

MUTUAL NON-DISCLOSURE AGREEMENT

This MUTUAL NON-DISCLOSURE AGREEMENT (this “Agreement”) is entered into as of __, 202__ (the “Effective Date”), by and between JETBLUE AIRWAYS CORPORATION (“JetBlue”), a Delaware corporation with offices at 27-01 Queens Plaza North, Long Island City, New York 11101, FRAPORT USA, INC., and its subsidiaries (“Fraport”), having offices at 500 Mosites Way, STE 104, Pittsburgh, PA 15205, and the below named individual or entity (“Company”), each, a Party and collectively, the Parties.

1. CONFIDENTIAL INFORMATION. In connection with discussions concerning a potential and/or ongoing business relationship between Fraport and Company for business in the JetBlue’s Terminal 5 at John F. Kennedy International Airport, a Party (the “Disclosing Party”) may disclose to the another Party (the “Receiving Party”) certain information that is confidential and proprietary to the Disclosing Party. As used herein, the term “Confidential Information” shall mean any and all information disclosed by or on behalf of the Disclosing Party to the Receiving Party, in whatever form or medium (including but not limited to oral, written, graphic, visual, computer-generated, or by inspection of tangible objects), clearly marked as “confidential” or which the Receiving Party knows, or reasonably should know, to be considered confidential by the Disclosing Party.

By example and without limitation, Confidential Information may include, but is not limited to:

- a) Intellectual Property – trade secrets, patent applications, ideas, formulas, client lists, private or secret processes as they exist from time to time, inventions, methods, designs, blueprints, drawings, customers, suppliers, mailing lists;
- b) Business Information – strategic plans, the identity of business partners, descriptions of non- public transaction structure proposals, descriptions of business operations, billing and receivable operations, route planning and fare pricing, marketing and operational procedures and strategies, other business plans and strategies, products, services;
- c) Technical Information – computer systems, inventory systems, distribution networks, systems development, technical systems, product development methodologies and strategies, technical data, know-how, discoveries, manufacturing data, engineering data, test data, materials, costs, tolerances, specifications, software, equipment;
- d) Financial Information – financial performance figures, financial information and projections, credit and financial information and techniques, procurement and sales activities and procedures, promotions, pricing; and
- e) Aircraft Information – data with respect to or from any aircraft/engine, flight data recorder, aircraft/engine maintenance, aircraft/engine performance, parts, logbooks, aircraft/engine components, aircraft/engine or flight incidents or occurrences, FOQA information and/or aircraft/engine operations.

No Party shall share any information that under applicable law constitutes personal information or similarly protected information.

2. EXCEPTIONS. Notwithstanding anything to the contrary herein, “Confidential Information” shall not include any item of information which the Receiving Party can reasonably demonstrate with written evidence:

- a) is or becomes available to the public through no breach of this Agreement;
- b) was previously known by the Receiving Party without any obligation to hold it in confidence;
- c) is received from a third party free to disclose such information without restriction;
- d) is independently developed by the Receiving Party without the use of Confidential Information;

- e) is approved for release by written authorization of the Disclosing Party, but only to the extent of and subject to such conditions as may be imposed in such written authorization;
- f) is required by law or regulation to be disclosed, but only to the extent and for the purposes of such required disclosure;
- g) is disclosed in response to a valid order of a court or other governmental body of the United States or any political subdivisions thereof, but only to the extent of and for the limited purposes of such order; provided, however, that the Receiving Party shall first notify the Disclosing Party of the order and permit the Disclosing Party to seek an appropriate protective order;
- h) is reported to any governmental agency or entity in the context of possible violations of federal law or regulation or in connection with making other legally required disclosures to state or local governmental commissions and agencies or to participate in investigations conducted by such agencies, entities or commissions.

3. USE OF CONFIDENTIAL INFORMATION. In consideration of its receipt of Confidential Information, the Receiving Party agrees that it shall, and shall cause its Representatives (as defined below) to:

- a) use Confidential Information only in furtherance or for the evaluation of the ongoing or a potential business relationship between Fraport and Company in JetBlue's Terminal 5 at John F. Kennedy International Airport, and only in the manner(s) specified by the Disclosing Party (the "Permitted Use"), and for no other purpose;
- b) hold Confidential Information in confidence and not disclose it to any third party absent express written consent of the Disclosing Party;
- c) protect and safeguard Confidential Information to avoid unauthorized disclosure with the same degree of care as the Receiving Party uses to safeguard and protect its own confidential information of a similar nature (but in no event less than a reasonable degree of care);
- d) restrict disclosure of Confidential Information solely to those officers, directors, employees, affiliates, accountants, attorneys, consultants, and other confidential advisors of the Receiving Party with a "need to know" such Confidential Information (collectively, "Representatives") to perform their responsibilities in connection with the Permitted Use, and ensure that such Representatives are bound by confidentiality obligations at least as strict as those stated herein;
- e) limit reproduction and dissemination of Confidential Information to that which is strictly necessary in connection with the Permitted Use, and ensure that all confidentiality and proprietary notices and legends affixed to or set forth on Confidential Information are reproduced in full on such copies;
- f) notify the Disclosing Party immediately upon discovery of any suspected unauthorized use or disclosure of Confidential Information or any other breach of this Agreement by the Receiving Party, and cooperate with the Disclosing Party in every reasonable way to help the Disclosing Party regain possession of the Confidential Information and prevent its further unauthorized use or disclosure; and
- g) with respect to and Confidential Information disclosed hereunder indemnify, defend, and hold harmless the Disclosing Party for all actual damages arising out of or related to a breach by the Receiving Party of its obligations under this Section 3.

4. NO PUBLIC STATEMENTS OR USE OF MARKS. Except to the extent required by law, no Party shall, without first obtaining the written consent of the other Parties, (i) publicly disclose the existence or terms of this Agreement, or the fact that Confidential Information is being disclosed between the Parties, (ii) publicly disclose the nature of the Permitted Use, or the fact that the Parties are engaging in proposals, discussions, meetings, and/or work in connection with the Permitted Use, (iii) use in advertising, publicity, marketing or other promotional materials or activities, the name, trade name, trademark, trade device, service mark or symbol, or any abbreviation, contraction or simulation thereof, of the other Parties, or (iv) represent directly or indirectly, that any product or any service provided by such Party has been approved or endorsed by the other Parties, as applicable.

5. TERM; RETURN OF INFORMATION.

a) This Agreement shall be effective as of the Effective Date and shall continue for a period of three (3) years. All obligations undertaken by the Receiving Party hereunder with respect to Confidential Information received prior to termination of this Agreement shall survive such termination as set forth in this Section 5.

b) The Receiving Party's obligations under Section 3 of this Agreement with respect to any item of Confidential Information shall expire two (2) years after such item of Confidential Information is first disclosed to the Receiving Party.

c) The Receiving Party shall, upon the termination of this Agreement or upon a written request by the Disclosing Party, (i) promptly destroy or return to the Disclosing Party all Confidential Information (including all copies, reproductions, compilations, summaries, and analyses thereof, together with any materials in any form which contain or are derived from Confidential Information), or (ii) destroy all of the aforementioned in a manner which preserves its confidentiality, and, upon written request, provide the Disclosing Party with a written certification of the same.

d) Notwithstanding the foregoing, nothing herein shall obligate the Receiving Party to return or destroy copies of Confidential Information that may be retained as part of the Receiving Party's electronic archival activities in the ordinary course of business, provided that any Confidential Information so retained shall continue to be subject to the Receiving Party's obligations under this Agreement until the expiration of the Receiving Party's obligations with respect to such Confidential Information under Section 5(b) hereof.

6. REMEDIES. JetBlue, Fraport, and Company acknowledge that these covenants are reasonable and necessary for the protection of the proprietary interests of each other and agree that an impending or existing violation of any provision of this Agreement may cause the Disclosing Party irreparable injury for which it would have no adequate remedy at law, and that the Disclosing Party shall be entitled to seek immediate injunctive relief prohibiting such violation, in addition to any other rights and remedies available to it at law or in equity.

7. MISCELLANEOUS.

a) Nothing contained in this Agreement or in any discussions undertaken or disclosures made pursuant hereto shall (i) obligate the Parties hereto to disclose any Confidential Information to the other, (ii) be deemed a commitment on the part of each Party hereto to engage in any business relationship, contract, or future dealing with the Parties hereto or any other Party, or (iii) limit any Party's right to conduct similar discussions or perform similar work to that undertaken pursuant hereto, so long as said discussions or work do not violate this Agreement. Nothing in this Agreement is intended to create an employer/employee, principal/agent, joint venture, partnership, or other relationship between any of the Parties.

- b) No patent, copyright, trademark or other proprietary right is licensed, granted or otherwise transferred by this Agreement or any disclosure hereunder, except for the limited right to use such Confidential Information for the sole purpose of the Permitted Use. Unless otherwise agreed to in writing by the Parties, all Confidential Information is provided “as is” and without warranties of any kind, except that the Disclosing Party warrants to the Receiving Party that its provision of Confidential Information hereunder does not violate or conflict with any third party’s legal (contractual or otherwise) rights with respect to such Confidential Information.
- c) This Agreement may not be assigned by any Party without the prior written consent of the other Parties. No permitted assignment shall relieve any Party of its obligations hereunder with respect to Confidential Information disclosed to that Party prior to the assignment. Any assignment in violation of this Section 7 shall be void. This Agreement shall be binding upon the Parties and their respective successors and any permitted assigns.
- d) If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such provision shall be deemed deleted from this Agreement and replaced by a valid and enforceable provision which so far as possible achieves the Parties' intent in agreeing to the original provision. The remaining provisions of this Agreement shall continue in full force and effect.
- e) This Agreement represents the entire understanding between the Parties with respect to the subject matter hereof and supersedes all prior communications, agreements and understandings relating thereto. The provisions of this Agreement may not be modified, amended or waived, except by a written instrument duly executed by all Parties.
- f) This Agreement, the Parties’ rights and obligations hereunder, and any dispute or controversy arising from or related to it, shall in all respects be governed by, construed and enforced in accordance with the laws of the State of New York, without regard for its conflicts of law principles. The Parties hereto agree that the exclusive jurisdiction for any claim or suit brought to enforce a Party’s rights under this Agreement shall be the federal or state courts located in New York City, New York, and each Party hereby consents to the jurisdiction and venue of these courts. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT THAT IT MAY HAVE TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.
- g) This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will constitute one and the same document. This Agreement and any written amendments hereto may be executed by facsimile.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, JetBlue, Fraport, and Company have caused this Agreement to be executed by the signature of their duly authorized officials as affixed below as of the Effective Date.

JETBLUE AIRWAYS CORPORATION
(“JetBlue”)

(“Company”)

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

FRAPORT USA, INC.
(“Fraport”)

By: _____

Name: _____

Title: _____