

## NON-TENANT COMMERCIAL GROUND TRANSPORTATION PERMIT

THIS PERMIT is issued this \_\_\_\_\_ of \_\_\_\_\_, 2007, by the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado (the "City"), Party of the First Part, and \_\_\_\_\_, authorized to do business in the State of Colorado (the "Permittee"), Party of the Second Part.

### RECITALS:

1. The City owns and operates Denver International Airport ("DIA" or the "Airport") and has the power to grant rights and privileges with respect to the Airport.
2. Permittee wishes to operate a commercial ground transportation business providing services to the traveling public at the Airport. Permittee's business includes operating vehicles upon Airport premises for the transportation of passengers to and from the Airport's Jeppesen Terminal Building (the "Terminal").
3. Section 5-13 of the Denver Revised Municipal Code, as implemented by the Rules and Regulations for the Management, Operation, Control and use of the Denver Municipal Airport System ("Airport Rules"), requires a commercial operator to obtain a permit or concession agreement in order to conduct such business at the Airport.
4. The City is willing to grant Permittee the right to conduct certain business activities at the Airport, including picking up and discharging customers and delivering parcels to the Terminal in designated vehicles, on the terms stated in this Permit.

### PERMIT

The City and Permittee agree as follows:

#### 1. RIGHTS AND PRIVILEGES:

- A. The City grants to the Permittee a non-exclusive revocable permit to operate its motor vehicles upon the Airport in the course of its commercial ground transportation business, and to pick up and discharge its passengers at the Terminal, which is subject to all the terms and conditions included or referred to in this Permit document.
- B. The Permittee may promote its business upon the Airport by participating in information signage opportunities on the same terms and conditions as are available generally to commercial ground transportation operators.

#### 2. FEES:

- A. For the privileges granted by this Permit, Permittee agrees to pay to the City a fee for each trip of each of its commercial vehicles through the commercial roadways on the fourth, fifth or sixth levels of the Terminal in the amount provided in the Airport Rules, as those are amended from time to time.

B. Permittee will also pay to the City a fee of Fifteen Dollars (\$15.00) for each Airport trip made by each of its commercial vehicles, in which that vehicle travels along any route, or into any Loading or Unloading Area, which is not authorized for the Permittee's vehicles by Airport Rules.

C. The Permittee will pay all fees and charges which it owes to the City under this Permit on a monthly basis, on or before the last day of the month in which the invoice for payment is mailed by the City. The Permittee shall mail payments to the Finance Office, Department of Aviation, P.O. Box 492065, Denver, Colorado 80249-2065. If the Manager of Aviation (the "Manager") gives written notice to the Permittee of another place to which Permittee shall mail its payments, Permittee will mail all subsequent payments to that location.

D. Permittee will make all payments in legal tender of the United States. The City will receive any check given by Permittee subject to collection. If Permittee tenders to the City any check on which payment is refused for any reason, the City may thereafter refuse to accept payment by check from Permittee, and may require Permittee to make payments in cash or by cashier's check. The Permittee will pay any charge incurred by the City for collection of any check which it gives to the City for any payment under this Permit. Any payment not made to the City when due shall accrue interest at the rate of 18% per annum from such due date.

E. Without limiting the City's rights under Section 7, "Default," if the Permittee fails to pay amounts invoiced by the date on which such payment is due, the City will, with or without prior notice to the Permittee, deactivate Permittee's AVI Tags. Unless this Permit has expired, has been terminated by the Permittee, or has been terminated by the City pursuant to Section 7, "Default," Permittee shall be entitled to reactivate its AVI Tags by paying all past due amounts, including accrued interest, and a reactivation fee of \$20.00 per tag. The City may require such payment to be made in cash or by cashier's check.

F. The City, acting by and through its Manager of Aviation, may from time to time, at the sole discretion of the Manager, reestablish the fees and charges provided for in this Permit. The City agrees that if the Manager proposes or intends to make any such alteration, modification or change in the schedule of fees and charges, he will give notice thereof to Permittee not less than thirty days before it is to become effective.

**3. TERM:** The term of this Permit will begin on the date stated on the first page, which is the date of its execution by the City, and will continue through and including the 31st day of May, 2008, unless it is terminated before that date or is renewed.

**4. RULES, POLICIES AND PROCEDURES:**

A. The Permittee will not use or permit Airport premises to be used for any purpose prohibited by the laws of the United States or the State of Colorado or by the Ordinances or Charter of the City and County of Denver, or for any purpose not specifically authorized by or in accordance with this Permit.

B. The Permittee will conduct all of its activities on Airport premises in accordance with all the Airport Rules, and Airport Policies and Procedures, as they may be amended from time to time. The Permittee will obey all Airport security rules and directives issued by the City or by the Transportation Security Administration.

C. The Permittee will submit all reports or information about its operations under this Permit, that the Manager or his authorized representative may request. This includes, but is not limited to, the number of passengers transported by the Permittee to and from the Airport and the actions taken by the Permittee to comply with the Americans with Disabilities Act. Permittee agrees that if it does not provide any such report which is requested by the City, this Permit will not be renewed. The Permit may be renewed at such time as all requested reports are provided to the City.

D. The Permittee will, as required by Rule 100.05-1(4) of the Airport Rules, provide to the City and keep current and updated at all times, complete detailed route information disclosing all destinations served by the Permittee in trips originating at, terminating at, or passing through the Airport.

**5. RESTRICTIONS:**

A. This Permit does not authorize Permittee to park motor vehicles on Airport property or to have an office or station on Airport property, except as otherwise authorized by Airport Rules or by separate authorization of the Manager of Aviation. Any commercial activity not expressly authorized under the terms of this Permit is expressly prohibited.

B. Neither Permittee nor its drivers, agents and employees shall solicit customers on Airport premises, nor engage in any activities at the Airport intended to persuade members of the public to utilize its vehicles and/or services except as otherwise specifically approved by the Manager of Aviation or his designated representatives.

**6. COMMERCIAL ROADWAY ACCESS:**

A. Permittee will not operate its commercial vehicles upon Airport premises without first obtaining an Automated Vehicle Identification Tag ("AVI Tag") for each vehicle in its fleet. The AVI Tag will be affixed to the vehicle and used by Permittee when accessing commercial roadways designated for passenger and parcel loading and unloading.

B. A Fifty Dollar (\$50.00) refundable deposit, payable by cashiers check, preprinted company check, money order or cash, will be assessed for each AVI Tag issued to Permittee.

C. To obtain AVI Tags, Permittee's owners or authorized representatives shall submit an application to the City on the form provided by the City. In order to obtain and retain its AVI Tags, the Permittee agrees to submit to the City, and keep current, the following:

- (1) all current applicable Public Utilities Commission and/or Federal Highway Administration operating authorizations;
- (2) for each commercial vehicle for which access to the Airport is desired:
  - (a) a description of the passenger carrying capacity as established by the vehicle manufacturer, including the driver;
  - (b) the vehicle identification number;

- (c) the license plate number, any changes in such numbers, including replacement of temporary licenses with permanent plates to be submitted as soon as they occur;
- (3) proof of insurance required by this Permit; and
- (4) all other information required by the City.

D. AVI Tags are not transferable by the Permittee to any other entity. Pursuant to Airport Rules, an AVI Tag shall not be attached to any vehicle except the one to which it is assigned by the City. Permittee is solely responsible for any unauthorized use of AVI Tags registered to its vehicles. Permittee is solely responsible for the use of and accountability for all AVI Tags issued to it, and for training its staff as to the proper use of AVI Tags. If Permittee's AVI Tags are used by anyone without authorization, Permittee is responsible and liable for all trip fees incurred by such use of its AVI Tags which occur before Permittee notifies the City of the loss or theft of its AVI Tag.

E. An AVI Tag which has been deactivated on account of Permittee's default under or other violation of or failure to comply with this Permit, shall be subject to a reactivation fee as set forth in Section 2 of this Permit.

F. An AVI Tag may be deactivated temporarily, for a period not to exceed 30 days, at the request of Permittee, if Permittee is not in default under this Permit. Such temporarily deactivated AVI Tag shall be reactivated at the end of such deactivation period if Permittee is not in default under this Permit, and no reactivation fee will be charged for such reactivation.

G. All AVI Tags issued to Permittee remain the property of the City. If any of Permittee's AVI Tags are misused, its AVI Tags will be deactivated. A deactivated AVI Tag must be returned to the City or the fifty dollar deposit thereon will be forfeited by the Permittee.

## **7. DEFAULT:**

A. If Permittee defaults in payment of any amounts due under this Permit, or violates any provisions of this Permit or any law, rule or regulation applicable to Permittee's use of the Airport, the City will give written notice of such default. That notice will state the particulars of such default or violation. Permittee will have a period of fifteen days after the date of that notice in which to correct or cure its defaults and/or violations. If Permittee does not do so, the City shall have the right to terminate this Permit and revoke the right of Permittee to operate upon Airport premises, and to obtain payment of all amounts due, plus interest, from the performance bond or other surety furnished by Permittee under Section 10 of this Permit. These rights of the City are in addition to all other legal rights the City may have.

B. If this Permit is terminated, all sums owed the City under this Permit shall become immediately due and payable, no fees or charges paid by Permittee shall be refundable by the City, and all AVI Tags issued to Permittee shall be deactivated so that they will not operate gate arms providing access to Airport commercial roadways.

C. The waiver by the City of performance of any provisions of this Permit shall not constitute a future waiver of performance of such provisions.

8. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under this Permit, the Permittee agrees not to fail or refuse to hire, nor to discharge, promote or demote, or to discriminate in matters of compensation, terms, conditions or privileges of employment 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 Permittee further agrees to insert the foregoing provision in all subcontracts hereunder.

**9. INSURANCE:**

A. Permittee will obtain at its own expense, and maintain in force throughout the term of this Permit, a policy of comprehensive automobile liability insurance conforming to the requirements set out on the City-issued form of insurance certificate which is attached to this Permit as Exhibit "A."

B. The minimum amounts of insurance required may be increased by the Manager of Aviation in his sole discretion at any time during the term of this Permit.

C. The Permittee shall deliver certificates which show the existence of the required insurance policy to the Manager along with this signed Permit. The certificate must be in the form provided and required by the City. When requested by the Manager or his representative, the Permittee will furnish to the City at any time during the term of this Permit, whether the original term or an extension, the original or a certified copy of its insurance policy or policies required by this Permit, at a convenient location in the Denver metropolitan area.

D. If Permittee's insurance is cancelled, lapses or is not renewed, Permittee shall deliver to the City certificates showing the existence of replacement or renewal coverage. If Permittee does not do so, the City may on or after the effective date of the cancellation, expiration or other lapse of insurance coverage, without notice to Permittee, deactivate all AVI Tags issued to the Permittee, in order to prevent uninsured commercial ground transportation operations at Denver International Airport. Unless this Permit has expired, has been terminated by the Permittee, or has been terminated by the City pursuant to Section 7, "Default," Permittee shall be entitled to reactivate any AVI Tag by delivering to the City insurance certificate(s) proving the existence of the required insurance coverage, subject to Section 2(E) of this Permit.

**10. PERFORMANCE SURETY:**

A. Permittee will deliver to and deposit with the Manager, with a copy of this Permit which it has signed, a cash deposit, preprinted company check, letter of credit, cashier's check, money order or a valid corporate performance bond, or such other acceptable surety as is first approved by the Manager, payable to "Airport Revenue Fund" without condition to the City and County of Denver, in an amount determined as follows:

- (1) If Permittee has not had six months of continuous activity at the Airport within the 12 months preceding the date of submission of the bond or deposit, \$500.00 per vehicle which Permittee operates upon Airport premises.
- (2) If Permittee has had six months of continuous activity at the Airport within the 12 months preceding the date of submission of the bond or deposit, the greater of either: (i) the total of its three highest monthly billings by the Airport Ground Transportation Office in the previous 12 months, or (ii) \$100.00 per vehicle which Permittee operates upon Airport premises

B. These deposits or surety shall guarantee to the City full and faithful performance of all of the terms and provisions of this Permit by the Permittee, including any amendments, supplements or extensions of the Permit. If subsection 10(A)(1) applies when this Permit is issued, then after Permittee has six months continuous activity at the Airport under this Permit, Permittee may request the Airport Ground Transportation Office to review and recalculate the amount of surety required under this Section 10, and the Ground Transportation Office will notify Permittee of the amount of its surety to be posted. However, Permittee will not be eligible for reduction in the amount of its bond or other surety if it is not current in its obligations, including payment and insurance obligations, under this Permit.

11. INDEMNIFICATION: The Permittee agrees to release, indemnify, save harmless and defend the City, its officers, agents and employees from any and all claims, damages, suits, costs, expenses, liability, actions or worker's compensation claims, of or by anyone whomsoever in any way resulting from or arising out of, directly or indirectly, any of Permittee's activities upon any portion of Denver International Airport, including acts and omissions of the Permittee's officers, employees, representatives, suppliers, invitees, contractors and agents. The City, its officers, employees or agents shall not be liable for any injury, including death, to any persons or for damage to any property regardless of how such injury or damage may be caused, sustained or alleged to have been sustained by Permittee or by others as a result of any condition, including existing or future defects on the Airport, or any occurrence whatsoever related in any way to Permittee's use of or access to the Airport.

12. NOTICES:

A. All notices required to be given to the City under this Permit shall be in writing and shall be sent by certified mail, return receipt requested, to the Manager of Aviation, City and County of Denver, Denver International Airport, Airport Office Building, 8500 Peña Boulevard, Denver, Colorado 80249-6340.

B. All notices required to be given to Permittee hereunder shall be in writing and sent by certified mail, return receipt requested, addressed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Either the City or the Permittee may from time to time designate in writing the address of substitute or supplementary persons within the State of Colorado to receive such notice. The effective date of service of any such notice shall be the date such notice is mailed or delivered to Permittee or the Manager as provided above.

13. ASSIGNMENT: Permittee covenants and agrees not to assign, pledge or transfer its rights in this Permit, in whole or in part, whether by operation of law or otherwise, nor grant a license hereunder, except as otherwise provided herein, without first obtaining the written consent of the Manager of Aviation. Any attempt by Permittee to assign, or in any way transfer its interests in this Permit, in whole or in part, without such prior written consent of the Manager shall at the option of the Manager automatically terminate this Permit and all rights of Permittee hereunder. Such consent may be granted or denied at the sole and absolute discretion of the Manager.

14. DISPUTES: Disputes arising under or related to this Permit shall be resolved by administrative hearing which shall be conducted in accordance with the procedures set forth in Section 5-17, Revised Municipal Code of the City and County of Denver. The parties hereto agree that the Manager's determination resulting from said administrative hearing shall be final, subject only to the right of the parties hereto to appeal the determination under Colorado Rule of Civil Procedure 106.

15. COLORADO LAW AND VENUE: This Permit is made under and will be governed by the laws of the State of Colorado. Venue for any action arising from this Permit shall be in the District Court in and for the City and County of Denver.

16. ENTIRE AGREEMENT: Each party acknowledges that it has read this Permit, understands it, and agrees to be bound by its terms and further agrees that it is the complete and exclusive statement of the agreement between the parties, which supersedes and merges all prior proposals, understandings and all other agreements, oral and written, between the parties relating to the subject matter of this Permit. This Permit may not be modified or altered except by a written instrument duly executed by both parties.

17. NONDISCRIMINATION; FEDERAL REQUIREMENTS: This Permit is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between the City and the United States, the execution of which has been or may be required as a condition precedent to the transfer of federal rights or property to the City for Airport purposes, and the expenditure of federal funds for the extension, expansion or development of Denver's Airport System. The provisions of the attached Appendices 1, 2, and 3 are incorporated herein by reference; Permittee is the "party of the second part" as referred to in such appendices.

18. BOND ORDINANCES: This Permit is in all respects subject and subordinate to any and all City bond ordinances applicable to Denver International Airport and to any other bond ordinances which should amend, supplement or replace such bond ordinances.

19. SEVERABILITY: Should any paragraph or any subparagraph of this Permit be held invalid as a matter of law none of the remaining paragraphs or subparagraphs shall be affected thereby.