

**MINIMUM REVENUE GUARANTEE AGREEMENT  
FOR AIR SERVICES  
BETWEEN UNITED AIRLINES AND  
CITY OF FLAGSTAFF, ARIZONA**

---

This Minimum Revenue Guarantee Agreement for Air Services (this “**Agreement**”) is entered into to be effective on the \_\_ day of \_\_\_\_\_, 2019, by and between UNITED AIRLINES, INC. (“**United**”), a Delaware corporation having its principal offices at 233 S. Wacker Drive, Chicago, Illinois 60606 and CITY OF FLAGSTAFF, an Arizona municipal government entity whose address is 211 West Aspen, Flagstaff, AZ 86001 (“**Guarantor**”).

**WHEREAS**, Guarantor owns and operates certain real property located at 6200 S. Pulliam Drive, Flagstaff, Arizona in the County of Coconino, State of Arizona, known as Flagstaff Pulliam Airport, Flagstaff, AZ (hereinafter called “**FLG**”), and

**WHEREAS**, the Guarantor has an interest in promoting air service to and from FLG;

**WHEREAS**, United is engaged in the business of providing services for the commercial transportation of persons, property, cargo and mail by air; and

**WHEREAS**, United is a certified air carrier conducting scheduled and unscheduled flight operations within the U.S. and between the U.S. and a number of foreign locations;

**WHEREAS**, Guarantor desires to increase access to and from FLG from and to locations where United operates so as to benefit the citizens of the surrounding community and Guarantor’s interest therein;

**WHEREAS**, Guarantor has requested that United commence operating scheduled non-stop air service between FLG and Denver International Airport (“**DEN**”), and in connection therewith Guarantor shall compensate United, from funds received by the Guarantor through a U.S. Department of Transportation Small Community Air Service Development Program grant, and to make certain concessions as provided herein; and

**WHEREAS**, subject to the foregoing and to the obtainment of appropriate governmental authorizations, United is willing to operate scheduled air service between DEN and FLG;

**NOW, THEREFORE**, in consideration of the mutual promises made herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Schedule to be Operated.

A. United will, or will cause a cobranded regional carrier to, operate scheduled round-trip air service to and from FLG as follows:

- Operates with a 50 seat ERJ-145 aircraft 9

- Departs DEN at approximately 9:35 a.m. and arrives FLG at approximately 10:15 a.m.; departs FLG at approximately 11:55 a.m. and arrives DEN at approximately 2:40 p.m.; departs DEN at approximately 7:00 p.m. and arrives FLG at approximately 7:40 p.m.; and departs FLG at approximately 7:00 a.m. and arrives DEN at approximately 9:45 a.m.
- Operates daily from March 31, 2019 through March 31, 2020 (both dates inclusive)

The flights between DEN and FLG referenced above are, collectively, referred to as the “**FLG Flights**” and each such flight is referred to as a “**FLG Flight**.”

B. The parties acknowledge that due to operating conditions, including weather related issues, United may operate the FLG Flights with fewer passengers than the capacity of aircraft used for operating the FLG Flights.

C. At its discretion, United may change the schedule or aircraft operating the FLG Flights. FLG Flights will be operated under the direction and control of United and/or a cobranded regional carrier and Guarantor shall have no right to make decisions with respect to the operation of the FLG Flights. Without limiting the generality of the foregoing provisions of this paragraph and the provisions of Section 2 below, United agrees to use good faith efforts to consider Guarantor’s comments on issues related to marketing, pricing and revenue management of the FLG Flights.

D. For the avoidance of doubt, Guarantor acknowledges that if United operates flights to and from FLG in addition to the FLG Flights or operates flights to and from FLG after the end of the Term (as defined in Section 9) of this Agreement, such other flights shall not be governed by or operated under the terms of this Agreement.

2. Air Fares. United agrees to establish fares for the FLG Flights that are consistent with United’s current internal pricing strategies while remaining competitive within the airline industry generally; provided, however, for the avoidance of doubt, United shall have no obligation to establish fares for the FLG Flights that are the same as or similar to fares established by other airlines.

3. Financial Performance Guaranty. During the period that United is operating the FLG Flights, the Guarantor will unconditionally guaranty that United will receive “Minimum Revenues” (as such term is defined below) for operating the FLG Flights, which shall be calculated as follows:

The sum of:

- i. the product of US \$11,857 per round-trip (the “**Per Round-Trip Cost**”) and one-half of the total number of FLG Flights;
- ii. the product of US \$13.86 and one-half of the total number of all passengers on the FLG Flights; and
- iii. the product of 6.3% and the total passenger fare revenue (not to include ancillary, cargo, or baggage revenue).

The sum of i, ii, and iii. above constitutes the “**Guaranteed Amount**” and may also be referred to herein as the “**Minimum Revenues**”.

4. Revenues, Guaranty Payments, Final Accounting and MRG Cap.

A. For the purposes of this Agreement, “**Revenues**” shall mean the total segment revenues (including passenger, cargo and any other revenue, but excluding revenues estimated to be accrued with respect to and/or under this Agreement) received by United from the operation of the FLG Flights, as measured by (and using methodology used by) United’s Flight Profitability System (“**FPS**”); provided, however, and for the avoidance of doubt, “Revenues” shall exclude any revenues, such as MileagePlus Premium revenue, not directly attributable to the operations of the FLG Flights.

B. To the extent United receives less than the Guaranteed Amount in Revenues from the FLG Flights for any given Period, as defined below, Guarantor shall pay to United an amount equal to the difference between the Guaranteed Amount applicable to the FLG Flights for such Period and the amount of Revenue for such Period actually received by United from operating the FLG Flights (the aggregate difference for each Period being the “**Guaranty Payment**,” and the term “**Guaranty Payments**” shall be construed accordingly).

The term “**Period**” shall mean each three-month period (i) beginning on March 31, 2019 and ending on June 30, 2019, (ii) beginning on July 1, 2019 and ending on September 30, 2019, (iii) beginning on October 1, 2019 and ending on December 31, 2019, and (iv) beginning on January 1, 2020 and ending on March 31, 2020.

C. Guarantor shall pay any Guaranty Payment owed to United in U.S. dollars, within thirty (30) days of Guarantor’s receipt of an invoice for the Guaranty Payment. If United receives more than the Guaranteed Amount in Revenues from the FLG Flights during a Period, then any such excess of Revenues for the Period over the Guaranteed Amount for the same Period shall be credited against the Guaranty Payment next owed by Guarantor, until such credit is exhausted but and only to the extent a Guaranty Payment is owed for a subsequent Period; provided, however, in no case and at no time shall United otherwise be required to remit (except as a credit against the Guaranty Payment owed for a subsequent Period as provided herein) to the Guarantor any such excess of Revenues over the Guaranteed Amount and the sole means by which Guarantor shall receive such credit is if, to the extent and when a Guaranty Payment is owed to United by Guarantor during the Term.

D. Notwithstanding anything contained herein to the contrary, no failure or delay by United to render the invoices shall prejudice United’s right to receive or the Guarantor’s obligation to pay the Guaranty Payments upon United’s rendering the invoice for the Guaranty Payment for any applicable Period.

E. The aggregate Guaranty Payments the Guarantor will be required to pay with respect to the FLG Flights under this Agreement for the Term shall not exceed US **\$550,000** (the “**MRG Cap**”).

F. Guarantor’s obligation to make payments in accordance with the provisions of this Agreement shall survive the expiration or earlier termination of this Agreement.

5. Cost of Service.

A. United shall bear all costs of providing the service described and provided for in this Agreement, including by way of illustration but not by way of limitation, the costs of all required aircraft, equipment and facilities (including facilities for ticketing, baggage handling, and like services); personnel, ground costs, including landing fees and use charges; credit card commissions; travel agent commissions; deicing; and fuel ferrying.

B. The amounts/percentages referred to in Section 3 are based on United's assumed total cost of jet fuel (into plane) inclusive of all charges, including taxes (the "**Assumed Baseline Fuel Cost**") for the FLG Flights. The Assumed Baseline Fuel Cost for the FLG Flights is \$2.27 per gallon. Notwithstanding anything contained herein to the contrary, the parties will adjust the Per Round-Trip Cost for each of the FLG Flights, and hence the Guaranteed Amount owed, on a cent for cent basis to the extent the monthly Average FPS Fuel Cost (as defined below) varies, either up or down, from the Assumed Baseline Fuel Cost for the FLG Flights to take into account changes in the price of fuel. At the end of each month, United will determine, through FPS, the monthly average cost of jet fuel per gallon for the FLG Flights (the "**Average FPS Fuel Cost**"). If the Average FPS Fuel Cost for the applicable FLG Flights for a month varies from the Assumed Baseline Fuel Cost, the Guaranteed Amount will be adjusted as follows (subject to the MRG Cap):

- i. by \$12 for the per penny difference between the Assumed Baseline Fuel Cost for the FLG Flights for a month and the Average FPS Fuel Cost for the FLG Flights for that month.

For example: If United determines that the Average FPS Fuel Cost in December for the FLG Flights is \$2.28 per gallon, then the Per Round-trip Cost in December for the FLG Flights will reflect an increase of \$12 per each round-trip of the FLG Flights. Likewise, if United determines that the Average FPS Cost in December for the FLG Flights is \$2.25 per gallon, then the Per Round-Trip Cost in December for the FLG Flights will reflect a decrease of \$24 per each round-trip of the FLG Flights.

6. Letter of Credit. To secure Guarantor's performance under this Agreement, including Guarantor's prompt payment of the Guaranty Payment, Guarantor will provide to United an initial irrevocable standby letter of credit or purchase order with accompanying budget approval, or other form of security acceptable to United, with a bank that is reasonably acceptable to United in the amount of US \$550,000 on or before January 31, 2019 at 12:00 p.m. Central Time. The letter of credit or purchase order, as the case may be, shall remain in effect for the Term of this Agreement and until the later of April 30, 2020 or the date on which all amounts owed by Guarantor to United have been paid in full. If Guarantor fails to make payment of the Guaranty Amount, as provided in this Agreement, United shall have the right to draw upon such letter of credit or purchase order (or other form of security approved by United and provided by Guarantor). United's obligations under this Agreement (including with respect to the FLG Flights) shall, at all times, be conditioned upon the Guarantor having timely complied with the provisions of this Section 6. The provisions of this Section 6 shall survive the expiration or earlier termination of this Agreement.

7. Marketing Support. Guarantor will work with United in good faith to market the FLG Flights in a mutually beneficial cost-effective manner. In furtherance thereof, Guarantor will give United prominent placement (such placement to be, in any event, no less than that received by any other carrier) in any marketing campaign conducted by Guarantor to promote similar service to and from FLG.

8. Government Authority and Slot Availability. United's ability and willingness to operate the FLG Flights is contingent on United's being able to maintain all necessary governmental approvals to operate the FLG Flights, access to departure and arrival slots that are acceptable to United and ticket counter and other facilities that are acceptable to United.

9. Term. The term (the "Term") of this Agreement shall commence on the date first written above and shall continue, unless terminated earlier as provided herein, until and including March 31, 2020.

10. Termination, Renegotiation, and Flight Cancellation/Diversion

A. In addition to the exercise of any rights that it may have at law and/or in equity under this Agreement, either party shall have the right to terminate this Agreement upon written notice if the other party fails to perform any of its material obligations under this Agreement and such failure continues un-remedied during the thirty (30) day period following the receipt by the other party of the notice of termination. The effective date of any such termination shall be the date provided in the notice from the party terminating this Agreement, but may not be less than the thirty (30) day period provided above.

B. This Agreement will terminate immediately if United ceases to hold the governmental authorities or slots necessary to operate the FLG Flights.

C. United shall have the right to terminate this Agreement upon no less than ninety (90) days' prior written notice to Guarantor.

D. United may terminate this Agreement upon no less than thirty (30) days' prior written notice to the Guarantor, if United believes the MRG Cap, as calculated by United's FPS, may be achieved at any time (without regard to the timing of the monthly close out of United's FPS) during the Term.

E. United may terminate this Agreement upon no less than five (5) days' prior written notice to Guarantor if a "Material Cost Circumstance", as defined below, occurs and upon such termination all of United's obligations under this Agreement shall cease. For the purposes of this Agreement, "Material Cost Circumstance" means that, at any time during the Term of this Agreement, the Spot Price for Kerosene-Type Jet fuel, U.S. Gulf Coast as published by the U.S. Energy Information Administration in its weekly "Petroleum Status Report" exceeds \$2.40.

F. United may request a renegotiation of the round-trip cost and/or MRG Cap if prior to or during the period that United is operating the FLG Flights (i) Guarantor markets and/or subsidizes any additional flights from FLG, or (ii) any additional air service to/from FLG is announced during the Term. If, within ten (10) business days of such request, negotiations do not result in terms reasonably acceptable to United, United

may terminate this Agreement upon no less than five (5) days' prior written notice to Guarantor, at which time all of United's obligations under this Agreement shall cease.

G. United may terminate this Agreement upon no less than fourteen days (14) days' prior written notice and an opportunity to cure within that time period to Guarantor if Guarantor fails to timely comply with its obligation in Section 6 hereof.

H. United and Guarantor acknowledge that United may be required to cancel or divert flights, including the FLG Flights, due to mechanical problems, weather conditions, or other circumstances beyond the reasonable control of United. If circumstances or conditions result in canceled or diverted FLG Flights, United, at its sole cost, shall have the obligation to provide alternate air and/or ground transportation to FLG for passengers who are ticketed on the FLG Flights to FLG in compliance with United's standard procedures for such circumstances.

Except as otherwise provided in this Agreement, upon termination of this Agreement, neither party shall have any rights or obligations to the other party except for those obligations that may have accrued through the date of such termination (including Guarantor's obligation to pay any amounts due to United hereunder) and such obligations which by their nature or the express terms of this Agreement survive the expiration or earlier termination of this Agreement.

11. Remedies Upon Termination.

A. A termination pursuant to Section 11 shall not limit United's right to pursue or enforce any of its rights under this Agreement or otherwise.

B. Any termination or expiration of this Agreement shall not affect Guarantor's obligation to pay United all amounts owed to United as of the effective date of such expiration or termination.

C. In the event of a termination of this Agreement prior to its natural expiration for any reason, in accordance with the provisions of this Agreement, Guarantor shall pay all amounts owed to United, as of the effective date of the termination, within ten (10) days after receipt of an invoice from United.

The provisions of this Section 11 shall survive the expiration or earlier termination of this Agreement.

12. Force Majeure. United shall have no obligation to operate the FLG Flights where cessation of such flights is due to an event or events beyond United's reasonable control, including, without limitation, equipment failures, air traffic control, governmental actions, strikes and Acts of God ("**Force Majeure**"); provided, however, and for the avoidance of doubt, in case of cessation of the FLG flights as a result of Force Majeure, as provided above, so long as such event of Force Majeure was not caused by Guarantor's acts or omissions, Guarantor shall only be required to pay the Guaranteed Amount to United for the FLG Flights that were operated prior to such cessation of the FLG Flights as a result of Force Majeure.

13. Audit. Upon reasonable notice, the Guarantor, at its expense, shall have the right to audit and inspect, at United's offices during normal business hours, United's books and records as they related

to the determination of Revenue on the FLG Flights for the sole purpose of ensuring that, in determining the amount of Revenue, United is utilizing the same methodology as is applied to all of United's similar routes.

14. Confidentiality. Guarantor and United both acknowledge that Guarantor is subject to Arizona Public Records law and most, if not all, information and materials provided by United to Guarantor may be subject to public disclosure. Subject to the requirements of Arizona Public Records law, Guarantor will use good faith efforts to keep confidential any information designated proprietary received from United. Guarantor will use good faith efforts to allow United the opportunity to seek protection from a court of law before disclosing to the public information United has designated as proprietary and confidential.

15. Indemnification and Hold Harmless. To the extent permitted by law, each party (the "Indemnifying Party") shall indemnify and hold harmless the other party, and its officers, directors, employees and agents (each an "Indemnified Party" and collectively, the "Indemnified Parties") from and against all liabilities, damages, losses, claims, suits, judgments, costs and expenses (including reasonable attorneys' fees) of any nature whatsoever suffered by the Indemnified Party as a result of claims by third parties arising out of the willful misconduct or negligent acts, errors or omissions of the Indemnifying Party in connection with this Agreement, except to the extent caused by any Indemnified Party's negligence or willful misconduct. The provisions of this Section 15 shall survive the expiration or earlier termination of this Agreement.

16. Insurance.

A. United. At all times during the Term of this Agreement, United shall carry and maintain, at its sole cost and expense, airline liability insurance in an amount not less than \$10,000,000 combined single limit, including advertisers liability with aggregate limits of at least \$10,000,000, USD for bodily injury (including death of any person) and any damage to (including destruction of) property. If Guarantor so requests, United will furnish Guarantor within thirty (30) days of such request, an insurance certificate which: (i) indicates that the insurer has accepted and insured United as provided in this Section 16.A of this Agreement; (ii) includes the insurer's commitment to give Guarantor not less than thirty (30) days' advance written notice in the event of cancellation or adverse material change in coverage.

B. Guarantor. At all times during the Term of this Agreement, Guarantor shall carry and maintain, at its sole cost and expense, commercial general liability insurance including advertisers liability insurance in an amount not less than \$10,000,000 USD combined single limit covering all liability arising out of any bodily injury (including death of any person) and any damage to (including destruction of) property. If United so requests, Guarantor will furnish United within thirty (30) days of such request, and upon each annual renewal, an insurance certificate(s) which (i) indicates that the insurer has accepted and insured Guarantor as provided in this Section 16.B of this Agreement; (ii) include the insurer's commitment to give United not less than thirty (30) days' advance written notice in the event of cancellation or adverse material change in coverage.

17. Attorneys' Fees. In the event of any litigation between the parties hereto concerning this Agreement and the enforcement hereof, the prevailing party in such action shall be entitled to receive from the other party all reasonable costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in such action.

18. Counterparts and Headings. This Agreement may be executed in several counterparts, which together shall constitute one and the same instrument, and any party hereto may execute this Agreement by pdf or other electronic signature, which shall be effective as an original signature for all intents and purposes. The headings used to identify sections and paragraphs/subsections are for reference purposes only and shall have no bearing on the interpretation of this Agreement.

19. Notice. All notices and other communications required or permitted under this Agreement shall be in writing and shall be deemed given (A) upon delivery by hand, (B) one (1) day after delivery to a commercial courier (example, FedEx) for next business day delivery properly addressed and prepaid, or (C) within three (3) days after placement in the U.S. mail properly addressed and with sufficient postage for certified mail, return receipt requested to the addresses set forth in the first paragraph of this Agreement or such address as a party may designate in writing pursuant to this notice provision (provided, however, and notwithstanding the foregoing, any invoices rendered by United may be sent to Guarantor via electronic communication to Stacey Brechler-Knaggs at [Sknaggs@flagstaffaz.gov](mailto:Sknaggs@flagstaffaz.gov) and Barney Helmick at [BHelmick@flagstaffaz.gov](mailto:BHelmick@flagstaffaz.gov)).

20. Miscellaneous.

A. This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof. This Agreement or any provision of this Agreement may not be amended, modified or waived except by a written agreement signed by both parties hereto.

B. This Agreement may not be assigned by either party hereto without the written consent of the other party; provided that United may assign this Agreement without such consent to an air carrier that is its corporate affiliate or successor without such consent.

C. THIS AGREEMENT SHALL BE INTERPRETED AND CONSTRUED IN ACCORDANCE WITH THE SUBSTANTIVE LAW OF THE STATE OF ARIZONA.

D. The parties hereto represent that they have the authority to enter into this Agreement.

[Signature Page Follows]

**IN WITNESS WHEREOF**, United and Guarantor have each caused this Agreement to be signed and delivered by its duly authorized representative, all as of the date first written above.

**UNITED AIRLINES, INC.**

By: \_\_\_\_\_  
Ankit Gupta  
Vice President Domestic Network

**CITY OF FLAGSTAFF**

\_\_\_\_\_  
Mayor, Coral Evans

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

Date of formal approval by governing  
body:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_, \_\_\_\_\_, 2018