

AGREEMENT FOR OPERATIONAL INCENTIVES (“AGREEMENT”)

THIS AGREEMENT is made and entered as of the date indicated on the City’s signature page below, by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “**City**”), and **UNITED AIRLINES, INC.**, a certified air carrier with its principal place of business in Chicago, Illinois and authorized to do business in the State of Colorado (the “**Airline**”) (collectively referred to herein as (the “**Parties**”));

WITNESSETH:

WHEREAS, the City owns and operates Denver International Airport (“**DEN**”); and

WHEREAS, the Airline announced new, non-stop, regular passenger service between Frankfurt, Germany (“**FRA**”) and DEN (the “**Service**”) beginning on or about May 2, 2019; and

WHEREAS, DEN assesses operational fees for the Airline’s use of DEN, payable to the Denver Municipal Airport System Enterprise Fund (the “**Airport Revenue Fund**”); and

WHEREAS, a factor in Airline’s decision to initiate new passenger service was an offer by DEN of promotional benefits to any air carrier initiating or announcing qualified, scheduled passenger service between September 1, 2018 and August 31, 2019, consistent with the terms and conditions of the City’s Air Service Incentive Program, attached hereto as *Exhibit A*;

NOW THEREFORE, in consideration of the mutual agreements herein contained, and subject to the terms and conditions herein stated, the Parties agree as follows:

1. INCENTIVE/INCENTIVE PAYMENT MECHANISM:

A. Schedule. The current published schedule for the Service is three hundred twenty-two (322) departures in the first year of service (May 2, 2019 through May 1, 2020).

B. Credits. For the purposes of this Agreement, the Parties expressly agree that the term “Airline” includes aircraft movements at DEN by the Airline as well as by its

subsidiaries, affiliates and aircraft operators with whom the Airline has a capacity purchase agreement covering the aircraft movements at DEN and that all such aircraft operators shall be construed as the Airline hereunder. If the Airline establishes and continues the Service for twelve (12) consecutive months, beginning on or about May 2, 2019, the City will provide credit from Airport revenues against the fees Airline would owe to the Airport to operate the incentivized route. The incentives may include, but are not limited to, landing fees, rental fees, or gate fees. The credit, however, will not exceed the Airline's cost to operate at DEN.

C. Accounting for Credits. The credits will be accounted for in the City's Airport Revenue Fund and shall be reconciled in accordance with DEN rate-making procedures as outlined in Part VI of the Airport Use and Lease Agreement, by and between the City and Airline, as amended (the "**Existing Agreement**"). The credits are calculated based upon number of enplaned passengers, with a refund of \$30 per enplanement, up to the Maximum Contract Amount (set forth in Section 2, below). Such refunds per enplanement shall be recorded on the reporting form attached hereto as *Exhibit B* (the "**Program Passenger Tracking Template**"). If the Service is discontinued before twelve (12) months have elapsed then the credits will be terminated in accordance with Section 4, below.

2. MAXIMUM CONTRACT AMOUNT: The total amount of credits offered to Airline shall not exceed **Two Million Five Hundred Thousand United States Dollars and No Cents (US\$2,500,000.00)**.

3. TERM: The term of the Agreement shall begin on or about May 2, 2019 and shall expire twelve (12) months thereafter.

4. TERMINATION: The Airline may adjust frequency of the Service during the term of this Agreement. However, the Airline shall not decrease the frequency of the Service to less than fifty percent (50%) of the initial amount of published Service (as set forth in Paragraph 1A, above), the calculation of which will be averaged over the course of one (1) twelve-month

period. If the Airline does not provide the Service at a minimum of fifty percent (50%) of the frequency set forth in Paragraph 1A, above, for a period of twelve (12) consecutive months immediately following the commencement of the Service, then the incentives under this Agreement shall terminate and all operational fees which would have been due and owing to the City without the application of the credits shall be payable to the City's Airport Revenue Fund within thirty (30) days of the discontinued or reduced Service to less than fifty percent (50%) of the initial schedule provided in Paragraph 1A.

5. STATUS OF AIRLINE: The City and Airline each acknowledge and agree that it is a party to the Existing Agreement that was executed at least sixty (60) days before the commencement of Service and that the Airline has become a Signatory Airline as defined in DEN's Rules and Regulations. This Agreement is expressly subject to all the terms and conditions set forth in the Existing Agreement. It is further understood and agreed that the status of Airline shall be that of an independent contractor, and it is not intended, nor shall it be construed, that the Airline or its employees are employees or officers of the City under Chapter 18 of the Denver Revised Municipal Code or for any purpose whatsoever.

6. NOTICES: Notices concerning termination of this Agreement, notices of alleged or actual violations of the terms of this Agreement, and other notices of similar importance shall be made as follows:

by Airline to: Chief Executive Officer
Denver International Airport
8500 Peña Boulevard, 9th Floor
Denver, Colorado 80249-6340
Facsimile: 303-342-2215

And by City to: United Airlines, Inc.
Attn: Jason Chu
223 S.Wacker Dr
Chicago, IL 60606

Contact Name: Jason Chu
Phone: 872-825-6814
Email Address: Jason.Chu@united.com

Said notices shall be delivered personally during normal business hours to the appropriate office above or by prepaid certified mail, return receipt requested. Mailed notices shall be deemed effective upon deposit with the U.S. or German Postal Service. Either party may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed or delivered, but such substitutions shall not be effective until actual receipt of written notification thereof. Non-legal notices (such as day-to-day operational notices) may be sent via e-mail.

7. **ASSIGNMENT AND SUBCONTRACTING:** The City is not obligated or liable under this Agreement to any party other than the Airline named herein. The Airline shall not assign or subcontract with respect to any of its rights, benefits, obligations, or duties under this Agreement except upon prior written consent and approval of the City; provided, however, nothing contained herein shall preclude Airline from entering into agreements with third parties for ground handling and similar services ancillary to its air transportation business or agreements with its regional carriers for operating its flights.

8. **NO THIRD PARTY BENEFICIARY:** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and Airline, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreements. It is the express intention of the City and the Airline that any person other than the City or Airline receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

9. **AIRLINE'S INSURANCE:** The Airline agrees to insure its operations in accordance with the terms of the Existing Agreement.

10. **EXAMINATION OF RECORDS:** The Airline agrees that the Manager and the Auditor of the City or any of their duly authorized representatives, until the expiration of three

(3) years after the final credit has been accounted for under this Agreement, shall have access to and the right to examine the books, documents, papers and records of Airline pertinent to this Agreement. The Airline, upon the written request by either, shall make all such books and records available for examination and copying in Denver.

11. **WHEN RIGHTS AND REMEDIES NOT WAIVED:** In no event shall any action by the City hereunder constitute or be construed to be a waiver by the City of any breach of covenant or default which may then exist on the part of Airline, and the City's action or inaction when any such breach or default exists shall not impair or prejudice any right or remedy available to the City; and no assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of the Agreement shall be deemed or taken to be a waiver of any other breach.

12. **CONSTRUCTION:** This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado, and the Charter and Revised Municipal Code of the City and County of Denver, and the ordinances, regulations, and Executive Orders enacted and/or promulgated pursuant thereto. Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver, Colorado.

13. **NO DISCRIMINATION IN EMPLOYMENT:** In connection with the performance of work under this Agreement, Airline agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Airline further agrees that its Code of Conduct includes provisions substantively similar to those set out in this Section and that adherence to this Code of Conduct is a contractual requirement for doing business with Airline.

14. **AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS:** This Agreement is intended as the complete integration of all understandings between the Parties as

regards the amount of the Airline's credit against operational fees and the City's method of crediting in connection with the Service. No prior, contemporaneous or subsequent addition, deletion, or other amendment hereto shall have any force or effect, unless embodied herein in writing, and executed in the same manner as this Agreement.

15. LEGAL AUTHORITY:

A. Airline assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement.

B. The person or persons signing and executing this Agreement on behalf of Airline do hereby warrant and guarantee that he/she or they have been fully authorized by Airline to execute this Agreement on behalf of Airline and to validly and legally bind Airline to all the terms, performances and provisions herein set forth.

C. The City shall have the right, at its option to either temporarily suspend or permanently terminate this Agreement, if there is a dispute as to the legal authority of either Airline or the person signing the Agreement to enter into this Agreement. The City shall not be obligated to Airline for any performance of the provisions of this Agreement in the event that the City has suspended or terminated this Agreement as provided in this Section.

16. ELECTRONIC SIGNATURES-COUNTERPARTS OF THIS

AGREEMENT: This Agreement may be executed by the use of electronic signatures, and in counterparts, each of which shall be deemed to be an original of this Agreement.

**END OF AGREEMENT
SIGNATURE PAGES AND EXHIBITS FOLLOW**

Contract Control Number: PLANE-201947913-00

Contractor Name: UNITED AIRLINES INC

By: DocuSigned by:
Pranav Trivedi, Managing Director- Airport Affairs
DEEED85238234E...

Name: Pranav Trivedi, Managing Director- Airport Affairs
(please print)

Title: Managing Director, Corporate Real Estate
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



Exhibit A

Air Service Incentive Program

Goal: To increase nonstop scheduled air service and passenger traffic at Denver International Airport, and to sustain this service over the long-term.

- Promotional benefits offered to any air carrier announcing qualifying scheduled passenger service between Sept. 1, 2018 and August 31, 2019 (one-year period);
- Incentive funds are limited and may expire at any time during the course of this one-year period.

Promotional Period

The Promotional Period is defined as the first consecutive 12 or 24 months immediately following the initiation of eligible new service.

Qualifying Criteria

- Carrier must offer daily nonstop scheduled passenger service from Denver International Airport to the eligible market; if service is less than five times weekly, the marketing incentive benefit will be prorated as detailed in the table (operational incentive is not prorated).
- The carrier must provide the service for 12 or 24 consecutive months; seasonal service is also eligible; if service is seasonal the marketing incentive benefit will be prorated accordingly as detailed in the table (operational incentive is not prorated).
 - The 12-month period applies to international markets that already have nonstop service from Denver, and to new entrant domestic carriers that are serving currently served domestic markets.
 - The 24-month period applies to all other markets, both international and domestic.
- Charter operations, including operators under Parts 121, 135 and 380, are not eligible.
- All conditions for receiving the benefits will be documented in a contract between the City and County of Denver and the qualifying carrier which is subject to final approval by the appropriate officials at the City and County of Denver.
- If the carrier does not meet the minimum schedule level (defined below) for a period of 12 or 24 consecutive months immediately following the initiation of the route then all amounts paid by the City and County of Denver for marketing activities shall be refunded to the City and County of Denver, and all refunds credited to the carrier shall be refunded to the City and County of Denver.

Promotional Incentive

The Promotional Incentive includes an operational incentive and a marketing incentive; incentive amounts are outlined in this PDF.

Operational Incentive

- The operational incentive is administered by the City & County of Denver, Department of Aviation.
- Operational incentives are administered through credits.
- Operational incentive available to carriers:
 - Refund per enplaned passenger.
- The refund per enplaned passenger cannot exceed the carrier's cost to operate at DEN.
- The carrier will report enplanement numbers to DEN monthly at the same time as the carrier reports total passengers numbers to DEN.

Marketing Incentive:

- The marketing incentive is administered by the City & County of Denver, Department of Aviation.
- The carrier will develop a marketing plan that will be approved by the Department of Aviation Project Manager assigned to administer the contract.
- The marketing plan will promote public and industry awareness of the new services offered by the carrier at Denver International Airport, and will promote travel to/from/through Denver International Airport.
- The Department of Aviation Project Manager is responsible for executing the marketing plan in cooperation with the carrier.
- An initial draft of the marketing plan must be submitted to the Department of Aviation Project Manager within 60 business days of airline's notification to DEN that the carrier intends to take the marketing incentive; if the carrier does not provide a draft marketing plan within 60 business days, the City & County of Denver reserves the right to end negotiations.

Note: Carrier can choose to increase marketing incentive by decreasing the operational incentive; the maximum incentive amount remains the same. If a new domestic entrant is providing service to an unserved destination, the new domestic entrant can choose either the "Unserved Destination" option or the "New Entrant" option.

Eligible Markets

Domestic

- Domestic markets without scheduled or charter passenger service are eligible (unserved by scheduled or charter service as of Sept. 1, 2018).
- Domestic markets that are unserved from Denver but had nonstop scheduled or charter service from Denver within the one year prior to a carrier announcing new service are not eligible.
- Domestic markets that fall under the federally subsidized Essential Air Service (EAS) program are not eligible.
- A new domestic carrier (new entrant) can receive a marketing incentive even if the service they are providing is to a domestic market that is currently served nonstop from Denver; note that the new carrier incentive, if it is to a market that is currently served, is only eligible for an incentive for a period of one year (12 months).
- A new domestic carrier (new entrant) is not eligible for an incentive if the market(s) served are not deemed eligible markets, as described above.

International

- All international markets are eligible including currently served markets; currently served international markets are only eligible for an incentive for a period of one year (12 months) and markets without nonstop service are eligible for an incentive for a period of two years (24 months).
- The carrier adding new service must not have operated service to the market (or a market within 100 miles) over the preceding 12-month period.

Minimum Service Level

The carrier may adjust its frequency of service during the term of the agreement; however, the carrier shall not decrease the frequency of service to less than fifty percent (50%) of the initial amount of initially published service, the calculation of which will be averaged over the course of a year.

Primary Carrier

- The primary carrier is defined as the marketing carrier for the new service.
- Denver International Airport will enter into incentive agreements with only the primary carrier.

Notice of Intent to Enter into Incentive Agreement

A carrier eligible for an incentive must notify Denver International Airport within 60 days of service announcement of the intention to take advantage of the incentive.

Signed Agreement Requirement

A carrier eligible for an incentive must sign the agreement within 45 business days of receipt from the City & County of Denver. If the carrier does not sign the agreement within 45 business days, the City & County of Denver reserves the right to end negotiations.

DENVER INTERNATIONAL AIRPORT AIR SERVICE INCENTIVE PROGRAM						
DOMESTIC AIR SERVICE INCENTIVE						
	REFUND PER ENPLANEMENT	MARKETING FUNDS			MAXIMUM INCENTIVE	
Unserviced Destination	\$5 \$250K maximum over 2 years	\$250K 5-7+ weekly frequencies	\$125K 3-4 weekly frequencies	\$25K 1-2 weekly frequencies	\$10K <1 weekly frequency	\$500K
New Entrant	NONE	\$500K 5-7+ weekly frequencies	\$250K 3-4 weekly frequencies	\$100K 1-2 weekly frequencies	\$25K <1 weekly frequency	\$500K
INTERNATIONAL AIR SERVICE INCENTIVE						
	REFUND PER ENPLANEMENT	MARKETING FUNDS			MAXIMUM INCENTIVE	
North & Central America - Canada, Caribbean, Central America, Mexico	\$20 \$1M maximum over 2 years	\$1M 5-7+ weekly frequencies	\$500K 3-4 weekly frequencies	\$100K 1-2 weekly frequencies	\$25K <1 weekly frequency	\$2M
South America, Europe, Asia, Middle East, Africa, Oceania	\$30 \$4M maximum over 2 years	\$2M 5-7+ weekly frequencies	\$1M 3-4 weekly frequencies	\$500K 1-2 weekly frequencies	\$250K <1 weekly frequency	\$6M

Program is in effect for airlines announcing eligible service between Sept. 1, 2018 and Aug. 31, 2019; frequencies calculated annually.

EXHIBIT B

Airline

Air Service - Incentive Program
Denver International Airport
Service Starting



Monthly Statistics					
Period	Year	Month	Route	Scheduled Operations	Enplanements
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					
Total				-	-