

**FIRST AMENDMENT  
AIRLINE OPERATING AGREEMENT AND TERMINAL  
BUILDING LEASE**

**between**

**City Of Manchester, New Hampshire  
Department Of Aviation**

**and**

**Airline**

**December 2009**

THIS FIRST AMENDMENT TO THE AIRLINE OPERATING AGREEMENT AND TERMINAL BUILDING LEASE (hereinafter "Amendment"), made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of Manchester, Department of Aviation, a municipal corporation of the State of New Hampshire (hereinafter "City"), and \_\_\_\_\_, a corporation organized under the laws of the State of \_\_\_\_\_, and registered to do business in the State of New Hampshire (hereinafter "Airline");

WITNESSETH:

WHEREAS, City controls, operates, and manages an airport known as Manchester-Boston Regional Airport, located in the City of Manchester and the Town of Londonderry, State of New Hampshire (herein after "Airport"); and

WHEREAS, Airline is engaged in the business of Air Transportation; and

WHEREAS, City and Airline are parties to the Airline Operating Agreement and Terminal Building Lease dated July 1, 2005 (hereinafter "Agreement"); and

WHEREAS, City and Airline desire to extend the term of the Agreement, and amend certain terms and provisions of the Agreement as set forth in this Amendment; and

WHEREAS, City and Airline respectively, have the power and authority to enter into this Amendment;

NOW, THEREFORE, for and in consideration of the Rentals and Fees and the mutual covenants, agreements, and conditions contained in the Agreement and this Amendment, City and Airline hereby agree to extend the term and modify those provisions of the Agreement as specifically set forth in this Amendment as follows:

A. All capitalized terms contained in this Amendment which are not defined in this Amendment shall have the respective meaning ascribed to them in the Agreement, unless defined otherwise herein;

B. Article 2 (Term) of the Agreement is hereby deleted in its entirety and replaced with the following:

2.01 Term. This Agreement shall be effective at 12:00 a.m. July 1, 2005 and shall terminate at 11:59 p.m. on June 30, 2015, subject to early termination as provided for in this Agreement.

C. Article 1, Section 1.01, the definition of "Affiliate" is supplemented by the following addition:

Airline shall provide the City with a completed Exhibit T, attached hereto, for each Affiliate active as of the effective date of this Amendment; subsequently Airline shall provide an updated Exhibit T thirty (30) days prior to Airline designating a new Affiliate, which designation is subject to City approval, solely based on a requirement that the proposed Affiliate meets the above criteria.

D. Anything contained in the Agreement to the contrary notwithstanding, effective July 1, 2010 the following provisions of the Agreement shall be modified as follows:

1. Article 6, Section 6.04 (A)(5) is hereby deleted in its entirety and replaced with the following:

The annual Amortization of the total amount of any expenditures made by the City for Capital Improvements in the Terminal Building Cost Center before January 1 of the adjustment year and financed by the City from the Capital Improvement Account. Such annual Amortization shall be calculated at the then current City cost of borrowed funds when said capital investment is made and based on the economic life of each Capital Improvement in accordance with generally accepted accounting principles. Total annual expenditures subject to Amortization shall not exceed five million dollars (\$5,000,000) for all Airport Cost Centers combined during any Fiscal Year.

2. Article 6, Section 6.04 (D) is hereby deleted in its entirety and replaced with the following:

At the close of each Fiscal Year, actual costs of the operation of the Terminal Building related specifically to Airline occupied space and associated cost centers shall be ascertained by the City for such Fiscal Year and any deficit in funds shall be carried over to the following Fiscal Year as an account receivable and be surcharged as an additional charge to the Terminal Building Rental Rate in equal amounts so that the full amount of the deficit is collected by the CITY by the end of the Fiscal Year. Any surplus incurred during the term of this Agreement shall be credited to the Revenue Credit Account.

3. Article 6, Section 6.05 (A)(4) is hereby deleted in its entirety and replaced with the following:

The annual Amortization of the total amount of any expenditures made by City for Capital Improvements in the Apron Cost Center before January 1 of the adjustment year, and financed by City from the Capital Improvement Account. Such annual Amortization shall be calculated at the then current City cost of borrowed funds when said capital investment is made and based on the economic life of each Capital Improvement in accordance with generally accepted accounting principles. Total annual expenditures subject to Amortization shall not exceed five million dollars (\$5,000,000) for all Airport Cost Centers combined during any Fiscal Year.

4. Article 6, Section 6.06 (A)(5) is hereby deleted in its entirety and replaced with the following:

The annual Amortization of the total amount of any expenditures made by the City for Capital Improvements in the Airfield Cost Center before January 1 of the adjustment year, and financed by the City from the Capital Improvement Account. Such annual Amortization shall be calculated at the then current City cost of borrowed funds when said capital investment is made and based on the economic life of each Capital Improvement in accordance with generally accepted accounting principles. Total annual expenditures subject to Amortization shall not

exceed five million dollars (\$5,000,000) for all Airport Cost Centers combined during any Fiscal Year.

5. A new Article 6, Section 6.09 is hereby created:

Extraordinary Coverage Protection. It is imperative that City generate sufficient Revenues to meet the requirements of the Covenant as to Rates and Charges in the Bond Documents. If the City estimates that it will not meet the requirements of the Covenant as to Rates and Charges in the Bond Documents during any Fiscal Year of the Term hereof, City may adjust the Terminal Building Rental Rate, the Apron Fee Rate and/or the Landing Fee Rate to meet such requirements, upon thirty (30) days prior written notice to the Signatory Airlines. The City will deposit and retain such Extraordinary Coverage Protection payments in the Coverage Account only to the extent necessary to meet requirements of the Covenant as to Rates and Charges in the Bond Documents. Excess Extraordinary Coverage Protection payments shall be credited back to the Signatory Airlines in proportion to the amounts paid by each Airline.

6. Article 11, Section 11.02 is hereby deleted in its entirety and replaced with the following:

Ground Handling Services

(A) Ground Handling Services by Airline. Airline shall not ground handle another Airport Transportation Company without the prior written approval of the Airport Director. Should Airline wish to handle any portion of the operations of another Air Transportation Company, Airline shall provide City with advance written notice of such proposed activities, including a description of the type and extent of services to be provided. Airline agrees to pay monthly to City, a privilege fee of three percent (3%) of the gross revenues derived from such Ground Handling Services performed for non-Signatory Airlines or non-scheduled airlines, provided however, that no privilege fee shall be required for Ground Handling Services performed for Airline's Affiliate(s) and other Signatory Airlines.

(B) Ground Handling Services by Others. City shall grant Airline the right to contract with other companies, including Signatory Airlines, for Ground Handling Services for Airline's aircraft, provided that, among other considerations: (1) Airline has received advance written consent of City, which consent shall not be unreasonably withheld or delayed; and (2) such other company, unless such company is a Signatory Airline, has entered into a Ground Handling Services operating agreement with City prior to the commencement of such Ground Handling Services.

7. Article 12, Section 12.02(B) is hereby deleted in its entirety and replaced with the following:

AIRLINE shall provide CITY a copy of AIRLINE's National Pollutant Discharge Elimination System (NPDES) permit. Contamination to stormwater can result from activities such as, but not limited to, aircraft fueling, aircraft and vehicle maintenance, aircraft and vehicle

washing, and aircraft de-icing. Note that under this Agreement aircraft or vehicle washing is not allowed at Manchester-Boston Regional Airport.

8. Article 12, Section 12.02(C)(2) is hereby deleted in its entirety and replaced with the following:

AIRLINE shall submit monthly reports to the Airport Director during the deicing season that shows the location of its anti-icing/deicing activities, the quantity of deicing fluid applied, the type of material applied, and the manufacturer of the material. These are due to CITY no later than the 10th of the following month.

9. Article 12, Section 12.02(C)(3) is hereby deleted in its entirety and replaced with the following:

AIRLINE must comply with CITY's Spill Response Procedure, a copy of which is available by request from the Department of Aviation. AIRLINE is responsible for the containment and clean up of spills from aircraft fueling, vehicle fueling, and leaking vehicles. AIRLINE must properly label and dispose of all contaminated material used to remediate spills including signing hazardous waste manifests. AIRLINE must comply with all reporting requirements of NHDES, and a copy of the written report shall be submitted to the Airport Director.

10. Exhibits H,I,J,K,L and M are hereby replaced with Exhibits H,I,J,K,L and M, attached hereto and made a part of this Amendment. As of July 1, 2010, Airline agrees to lease Preferential Use spaces from the City as illustrated in Exhibits H,I,J,K,L and M.

IN WITNESS WHEREOF, this Amendment is executed and effective as of the dates set forth below. Except as expressly amended herein, all terms and provisions of the Agreement shall remain unchanged and in full force and effect.

CITY OF MANCHESTER  
DEPARTMENT OF AVIATION

By: \_\_\_\_\_  
Mark Brewer, Airport Director

\_\_\_\_\_  
Attest

\_\_\_\_\_  
Date

AIRLINE

By: \_\_\_\_\_

\_\_\_\_\_  
Attest

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**EXHIBIT T**

**AFFILIATE IDENTIFICATION AND REQUIREMENTS**

**“AIRLINE”:** \_\_\_\_\_

**“AFFILIATE”:** \_\_\_\_\_ d/b/a \_\_\_\_\_

**AFFILIATE ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**AFFILIATE POINT OF CONTACT:** \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

**Date Start of Service:** \_\_\_\_\_

**Date of Termination:** \_\_\_\_\_

AIRLINE and AFFILIATE acknowledge and agree that AFFILIATE will comply with all terms, conditions, covenants, and obligations as set forth in the Manchester-Boston Regional Airport Airline Operating Agreement and Terminal Lease, as amended, dated July 1, 2005.

**AIRLINE**

\_\_\_\_\_

By: \_\_\_\_\_

**AFFILIATE**

\_\_\_\_\_

By: \_\_\_\_\_