

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 corporation organized and existing under and by virtue of the laws of the State of Delaware and authorized to do business in the State of Colorado (the “**Airline**”) (each a “**Party**” and collectively referred to herein as the “**Parties**”);

WITNESSETH:

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

WHEREAS, the Airline initiated new, non-stop, regular passenger service between London Heathrow Airport (LHR) and DEN (the “**Service**”) on or about March 24, 2018; 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 is an offer by DEN of promotional benefits to any air carrier initiating or announcing qualified, scheduled passenger service between September 1, 2017 and August 31, 2018, 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. 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 for the purposes of calculating the credit provided hereunder. If the Airline establishes and continues the Service beginning on or about March 24, 2018 and ending on October 27, 2018 (the “**Summer 2018 Season**”), the City will provide credit from Airport revenues against the fees Airline would owe to the Airport Revenue Fund for Landing Fees, FIS Fees, and Gate-Use Fees under the Existing Agreement in connection with the Service. The current published schedule for the Service is seven (7) departures per week for the Summer 2018 Season (the “**Current Schedule**”).

B. 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 Thirty Dollars (\$30.00) 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* (“**Program Passenger Tracking Template**”). If the Service is discontinued before the end of the Summer 2018 Season, then the credits will be terminated in accordance with Section 4, below.

2. MAXIMUM CONTRACT AMOUNT: The total amount of credits provided to Airline shall not exceed **Four Million United States Dollars and No Cents (US\$4,000,000.00)**.

3. TERM: The term of the Agreement shall begin on the date of commencement of the Service on or about March 24, 2018 and shall expire on October 27, 2018, which date is the last day of the Summer 2018 Season.

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 Current Schedule during the Summer 2018 Season. If the Airline does not provide the Service at a minimum of fifty percent (50%) of the Current Schedule for the Summer 2018 Season, 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 30 days of the discontinued or reduced service to less than fifty percent (50%) of the Current Schedule as provided above.

5. STATUS OF AIRLINE: The City and Airline acknowledge and agree that they are parties to the Existing Agreement that was executed at least 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 of 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: Christopher Ellsworth
Willis Tower
233 S. Wacker Drive, WHQOU
Chicago, IL 60606

United Airlines, Inc.
Attn: Matthew Stevens
Willis Tower
233 S. Wacker Drive, WHQRL
Chicago, IL 60606

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. 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 operation of 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 are in accordance with the terms of the Existing Agreement, to be executed on or before flight operations begin.

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 internal policies include provisions substantively similar to those set out in this Section and that adherence to those policies is a contractual requirement for doing business with Airline.

13. 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.

14. 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.

15. 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:

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 _____



Contract Control Number: PLANE-201840367-00

Contractor Name: UNITED AIRLINES INC

By:  _____

Name: Pranav Trivedi
(please print)

Managing Director- Airport Affairs
Title: Corporate Real Estate
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



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 or initiating qualifying scheduled passenger service between Sept. 1, 2017, and Aug. 31, 2018 (one year period)
- A carrier is eligible for a maximum of two incentivized markets during the aforementioned 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

- Carriers 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 accordingly (operational incentive is not prorated)
- The carrier must provide the service for 24 consecutive months; seasonal service is also eligible; if service is seasonal the marketing incentive benefit will be prorated accordingly (operational incentive is not prorated)
- 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

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

Program is in effect for airlines announcing eligible service between Sept. 1, 2017, and Aug. 31, 2018.

The Promotional Incentive includes an operational incentive and a marketing incentive; incentive amounts are outlined in this [GRAPHIC](#).

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 enplanement 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
- The Department of Aviation Project Manager is responsible for executing the marketing plan in cooperation with the carrier

Note: Carrier can choose to increase marketing incentive by decreasing the operational incentive; the maximum incentive remains the same.

Eligible Markets

Domestic

- Domestic markets without scheduled or charter passenger service are eligible (unserved by scheduled or charter service as of Sept. 1, 2017)
- 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 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 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.

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				-	-

Denver International Airport
**Air Service Operational Incentive Program
 Enplanement Tracking and Refund Request Form**



Main Airline

Airline Operator:

Contract

Service Description

CIP and Project

GL Account

Additional Information

IATA Code

Destination Airport Id

Contract Start Date

Contract End Date

Duration (in Years)

Minimum Scheduled Ops Per Week

Grace Period for Stats Submittal

Airline Contact

Name

Email

Phone

Period ID

Refund per Enplanement

Enplanements

Period Beg Date

Period End Date

Contract Value

Amount Paid to Date

\$

-

Remaining Amount

\$

-

Amount of Credit

Per Id	Beg_Date	End_Date	Scheduled Operations	Reported Enplanements	Date Stats Received	Credit Memo Number	Actuals from Aerobahn	Total Seats from Aerobahn	[A] Per Passenger Incentive Calculation	[B] Monthly Route Revenue Limit	Lower of [A] or [B] Authorized Amount	Credit Memo Posted Amount	Credit Memo Status	Credit Memo Posted Date	Remaining Amount
Beg Value															
1															
2															
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Approved by Signature: _____ Date : _____
 Approved by Name: Michael McCrary

Note Fields shaded in grey are manually entered. All others are calculations