

ORIGINAL

KELOWNA INTERNATIONAL AIRPORT

AIR CARRIER AIRPORT USE AGREEMENT

BETWEEN THE

CITY OF KELOWNA

AND

SWOOP INC.

(YLW FILE NO. 1140-50)

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THIS AGREEMENT made this ____ day of _____, 2019.

BETWEEN

City of Kelowna
1435 Water Street
Kelowna, B.C.
V1Y 1J4

(the "City")

AND

Swoop Inc. (Inc. No. A0105961)
330, 4311 12 Street NE
Calgary, AB
T2E 4P9

(the "Air Carrier")

WHEREAS:

- A. The City is the operator of the Kelowna International Airport (the "Airport") located in the City of Kelowna, Province of British Columbia;
- B. The Air Carrier is desirous of using, in common with others, the Airport;

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the fees, charges, covenants, and agreements to be paid, observed, and performed by the Air Carrier, and other good and valuable consideration (the receipt and sufficiency of which are hereby expressly acknowledged) the City and the Air Carrier covenant and agree as follows:

Article 1.00 - Purpose

- 1. The City covenants that provided the Air Carrier pays all monies due under this Agreement and performs the covenants herein on its part contained, the Air Carrier may:
 - 1.1. Operate its business or a part thereof at the Airport;
 - 1.2. Use, in common with others so authorized, the runways, taxiways, navigational aids and other common use landing field facilities of the Airport, for its aircraft landings and takeoffs required in connection with the operation of its air transportation business to and from the Airport;
 - 1.3. Possess the right of access from the Airport as made necessary by the Air Carrier's operations over, and upon streets, roads, paths, hallways, corridors or open spaces only, provided that the right herein defined shall not be exercised in such

manner and to such extent as to impede or interfere with the operation of the Airport by the City, its lessees, air carriers or others; and

- 1.4. On and off load its passengers or cargo from such areas of the Airport as the Airport Director may from time to time designate. Such assignment of areas shall not constitute any pre-emptive or exclusive right to areas designated. When traffic conditions are such that the areas are in use, the Air Carrier may use other areas designated by the Airport Director if, by such use, others are not inconvenienced or disturbed.

Article 2.00 - Term of Agreement

2. The term of this Agreement shall commence on the 24th day of May, 2019 and shall continue to be in effect until terminated as hereinafter provided.
 - 2.1. This Agreement may be terminated at any time by the City in the absolute discretion of the Airport Director. Termination shall be effected by providing up to thirty (30) days prior written notice to the Air Carrier and upon the date of termination specified in the notice all rights of the Air Carrier pursuant to this Agreement shall thereupon cease.
 - 2.2. The Air Carrier may terminate this Agreement by giving thirty (30) days prior written notice to the Airport Director.
 - 2.3. This Agreement may be terminated by the mutual written consent of the parties without notice.
 - 2.4. The Air Carrier shall forthwith cease to carry on business or operation at the Airport as of the effective date of termination of this Agreement.

Article 3.00 - Conduct of Business

3. The Air Carrier covenants and agrees with the City to the terms and conditions set forth below at all times during the term of this Agreement and agrees that non-compliance with any such term or conditions at any time during the term of this Agreement shall constitute grounds for termination of this Agreement by the City by written notice to the Air Carrier, or such other remedy as the City, in its discretion, may deem appropriate. The Air Carrier waives any notice of default or termination not expressly provided for in this Agreement.
 - 3.1. The Air Carrier shall hold all required valid and subsisting agreements, certificates or permits from the federal government to provide commercial air transportation services to the routes it is serving to and from the Airport.
 - 3.2. The Air Carrier shall abide by and comply promptly with all laws, regulations, orders, rules, requirements and recommendations which may be applicable to the Air Carrier or to the use of the Airport, made by any and all federal, provincial, civil, municipal and other authorities or association of insurance underwriters or agents and all notices in pursuance of same and whether served

upon the City or the Air Carrier, but if served upon the City alone, only if notice thereof is given to the Air Carrier.

- 3.3. The Air Carrier shall comply forthwith and cause its directors, officers, employees and agents to comply with any direction of the Airport Director with respect to matters which, in the opinion of the Airport Director, concern safety, security or matters of urgency.
- 3.4. The Air Carrier shall observe and obey all reasonable rules and regulations not conflicting with the provisions of this Agreement as may now exist or may be promulgated from time to time by the Airport Director, provided that such rules and regulations shall be furnished in writing to the Air Carrier.
- 3.5. The Air Carrier shall maintain strict control over all security passes issued to the employees or agents of the Air Carrier; follow any direction of the Airport Director with respect to security measures; and report forthwith to the Airport Director any loss or misuse of security passes or the termination of its employees or agents.
- 3.6. The Air Carrier shall not, under this Agreement, conduct a separate business on or about the Airport, nor shall it offer, supply, sell or give away, whether singly or in conjunction with its air transportation business, any service or commodity other than usual food or beverages in the course of a flight unless authorized in writing by the Airport Director.
- 3.7. The Air Carrier shall, before commencing operations and subject to the approval of the Airport Director, make and maintain:
 - a) Arrangement for fuelling and ground handling; and
 - b) Provide to the Airport Director for approval, a written proposal of the Air Carrier's policy and procedures with respect to the handling and containment, clean-up, and disposal of dangerous goods and hazardous materials, including aircraft fuel and oil, de-icing chemicals and other potential pollutants at the Airport.
- 3.8. Subject to the approval of the Airport Director, the Air Carrier shall make and maintain arrangements for the use of gate/apron space, ticket counter and baggage claim.
- 3.9. The Air Carrier shall provide to the City, not later than the fifth day of each month, a report of the Air Carrier's operations at the Airport during the preceding month (Schedule C), separately setting forth the total number of enplaning and deplaning domestic and international passengers (including on-line and interline passengers) carried by the Air Carrier during the preceding month and the number of landings by the Air Carrier by type of aircraft. The Air Carrier shall also provide such other information on its operation in such form and at such times as may be required by the Airport Director. It is understood by the parties that such information will, with the exception of its inclusion in overall statistical totals, be kept confidential by the City, subject to applicable law.

- 3.10. The Air Carrier shall submit proposed schedules to the Airport Director in writing for the winter/spring period no later than June 15th, and for the summer/fall period no later than November 15th.
- 3.11. The Air Carrier shall at its own expense and cost, procure and maintain the insurance policies listed below with limits no less than those shown in the respective items, unless in connection with the performance of some particular part of this Agreement, the City advises in writing that it has determined that the exposure to liability justifies less limits. The insurance policy or policies shall be maintained continuously from commencement of the Agreement until the termination of this Agreement or such longer period as may be specified by the City acting reasonably.

As a minimum, the Air Carrier shall, without limiting its obligations or liabilities under any other contract with the City, procure and maintain, at its own expense and cost, the following insurance policies:

- a) Aviation Premises/Operations Liability Insurance providing for all sums which the Air Carrier shall become legally obligated to pay for damages because of bodily injury (including death at any time resulting therefrom) sustained by any person or persons or because of damage to or destruction of property caused by an occurrence or accident arising out of or related to the operations carried on in connection with this Agreement. This insurance shall include but not be limited to aircraft liability, passenger legal liability, personal injury, premises liability, baggage and cargo liability and such other coverage as may from time to time be generally issued by insurance companies to airlines in connection with their airport operations. Limits of liability for this insurance shall not be less than an inclusive limit of twenty-five million dollars (\$25,000,000.00) for each occurrence or accident, or such greater amount as required by law or regulation applicable to the Air Carriers;
 - b) Automobile Liability Insurance covering all motor vehicles, owned, operated and used or to be used by the Air Carrier directly or indirectly in the performance of this Agreement. The Limit of Liability shall not be less than five million dollars (\$5,000,000.00) inclusive, for loss or damage including personal injuries and death resulting from any one accident or occurrence.
- 3.12 The policy required by section 3.11 above shall
- 3.12.1 provide that the City is named as an Additional Insured with respect to the Premises Liability at the Kelowna International Airport;
 - 3.12.2 provide that said policy is primary without any right of contribution from any insurance otherwise maintained by the City; and
 - 3.12.3 shall include a Cross Liability clause providing that the inclusion of more than one Insured shall not in any way affect the rights of any other Insured thereunder, in respect to any claim, demand, suit or judgment made against any other Insured.

- 3.13 The Air Carrier agrees to submit a Certificate of Insurance (Schedule A) to the Airport Director prior to commencement of this Agreement. The Certificate shall provide that 30 days' written notice shall be given to the Airport Director prior to any material changes or cancellations of any such policy or policies.
- 3.14 After reviewing the Air Carrier's Certificate of Insurance, the City may require other insurance or alterations to any applicable insurance policies in force during the period of this Agreement and will give notification of such requirement. Where other insurances or alterations to any insurance policies in force are required by the City and result in increased insurance premium, such increased premium shall be at the Air Carrier's expense.
- 3.15 The Air Carrier may take out such additional insurance, as it may consider necessary and desirable. All such additional insurance shall be at no expense to the City.
- 3.16 All insurance which the Air Carrier is required to obtain with respect to this Agreement shall be with insurance companies registered in and licensed to underwrite such insurance in the province of British Columbia.
- 3.17 If the Air Carrier fails to do all or anything which is required of it with regard to insurance, the City may do all that is necessary to effect and maintain such insurance, and any monies expended by the City shall be immediately due and payable by the Air Carrier to the City upon demand. For this purpose, the Air Carrier expressly authorizes the City to deduct such amounts from any monies owing by the City to the Air Carrier.
- 3.18 The failure or refusal to pay losses by any insurance company providing insurance on behalf of the Air Carrier shall not be held to waive or release the Air Carrier from any of the provisions of of this Agreement, including Article 7, with respect to the liability of the Air Carrier. Any insurance deductible maintained by the Air Carrier under any of the insurance policies is solely for its account and any such amount incurred by the City will be recovered from the Air Carrier as stated in section 3.17.
- 3.19 The Air Carrier shall pay or cause to be paid all rates, taxes and assessments, of whatsoever description that may at any time during the existence of the Agreement be lawfully imposed, or become due and payable by the Air Carrier.
- 3.20 The Air Carrier shall pay to the City all applicable aircraft landing, parking and terminal fees as amended from time to time.
- 3.21 The Air Carrier shall collect and remit to the City an Airport Improvement Fee (AIF) from all departing enplaned passengers in the amount of \$20.00 Canadian in accordance with the Memorandum of Agreement (MOA) between the Air Transport Association of Canada and Signatory Air Carriers and Certain Airports including the Kelowna International Airport dated September 23, 1997 and as amended from time to time. The amount of AIF collected may be adjusted from time to time by the City as provided for in the MOA (Article 6.2) and included in the City of Kelowna Airport Fees Bylaw No. 7982 (Section 22). The AIF shall be

remitted monthly along with an Airport Improvement Fee Monthly Remittance Form (Schedule B) indicating the current month departing enplaning passengers (DEPAX), the addition of applicable tax(es), and the quantities of DEPAX who purchased tickets, including paperless tickets which are kept in electronic form, in North America and outside North America. The remittance form shall be signed and dated by an authorized representative of the Air Carrier. The Air Carrier will remit the amount shown on the Remittance Form.

3.21.1 The obligation to collect and remit an AIF will not apply to:

- a) those passengers continuing a journey less than four hours after arrival at the Airport for domestic Canada and transborder itineraries and continuing a journey less than 24 hours after arrival at the Airport for international itineraries. A passenger will be considered to be continuing a journey even though multiple air carriers may participate in the itinerary on one or more air carrier ticket(s);
- b) airline employees travelling on business, including duty travel of crews of one air carrier on another air carrier;
- c) infants under two years of age for whom no ticket was purchased, even though a no cost ticket may have been issued in the name of the infant;
- d) those customers travelling on passes or other travel documents with discount codes ID/IN. However, customers travelling on frequent flier mileage redemption programs or promotional tickets (such as two for one tickets) do not qualify as ID passengers within the meaning of this clause 3.21.1 d).

3.21.2 Regardless of which air carrier sells a ticket to a DEPAX passenger or whose designator code is on the passenger's ticket, the air carrier on whom the DEPAX passenger actually travels shall be the party responsible for the collection and remittance of the AIF for that DEPAX passenger.

- 3.22 The Air Carrier shall, without limiting the liability of the Air Carrier under this Agreement or otherwise, pay to the City all costs of the City in using City employees, agents, equipment, and materials, plus a reasonable administrative charge, arising out of the Air Carrier's operations and activities at the Airport or in any way related to this Agreement and all costs associated with damage to or destruction caused by the Air Carrier of the property of the City, including but not limited to fuel, oil and other spills.
- 3.23 The Air Carrier shall pay all other fees or charges to the City arising out of the Air Carrier's operation or activities at the Airport, including any sums for employee parking, identification badges, keys and the like.
- 3.24 For overdue amounts owing to the Airport, the Air Carrier shall pay interest thereon at the rate of 1.5 percent per month (equivalent to 18.00 percent per annum) or such other rate which the City shall determine from time to time in its absolute discretion to reflect prevailing interest rates until the amount of the default and all interest thereon have been paid. All interest shall be calculated

daily and compounded monthly and shall apply retroactively from the due date for payment.

- 3.25 In the event the City shall prevail in any action for the enforcement of any of its rights under this Agreement, the Air Carrier shall pay the City such reasonable legal costs, in addition to any other debt or damages recoverable in such action. This provision shall survive the expiry or earlier termination of this Agreement.
- 3.26 Before commencing operations, the Air Carrier shall provide the Airport Director with a security deposit calculated to be the sum of three (3) months landing fees plus general terminal fees based upon the proposed schedule(s) submitted to the Airport Director plus all other related fees and charges pursuant to the City's Bylaw No. 7982 (the "Security Deposit").
- a) The Security Deposit shall be in the form of cash, bank draft, certified cheque, or irrevocable letter of credit in a form acceptable to the City. Interest will not be paid when the Security Deposit is remitted in the form of an irrevocable letter of credit. Where payable, interest will be calculated at a rate determined by the City. In the case of a letter of credit, if the Air Carrier fails to provide the Airport Director with a renewal or replacement letter of credit at least sixty (60) days prior to the date on which such previous letter of credit expires, then the City shall have the right to terminate this Agreement by written notice to the Air Carrier.
 - b) The Security Deposit plus interest will be retained by the City for the term of this Agreement or until the Agreement otherwise comes to an end, whichever comes first, and thereupon shall be returned to the Air Carrier or shall be credited to its account. However, if the Air Carrier fails to pay any sums herein described and/or impairs or damages the Airport or any part thereof during the term of this Agreement, the City may apply the Security Deposit and accrued interest, if any, or any part thereof, to the arrears of sums and/or damages and injuries incurred by the City. If the Security Deposit is so applied by the City, then within fifteen (15) days of having received written notification, the Air Carrier shall restore the Security Deposit to the amount as provided herein. The application of the Security Deposit and interest by the City shall not constitute a waiver nor in any way defeat or affect the rights and remedies which the City has in law.
 - c) The Air Carrier represents and warrants that the monies deposited with the City as the Security Deposit are not subject to any existing encumbrance, charge, or security agreement.
 - d) The Air Carrier covenants and agrees that it will not assign or encumber nor attempt to assign or encumber the Security Deposit and that the City shall not be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance.

- e) The City shall have the right on at least thirty (30) days' prior written notice to the Air Carrier to increase or decrease the amount of the Security Deposit that the Air Carrier is required to maintain hereunder so that such amount represents the amount that the City estimates would be payable under this section if the Security Deposit were payable as of the date of the notice. If the Air Carrier does not provide the City, prior to the expiration of such thirty (30) day period, with the full amount of any such increase in the form of a Security Deposit, then the City shall have the right to terminate this Agreement by written notice to the Air Carrier.
 - f) The provisions of this Agreement related to the Security Deposit shall survive the expiry or earlier termination of this Agreement.
- 3.27 The Air Carrier shall at all times maintain the airside surfaces free of all foreign objects and litter, and shall whenever directed to do so by the Airport Director, remove immediately from the airside surfaces or a portion thereof all of its equipment and anything related to its operations.
- 3.28 The Air Carrier shall require its personnel and employees to maintain and keep the areas of the Airport used by it in the loading and unloading of its passengers or cargo in a neat, clean and orderly condition, free from litter, debris, refuse, petroleum products or grease that may accumulate thereon as a result of the use of the said areas by its passengers, or its employees, contractors, or others servicing and operating its aircraft.
- 3.29 The Air Carrier shall immediately remove any aircraft owned or operated by the Air Carrier that, through accident or for any other reason, becomes disabled or are abandoned in any area which could interfere with the continuous normal operations of any of the Airport landing and field facilities to such location as shall be designated by the Airport Director unless such aircraft is required to remain in place pending investigation by the appropriate regulatory agencies of the federal government.
- Should the Air Carrier fail to immediately remove such disabled aircraft as herein provided, or should aircraft owned or operated by the Air Carrier be allowed to remain on the Airport beyond the needs of normal operation, the City shall have the right to remove such aircraft by any means the City deems necessary under the circumstances, and the Air Carrier shall indemnify and save harmless the City, its officers, officials, employees and agents from any and all costs, liability, damage or expense, including all reasonable legal costs and storage costs incurred by the City or claimed by anyone by reason of removal of such aircraft.
- 3.30 The Air Carrier shall comply with the Airport's noise management and abatement program and with any procedures or directions of the Airport Director with respect to noise management and abatement at the Airport.
- 3.31 The Air Carrier shall comply with the City of Kelowna Local Airport Traffic Directives for the operation of vehicles on airport movement areas, as published

by the Airport Director, or any revision or amendment as made from time to time.

- 3.32 The Air Carrier shall provide resources and services for disabled persons in accordance with the *Canada Transportation Act* and Regulations made under the *Canada Transportation Act*.
- 3.33 The Air Carrier shall provide its employees and agents who may interact with travelling public at the Airport with training in accordance with the *Personnel Training Regulations for the Assistance of Persons with Disabilities* ("Regulations") as set out in the *Canada Transportation Act*.
- 3.34 In accordance with the *Official Languages Act* and Regulations made under the *Official Languages Act*, the Air Carrier shall ensure that all signs are provided in both English and French, with equal prominence given to the two languages.
- 3.35 The Air Carrier shall obtain the written approval of the Airport Director for all signs and advertising materials including lettering and other advertising media erected, installed or placed in the Airport and the Air Carrier shall conform to the aesthetic standards of the Airport and any direction the Airport Director may make from time to time with respect to displays and advertising signs and the Air Carrier shall pay the costs of installing, maintaining, changing and removing all such signs or displays.
- 3.36 The Air Carrier shall not cause or allow air freight and cargo items, excluding passenger luggage and related articles, to be handled through the Air Terminal Building unless approved in writing by the Airport Director.

Article 4.00 - Default

- 4. It shall constitute default of the terms of this Agreement and justification for immediate termination by the City upon the occurrence of the following:
 - 4.1 The Air Carrier fails to observe or perform any of its covenants and obligations under this Agreement and the Air Carrier has not within fifteen (15) days or sooner in the case of emergency or necessity (as determined in the discretion of the Airport Director) after notice from the City specifying the default, cured the default, or if the cure reasonably requires a longer period, the Air Carrier has not commenced diligently remedying the default or cured the default within a reasonable period as determined by the Airport Director, in his or her sole discretion; or
 - 4.2 The Air Carrier becomes bankrupt or insolvent or takes the benefit of any legislation in force for bankrupt or insolvent debtors; or
 - 4.3 The making or entering into by the Air Carrier of any assignment for the benefit of creditors; or
 - 4.4 Proceedings are instituted for the winding-up or termination of the corporate existence of the Air Carrier; or

- 4.5 The levy of any attachment, execution, appointment of a receiver or other process of court by which the operating rights herein granted may be claimed or attempted to be held and used by any person by reason thereof, whether such person is an officer or appointee of court or otherwise, or any attempted assignment of this Agreement by operation of law; or
- 4.6 Any violation or disregard of the provisions of this Agreement which endangers safety, security, life or property on the Airport.

Article 5.00 - Assignment

- 5.1 The Air Carrier may not assign this Agreement or the benefit of this Agreement without the City's prior consent in writing. The City may withhold such consent at its sole discretion and without reason. The Air Carrier shall be responsible for all costs associated with any assignment of this Agreement, including the City's associated legal and administrative costs.
- 5.2 If, after the date of execution of this Agreement, shares in the authorized share structure of the Air Carrier are transferred by sale, assignment, bequest, inheritance, operation of law or other disposition, or are issued by subscription or allotment or are cancelled or redeemed so as to result in a change in the effective voting or other control of the Air Carrier from the person or persons holding control on the date of execution of this Agreement or if other steps are taken to effect a change of control, such change of control will be considered to be an assignment of this Agreement to which this section applies.
- 5.3 The acceptance of any monies from or the performance of any obligation hereunder by a person other than the Air Carrier shall not be construed as an admission by the City to any right or interest of such person as an assignee, transferee or otherwise in the place of the Air Carrier.

Article 6.00 - Waiver or Non-Action

- 6. The acceptance of the City of a part payment of any sums required to be paid hereunder shall not constitute waiver or release of the right of the City to payment in full of such sums or a waiver of any other right of the City or obligation of the Air Carrier. A waiver of any breach of any Air Carrier obligation under this Agreement by the Air Carrier shall not be considered effective unless in writing and signed by the Airport Director and no waiver shall operate as a waiver of a subsequent breach.

Article 7.00 - Hold Harmless/Indemnification/Claims

- 7. The Air Carrier:
 - 7.1 Shall be liable for all loss, costs, damages, and expenses whatsoever incurred or suffered by the City, its elected officials, officers, employees and agents (the "Indemnitees") including but not limited to damage to or loss of property and loss of use thereof, and injury to or death of a person or persons resulting from or in connection with the performance, purported performance, or non-

performance of this Agreement by the Air Carrier, excepting only where such loss, costs, damages and expenses are as a result of the sole negligence of the Indemnitees.

- 7.2 Shall defend, indemnify and hold harmless the Indemnitees from and against all claims, demands, actions, proceedings, and liabilities whatsoever and all costs and expenses incurred in connection therewith and resulting from the performance, purported performance, or non-performance of this Agreement by the Air Carrier, excepting only where such claim, demand, action proceeding or liability is based on the sole negligence of the Indemnitees.
- 7.3 Expressly waives any and all claims for compensation for any and all loss or damage sustained by reason of any defect, deficiency or impairment or any of the services to or in any space at the Airport, including but not limited to, power, gas, telephone, steam, heating, air conditioning, water supply system, drainage or sewerage systems, or dome wires leading to or inside of any space used, or by reason of any loss resulting from the failure of any such system or facilities which may occur from time to time from any cause, and the Air Carrier hereby expressly releases and discharges the Indemnitees from any and all demands, claims, actions and causes of action arising from any of the causes aforesaid.
- 7.4 All indemnities in favour of the City under this Agreement shall survive the expiry or earlier termination of this Agreement.

Article 8.00 - Members of the House of Commons

- 8. No member of the House of Commons of Canada shall be admitted to any share or part of this Agreement, or to any benefit to arise therefrom.

Article 9.00 - Choice of Law and Jurisdiction

- 9. This Agreement shall be construed according to the laws of the Province of British Columbia.

Article 10.00 - Entire Agreement

- 10. The provisions in this Agreement constitute the entire agreement between the parties and supersede all previous communications, representations, warranties, covenants or agreements, whether verbal or written, between the parties with respect to the subject matter of the Agreement. This Agreement may be altered or amended only by written instrument executed by both parties hereto.

Article 11.00 - Bribes

- 11. The Air Carrier hereby confirms that it has not, nor has any person on its behalf, given, promised or offered to any official or employee of the City for, or with a view to, obtaining the rights granted herein any bribe, gift or other inducement and that it has not, nor has any person on its behalf, employed any person to solicit or secure the rights granted herein upon any agreement for a commission, percentage, brokerage or contingent fee.

Article 12.00 - Interpretation

12. In this Agreement:
- 12.1 reference to the singular includes a reference to the plural and vice versa, unless the context requires otherwise;
 - 12.2 a particular numbered section or lettered schedule is a reference to the correspondingly numbered section or lettered schedule of this Agreement;
 - 12.3 an "enactment" is a reference to an enactment as that term is defined in the Interpretation Act (British Columbia) on the day this Agreement is made;
 - 12.4 any enactment is a reference to that enactment as amended, revised, consolidated or replaced;
 - 12.5 section headings are inserted for ease of reference and are not to be used in interpreting this Agreement;
 - 12.6 The following are schedules to this Agreement and form an integral part of this Agreement:
 - Schedule A - Certificate of Insurance
 - Schedule B - AIF Monthly Remittance Form
 - Schedule C - Passenger Statistics Form
 - 12.7 a "party" is a reference to a party to this Agreement;
 - 12.8 time is of the essence; and
 - 12.9 where the word "including" is followed by a list, the contents of the list shall not circumscribe the generality of the expression immediately preceding the word "including".

Article 13.00 - Differences

13. All matters of difference arising between the City and the Air Carrier in any matter connected with or arising out of this Agreement whether as to interpretation or otherwise, shall be determined by the Agreement but without prejudice to any recourse available under law.

Article 14.00 - Effect of Agreement

14. This Agreement and everything herein contained shall enure to the benefit of and be binding upon the successors of each of the parties hereto, and where there is a male, female or corporate party, the provisions hereof shall be read with all grammatical changes to gender and number required by the context, and all covenants and obligations shall be deemed joint and several.

Article 15.00 - No Implied Obligations

15. No implied terms or obligations of any kind by or on behalf of the City shall arise from anything in this Agreement and the express covenants and agreements herein contained and made by the City are the only covenants and agreements upon which any rights against the City may be founded.

Article 16.00 - Notices

16. Where any notice, request, direction or other communication (any of which is a "Notice") is to be given or made by a party under the Agreement, it shall be in writing and will be validly given or sufficiently communicated if delivered in person or forwarded by registered mail, priority post mail, or sent by email to the parties' respective addresses, as follows:

To the City: City of Kelowna
Kelowna International Airport
#1 5533 Airport Way
Kelowna, BC, V1V 1S1

Email: ylwadmin@kelowna.ca

Attention: Airport Director

To the Air Carrier: Swoop
330 4311 12 Street NE
Calgary, AB
T2E 4P9

Email: Michael.Parker@flyswoop.com

Attention: Michael Parker, Senior Manager, Operations

Such addresses may be changed from time to time without formally amending this Agreement by either party giving notice as above provided.

If any question arises as to whether any notice was or was not communicated by one party to the other, it will be deemed to have been effectively communicated or given on the day delivered or in the case of being given by mail, on the fifth day after it was mailed.

Article 17.00 - Definitions

17. In this Agreement:

17.1 "Airport Director" means the Airport Director or the person acting on his or her behalf at the Kelowna International Airport;

- 17.2 "Agreement" means this agreement and includes all schedules and all amendments and renewals if any from time to time.

Article 18 - Counterparts

18. This Agreement may be executed by the parties in counterpart, and the counterparts may be delivered by facsimile or email transmittal.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first above written.

CITY OF KELOWNA

By its authorized signatory(ies)

Mayor

City Clerk

SWOOP

By its Authorized signatory(ies):



Steven Greenway, President



Kelowna International Airport

SCHEDULE A

File No. 1140-50

This Certificate is issued to:

The City of Kelowna
1435 Water Street
Kelowna, BC V1Y 1J4

Insured

Name:	SWOOP
Address:	330 4311 12 Street NE, Calgary, AB, T2E 4P9

Broker

Name:
Address:

Location and nature of operation or contract to which this Certificate applies:

Operations by Swoop as an air carrier at the Kelowna International Airport as covered under the Air Carrier Airport Use Agreement between Swoop and the City of Kelowna.

Type of Insurance	Company & Policy Number	Policy Dates		Limits of Liability/Amounts
		Effective	Expiry	
Section 1 Comprehensive General Liability including: <ul style="list-style-type: none">• Aviation Premises/Operations Liability;• Blanket Contractual;• Contractor's Protective;• Personal Injury;• Contingent Employer's Liability;• Broad Form Property Damage;• Non-Owned Automobile;• Cross Liability Clause.				Bodily Injury and Property Damage \$ <u>25,000,000</u> Inclusive \$ _____ Aggregate \$ _____ Deductible
Section 2 Automobile Liability				Bodily Injury and Property Damage \$ <u>5,000,000</u> Inclusive

It is understood and agreed that the policy/policies noted above shall contain amendments to reflect the following:

1. Any Deductible or Reimbursement Clause contained in the policy shall not apply to the City of Kelowna and shall be the sole responsibility of the Insured named above.
2. The City of Kelowna is named as an Additional Insured.
3. 30 days prior written notice of material change and/or cancellation will be given to the City of Kelowna.

Print Name

Authorized Signatory

Date

CITY OF KELOWNA
KELOWNA INTERNATIONAL AIRPORT

AIRPORT IMPROVEMENT FEE

MONTHLY REMITTANCE FORM

Air Carrier: Swoop

Month/Year: _____

Current Month DEPAX: _____ X \$ 20.00 = \$ _____
(AIF Rate) (Gross Remittance)

Gross AIF
Remittance
(Per Above)

Before Tax \$ _____

5% GST \$ _____

Total \$ _____

Authorized Air Carrier Representative

1. DEPAX who purchased ticket
In North America

Signature

2. DEPAX who purchased ticket
Outside North America

Title

3. Total DEPAX reported this
Month (1 + 2 = 3)

Date



Passenger Statistics Report

For the Month of: _____

YLOW	Enplaning Pax	Connecting Pax	Deplaning Pax	Total Pax	Number of Flights
Domestic					
Transborder					

YLOW Total	0	0	0	0	0
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Certified Correct: _____

Position: _____

Date: _____

Kelowna International Airport
1 – 5533 Airport Way
Kelowna, BC V1V 1S1



ylw.kelowna.ca