, dispose of and sell to third parties such of its equipment, machinery, supplies, parts, and any other materials held or used for purposes of the conduct of its business, when the same shall not be needed in the operation of that business; provided that such exchange, sale, or disposition shall not be construed as authorizing the conduct of a separate business by the Airline. In addition to the servicing of its own aircraft, the Airline shall have the right to service, handle, or maintain the aircraft of other regularly scheduled air carriers, when such servicing, handling, or maintenance shall be performed pursuant to an agreement between the Airline and such other carrier for a mutual exchange of such services; but this provision shall not be construed to grant to the Airline any right or privilege to conduct an independent business in the nature of a fixed base operator. Further, the Airline shall have the right, consistent with the public safety, to train its own personnel, personnel of other regularly scheduled air carriers, and personnel of the United States Government. The foregoing rights and privileges are subject to and contingent upon the existence of adequate and suitable space within the confines of the Airport, which now or in the

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future may be available for any given use. For this purpose, the City shall not maintain an unreasonable or arbitrary position as to the availability of space for the uses requested.

IV. RIGHT TO PURCHASE MATERIALS AND SERVICES

Materials or services may be purchased or otherwise obtained by the Airline from any person, firm, corporation, or other legal entity, of its choice, and no charge, fee, or toll, and no unreasonable or discriminatory limitations or restrictions shall be imposed by the City, directly or indirectly, against the Airline, its suppliers of materials or furnishers of services (except business licenses generally imposed by the City for doing business in the City and charges imposed for direct services furnished by way of water, sewer, and garbage), for furnishing personal property to the Airline or for selling personal property or services to the Airline, for purchasing, using, consuming, or storing personal property for the Airline or for selling personal property to, or withdrawing, handling, transporting, picking up, delivering, loading or unloading air freight or any cargo or personal property for or to the Airline.

V. LANDING FEES

Airline shall pay to the City each month during the Term hereof, without demand or notice, other than required invoices, and without deduction or offset, a Landing Fee based on the Federal Aviation Administration's (or its successor agency) Maximum Certificated Gross Landing Weight of each aircraft scheduled to land at the Airport

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during such month. Cancellations, extra sections, and any other landings shall not be taken into account when computing the Landing Fee.

For operations by cargo aircraft carriers, the Landing Fee will be billed at the first of each month based on an estimate of the Airline's landed weight in the coming month. The estimate of Airline's landed weight in the coming month will be the Airline's actual landed weight in the prior month. Each invoice for the current month's estimated landed weight shall also include a reconciliation of the prior month's estimated billings to actual landed weight.

For scheduled passenger operations, the Landing Fee shall be based on the weight of each aircraft scheduled to land at the Airport during such month. Cancellations, extra sections, and any other landings shall not be taken into account when computing the Landing Fee.

The Landing Fee rate shall be subject to change from time to time. The Landing Fee rate shall at all times be equal to the sum of the various rates paid by carriers that are signatory to an Airport Use Agreement and comparable to the Landing Fee rates charged similarly classified airlines at the Airport. Said adjustments shall become effective as of the date specified in the notice to the Airline.

In any event, the minimum charge per aircraft landing shall be Six and no/100ths Dollars (\$6.00).

The Landing Fee shall be due and payable on or before the 15th day of the month for which it is due, or within 10 days following the billing by the City, whichever may be later. The Airline will furnish appropriate data necessary to compute the Landing Fee for the month.

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VI. RULES AND REGULATIONS

The City may adopt and enforce reasonable rules and regulations, which the Airline agrees to observe and obey, with respect to the use of the Airport and appurtenances, together with all facilities, improvements, equipment, and services of the Airport, not exclusively leased to others, for the purpose of providing for the safety of those using the same; and the City may adopt reasonable rules and regulations, which the Airline agrees to observe and obey, with respect to the use of the other areas and facilities of the Airport, in the interest of health, safety, sanitation, good order, and preservation of the same; provided that such rules and regulations shall be consistent with safety and with rules, regulations, and orders of the Federal Aviation Administration with respect to aircraft operations at the Airport; and provided, further, that such rules and regulations shall not be inconsistent with the provisions of this Agreement, or other agreements with the Airline at the Airport, or the procedures prescribed or approved from time to time by the Federal Aviation Administration with respect to the operation of the Airline's aircraft at the Airport.

VII. INDEMNITY

Airline agrees to defend, indemnify and hold harmless the City, its officers, agents, officials and employees (hereinafter, collectively referred to as the "Indemnified Parties") from and against all liability for bodily injuries to or deaths of persons or damage to property arising from the Airline's use, or from Airline's occupation of the Premises, or otherwise from Airline's operations under this Agreement. Airline also agrees to indemnify and hold harmless the Indemnified Parties from any and all losses, expenses,

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demands and claims against the Indemnified Parties sustained or alleged to have been sustained in connection with or to have arisen out of or resulting from the performance pursuant to this Agreement by Airline, or any of its agents, contractors, subcontractors, officers or employees. Airline further agrees that its obligation to indemnify and hold harmless the Indemnified Parties shall not be limited to the limits or terms of the liability insurance, required pursuant to this Agreement. However, nothing contained in this Section shall be construed as a release or indemnity by Airline of an Indemnified Party from or against any loss, liability or claim to the extent arising from the negligence or willful misconduct of that Indemnified Party. Each party hereto shall give to the other written notice within ten (10) business days of any claim made or suit instituted coming to its knowledge which in any way directly or indirectly, contingently or otherwise, affects or might affect either, and each shall have the right to participate in the defense of the same to the extent of its own interest. This Indemnity and Insurance Section shall survive the termination or expiration of this Agreement.

VIII. INSURANCE

a. Any and all companies providing insurance required pursuant to this Agreement must meet certain minimum financial security requirements as set forth below. These requirements conform to the ratings published by A.M. Best & Co. in the current Best's Key rating Guide-Property-Casualty. Each of the companies providing insurance pursuant to this must have current, the following:

- i) Best's Rating or other internationally recognized ratings acceptable to the City, in City's reasonable judgment, of not less than A-.
- ii) Best's Financial Size Category or other internationally recognized ratings acceptable to the City, in City's reasonable judgment, of not less than Class IX.

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If the issuing company does not meet these minimum requirements written notification shall be mailed by City to Airline, which shall promptly obtain a new policy issued by an insurer meeting such minimum requirements, and shall submit evidence of the same to the Aviation General Manager as required herein.

b. Upon failure of Airline to furnish, deliver and maintain such insurance as herein provided, Airline shall be in default and, in addition to City's other remedies, this Agreement, at the election of City, may be terminated. Failure of Airline to obtain and/or to maintain any required insurance shall not relieve Airline from any liability pursuant to this Agreement, nor shall these requirements be construed to conflict with Airline's indemnification obligations.

c. Any and all insurance required pursuant to this Agreement shall be maintained during the Term, including any extension, thereto. City shall have the right to inquire into the adequacy of the insurance coverages set forth in this Agreement and to require reasonable adjustments as necessary. Each and every agent acting as Authorized Representative on behalf of a company affording coverage pursuant to this Agreement shall warrant when signing the certificate of insurance that specific authorization has been granted by companies for the agent to bind coverage as required and to execute the certificate of insurance as evidence of such coverage. Each agent, contractor and/or subcontractor must meet the same insurance requirements.

d. City shall, without exception, be given not less than thirty (30) days notice prior to cancellation for other than non-payment of premium or for material change of any insurance required by this Agreement. Non-payment of premium shall require ten (10) days notice of cancellation. Confirmation of this mandatory thirty (30)-day notice of cancellation shall appear on the certificate of insurance and on any and all insurance policies required pursuant to this Agreement.

e. City shall be covered as an additional insured, as its interest may appear, under any and all insurance required pursuant to this Agreement, and such insurance shall be primary with respect to the additional insured. Confirmation of this shall appear on the certificate of insurance, and on any and all applicable insurance policies. However, this requirement does not apply to workers' compensation or professional liability insurance.

f.	Required Minimum Insurance Amount	
	Workers Compensation	Statutory
	Bodily Injury by Accident/Disease	\$1,000,000 each policy

g.	Commercial General Liability	
	Bodily Injury and Property Damage	\$50 Million combined single limit

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The following specific extensions of coverage shall be provided and indicated on the Certificate of Insurance.

Comprehensive Form
Contractual Insurance (Blanket or specific to this Agreement)
Personal Injury
Broad form Property Damage
Premises-Operations

- h. Airside Vehicle and Aircraft Liability
Bodily Injury and Property Damage \$100 Million combined-single
limit.

The following specific extensions of coverage shall be provided and indicated on the Certificate of Insurance:

- (1) Comprehensive Form
- (2) Owned, hired, leased and non-owned vehicles to be covered
- (3) Specific liability for vehicles operated on the Airfield

IX. ASSIGNMENT

The Airline shall not assign or transfer this Agreement or any right or interest granted to it by this Agreement without the consent of the City (which consent may be withheld in the sole discretion of the City); provided, however, that the Airline may assign and transfer this Agreement, without such consent, in its entirety to a parent corporation, a subsidiary corporation, or a successor corporation. As used in this Article "parent corporation" means a corporation holding 50% or more of the Airline's outstanding voting stock, "subsidiary corporation" means a corporation of whose outstanding voting stock the Airline owns 50% or more, and "successor corporation" means a corporation acquiring substantially all of the Airline's assets.

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X. AIRPORT OPERATION IN THE PUBLIC INTEREST

In the exercise and performance of its powers and duties under the Uniform Airports Law, the City recognizes and declares that the Airport is being operated and maintained in the public interest, for the public convenience and necessity, and hereby declares its intention to encourage and develop air transportation for the citizens of Georgia and in particular for the citizens of the vicinity of Atlanta, and to that end pledges the maintenance, use, and operation of the Airport for public, governmental, and municipal purposes, in accordance with FAR Part 139 certification standards.

XI. TERMINATION BY THE CITY

The City, in addition to any right of termination or any other right herein granted to it or accruing to it by operation of law, may declare this Agreement terminated in its entirety upon the happening of any one or more of the following events:

1. If the rentals, fees, charges, or other money payments which the Airline herein agrees to pay, or any part thereof, shall be unpaid on the date which is five (5) business days after written notice from the City that the same is overdue (provided, however, that Airline shall only be entitled to three (3) such notices for monetary default during the Term and that notwithstanding anything to the contrary contained herein, this Agreement shall thereafter be immediately terminable by City if any monetary obligation hereunder becomes overdue); or
2. If the Airline shall file a voluntary petition in bankruptcy, or make a general assignment for the benefit of creditors; or

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3. If any act occurs which operates to deprive the Airline permanently of the rights, power, and privileges necessary for the proper conduct and operation of its business; or
4. If the Airline abandons service to the Airport for sixty (60) days or more, except when such abandonment and cessation is due to fire, earthquake, strike, governmental action, default of the City, or any other cause beyond its control; or
5. If any of the covenants or agreements contained herein shall be breached by the Airline.

XII. TERMINATION BY THE AIRLINE

The Airline, in addition to any right of termination or any other right herein granted to the Airline or accruing to it by operation of law, may terminate this Agreement in its entirety upon or after the happening of any one or more of the following events:

1. If any act occurs which operates to deprive the Airline of the rights, power, and privileges necessary for the proper conduct and operation of its business; or
2. The breach by the City of any of the covenants or agreements herein contained; or
3. The continued failure or refusal by the City, after thirty (30) days prior written notice to the City, to maintain and operate in a reasonably satisfactory manner the public aircraft facilities at the Airport; or

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4. The continued operation at the Airport, after thirty (30) days prior written notice to the City, of types of air traffic other than commercial airline traffic to the extent that use of the Airport by commercial airline traffic is substantially impaired or restricted; or
5. If the Airline abandons service to the Airport for sixty (60) days or more.

XIII. TERMINATION NOTICES

Notwithstanding anything to the contrary in this Agreement contained, no termination declared by either party shall be effective unless and until not less than thirty (30) days shall have elapsed after written notice to the other specifying the date upon which such termination shall take effect and the cause for which it is being terminated (and, if such termination is by reason of a default under this Agreement, specifying such default with reasonable certitude); and no such termination shall be effective if such cause shall have been cured or obviated during such thirty (30) day period; or, in the event that such cause is a default under this Agreement which by its nature cannot be cured within such thirty (30) day period, such termination shall not be effective if the party at fault commences to correct such default within said thirty (30) day period and corrects the same as promptly as reasonably practicable.

XIV. CONTINUED PERFORMANCE NOT A WAIVER

Continued performance by either party hereto pursuant to the terms of this Agreement after a default of any of the terms, covenants, or conditions herein contained to be performed, kept, or observed by the other party hereto shall not be deemed a

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waiver of any right to cancel this Agreement for such default, and no waiver of any such default shall be construed or act as a waiver of any subsequent default.

XV. INVALID PROVISIONS

It is understood and agreed by and between the Airline and the City that if any covenant, condition, or provision contained in this Agreement is held to be invalid by any court of competent jurisdiction, or otherwise appears to the Airline and to the City to be invalid, such invalidity shall not affect the validity of any other such covenant, condition, or provision herein contained, provided that the invalidity of any such covenant, condition, or provision does not materially prejudice either the City or the Airline in their respective rights and obligations contained in the remaining valid covenants, conditions, or provisions of this Agreement.

XVI. NOTICES, CONSENTS, AND APPROVALS

All notices, consents, and approvals required or authorized by this Agreement to be given by or on behalf of either party to the other shall be in writing and signed by a duly authorized representative of the party by or on whose behalf they are given. Notices to the City shall be addressed to the Office of the Aviation General Manager at the Airport and delivered to the following address:

City of Atlanta
Department of Aviation
6000 N. Terminal Parkway
Suite 4000
P.O. Box 20509
Atlanta, GA 30320

either by hand or by registered or certified mail, postage prepaid, or at such other place

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as the City may hereafter designate by notice to the Airline in writing. Notices to the Airline shall be addressed to it and delivered at the following address:

either by hand or registered or certified mail, postage prepaid, or at such other office in the continental United States as it may hereafter designate by notice to the City in writing.

XVII. SECURITY VIOLATIONS

In the event that any violations of Federal regulations, including but not limited to unauthorized runway crossings, are committed by the Airline's employees, agents, guests, invitees, which violations subject the City to fines imposed by the Federal Aviation Administration pursuant to such regulations, then in such event Airline hereby covenants and agrees to reimburse City fully for such fines promptly upon receipt of demand therefor from the City.

XVIII. Integrated Agreement, Modification

The parties agree that the use of the Airport by Airline shall be by this Airport Use License Agreement only, and not by any other agreement, including but not limited to the Airport Use Agreement. This Airport Use License Agreement contains all the agreements enforceable by the parties with respect to the rights and obligations of the parties as to the use of the Premises under this Airport Use License Agreement, and cannot be further amended or modified except by written agreement of the parties.

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IN WITNESS HEREOF, the parties hereto have caused these presents to be executed by their duly authorized officials or officers, the signatures to be attested, and their respective seals to be hereunto affixed, as of the day and year first above written.

ATTEST:

AIRLINE (Seal)

Secretary

by _____
Title:

ATTEST:

CITY OF ATLANTA

(Seal)

Municipal Clerk

by _____
Mayor

APPROVED:

APPROVED:

Aviation General Manager

Chief Procurement Officer

APPROVED AS TO FORM:

Senior Assistant City Attorney

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