

DELTA COPY

AMENDMENT NO. 1
TO
AIRLINE OPERATIONS AGREEMENT

Between

CITY OF FRESNO,
A MUNICIPAL CORPORATION

And

DELTA AIR LINES, INC.
A DELAWARE CORPORATION

Dated

OCTOBER, 2016

MA 2/14 01500

THIS AMENDMENT NO. 1, effective as of July 1, 2013, is entered into between the City of Fresno, California, a municipal corporation, (hereinafter referred to as "City") and, Delta Air Lines, Inc., A Delaware Corporation, admitted in good standing to do business in California, (hereinafter referred to as "Airline").

RECITALS

WHEREAS, City is the owner and operator of Fresno Yosemite International Airport located in the City of Fresno, County of Fresno, State of California, hereinafter referred to as "Airport"; and

WHEREAS, Airline and City (each a "Party"; collectively the "Parties") have heretofore entered an Airline Operations Agreement dated February 7, 2013 ("AOA") covering space occupancy and use, and airfield user privileges, at the Fresno Yosemite International Airport ("Airport"); and

WHEREAS the Parties desire to amend the AOA, to extend the term and make other changes; and

WHEREAS the Parties recognize that due to various improvements to the passenger terminal at the Airport ("Terminal"), including the installation of common use hardware and software systems, and the implementation of policy and procedures related to common use of airline ticket counters and gates, the Parties wish to amend the space(s) covered by the AOA and the Exhibits attached to the AOA.

NOW, THEREFORE, in consideration of the mutual promises herein, it is hereby agreed as follows:

1. Article 1, Section 1.01, Shall amend the following definitions:

- KK. Preferential Use. Means the right conferred by the Airport to a Class I Airline to use Gate Facilities and Common Use Ticket Counter Positions on a preferential basis **during those periods of time defined by the Common Use Facilities Policy and Procedures.**

2. Article 1, Section 1.01- Add following definitions:

- XX. Affiliate Airline. Shall mean any Air Transportation entity that is (i) controlled by, controlling, or under common control with Airline, or (ii) shares an International Air Transport Association (IATA) flight designator code with Airline at the Airport (code sharing partner), or (iii) otherwise operates under the same trade name as Airline at the Airport or uses essentially the same livery as Airline at the Airport. Airline may give the Director thirty (30) days prior written notice that such an Affiliate is no longer to be considered an Affiliate hereunder.

- YY. Airport Rules for Airlines/Ground Handlers (Rules and Regs.) Means the manual provided by Director for operating an Airline at Airport.
- ZZ. Assigned Common Use Facilities. As defined in Common Use Facilities Policy and Procedures Manual as may be amended, means, all common use facilities, including but not limited to: ticket counters and gates. ____
- AAA. Classification of Airlines. Means the grouping of airlines by operating characteristics of number of weekly flights and by Signatory Airline status, as follows:
- i. Class I - Signatory Airlines together with their Affiliates representing 30% or more of average scheduled landings per week on a rolling quarterly basis;
 - ii. Class II - Signatory Airlines together with their Affiliates representing between 5% and 29.9% of average scheduled landings per week on a rolling quarterly basis;
 - iii. Class III - Signatory Airlines together with their Affiliates representing less than 5% of average scheduled landings per week on a rolling quarterly basis;
 - iv. Class IV - Non-Signatory Airlines;
 - v. Class V - Charters, Irregular Operations.
- BBB. Common Use Facilities. As defined in Common Use Facilities Policy and Procedures Manual as may be amended, means, facilities which are used on a shared or common basis with other airlines, and include Gate Facilities, Ticket Counter Positions, Baggage Makeup Conveyor Devices and Systems, Baggage Claim Conveyor Devices and Systems, FIDS, BIDS and GIDS.
- CCC. Common Use Gate. Means a Gate designated by the City for the use by the Airline in accordance with the Common Use Facilities Policy and Procedures manual.
- DDD. Common Use Facilities Policy and Procedures (Common Use Policy). Means the policy and procedures as set forth in the manual provided by Director, which describes the procedures agreed to between City and Signatory Airlines, for assigning Common Use Facilities for the various classifications of airlines, based on scheduled landings and other criteria, as described therein.
- EEE. Common Use Ticket Counter Position. Means the ticket counter position(s) designated by the City for the use by the Airline as assigned in accordance with the Common Use Facilities Policy and Procedures Manual.
- FFF. Gate Facilities. Means, but is not limited to, the use and access to a gate door, jet bridge, Common Use computer system, podium(s), counter and aircraft parking position, at a specified location within the passenger terminal for the purposes of operating a commercial air service airline.
- GGG. New Entrant. Means any airline or air carrier that desires to begin service at FYI and is not currently operating under a signed AOA.

3. Article 2, Section 2.01 shall be replaced with the following:

2.01 Term:

This Agreement shall be effective on August 22, 2012 ending on June 30, 2020, subject to earlier termination with or without cause by either Party giving sixty (60) days advance written notice to the other Party.

4. Article 5, Section 5.03 shall be deleted in its entirety and replaced with the following:

5.03 Application of Rental Rates

1. Common Use Area and Ticket Counter Position.

The Terminal Area Rental Rate shall be applied to Common Use Space ("CUS") on the basis of the Common Use Space Formula ("CUSF"). The CUSF is an allocation of the CUS among the Signatory Airlines based on Enplaning Passenger statistics for each month as reported by the Airlines. The Common Use Space is shown on Exhibit "B-1", which is attached hereto and hereby incorporated into this agreement.

- a. Common Use Ticket Counter Position. Terminal ticket counter numbers: 14A and 14B as shown on Exhibit "A-1" attached hereto and hereby made a part hereof and are assigned to Airline in accordance with the Common Use Facilities Policy and Procedures Manual.
- b. Annual Reallocation of Ticket Counters. Airline acknowledges that every July 1st, the possibility of a reallocation of the Common Use Ticket Counters at the sole discretion of the Director of Aviation.
- c. Common Use Ticket Counters.
 - i. The assignment of Common Use Ticket Counters to an Airline in accordance with the Airline's classification and the Common Use Policy.
 - ii. If a Common Use Ticket Counter is assigned as Preferential Use and there is a need for use by another Airline, such use shall be granted in accordance with the Common Use Policy, and if such use cannot meet the requirements in the Common Use Policy, such use shall not be granted.
 - iii. All remaining Ticket Counters not already assigned to an Airline may be available for Airlines requesting additional use in accordance with the Common Use Policy.

- d. Assignment of Service. All requests for Common Use Ticket Counter access shall be assigned by Director or designee consistent with the Common Use Policy and the Rules and Regulations Manual.
- 2. Gate Facilities. The Terminal Area Rental Rate shall be applied to Common Use Space ("CUS") on the basis of the Common Use Space Formula ("CUSF"). The CUSF is an allocation of the CUS among the Signatory Airlines based on Enplaning Passenger statistics for each month as reported by the Airlines. The Common Use Space is shown on Exhibit "B-1", which is attached hereto and hereby incorporated to this agreement.
 - a. Annual Reallocation of Gates. Airline acknowledges that every July 1st, the reallocation of the Common Use Gates will be considered at the sole discretion of the Director of Aviation.
 - b. Gate Facility Assignments.
 - i. Airline is assigned use of Gate no. 11, as shown in Exhibit "C-1" attached hereto and hereby made a part hereof, and which is designated as a Class (I, II, III) Airline in accordance with the Common Use Policy .
 - ii. Assignment of Service. All requests by an Airline for Common Use Gate access shall be assigned by Director or Designee consistent with the Common Use Policy.
- 3. The Terminal Area Rental Rate, as stated in the Master Fee Schedule as amended from time to time ("Terminal Area Rental Rate"), shall be applied to Exclusive Use Space on a per square foot basis.
 - a. Exclusive Use Space as stated below:
 - i. Room B-103, comprising 298 square feet of passenger terminal as shown in Exhibit "A-1" attached hereto and hereby made a part hereof is Airline's exclusive use space.
 - ii. Room C-155B, comprising 211 square feet of passenger terminal as shown in Exhibit "A-1" attached hereto and hereby made a part hereof is Airline's exclusive use space.
 - iii. Room C-169A, comprising 197 square feet of passenger terminal as shown in Exhibit "A-1" attached hereto and hereby made a part hereof is Airline's exclusive use space.
 - iv. Room C-169B, comprising 139 square feet of passenger terminal as shown in Exhibit "A-1" attached hereto and hereby made a part hereof is Airline's exclusive use space.

4. All other Airport Use Fees shall be applied as defined in the Master Fee Schedule.

5. Article 14, Section 14.19(D) shall be modified as follows:

Duty to Notify City. In the event of a release or threatened release, evading de minimis release of Hazardous Material into the environment that is or could be in violation of Environmental Laws relating to or arising out of Airline's use or occupancy of the Leased Premises, or in the event any claim, demand, action or notice is made against Airline regarding Airline's failure or alleged failure to comply with any Environmental Laws at the Airport, Airline shall promptly notify City by telephone, followed by written notice, and shall provide City with copies of any written claims, demands, notices, or actions so made.

6. Exhibits "A" and "B" from the AOA shall be deleted and replaced with Exhibits "A-1", "B-1" and Exhibit "G", Gate Facilities, shall be added, each attached hereto.

Except as expressly set forth herein, the AOA and all of the aforementioned Amendments shall otherwise remain unchanged and in full force and effect.

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