



Niagara Frontier Transportation Authority
Serving the Niagara Region

4200 Genesee Street
Buffalo, New York 14225
www.nfta.com

William R. Vanecek
Director of Aviation
716-630-6030
716-630-6070 Fax

August 30, 2017

Mr. Elliott Black
Director, Office of Airport Planning
and Programing
Federal Aviation Administration
800 Independence Ave, SW
Washington, DC 20591

Re: Buffalo Niagara International Airport (BUF)
FAA Review of 2017 Competition Plan

Dear Mr. Black:

The Niagara Frontier Transportation Authority (Authority) acknowledges receipt of your letter dated August 3, 2017, which advised the Authority that the Federal Aviation Administration (FAA) found BUF's Competition Plan to be in accordance with the applicable statutory requirements. The letter further requested that the Authority consider FAA's recommendations in four areas. The recommendations are addressed below:

Area 1 – FAA recommended that the Authority designate a Competitive Access Liaison. The Authority is updating its website for BUF and will include a link to the Competition Plan on the website and designate a Competitive Access Liaison. Currently, BUF has a full time employee that fulfills this position. The employee is responsible for marketing BUF to new entrant airlines and seeking expansion of service from existing carriers. BUF recently announced that Frontier Airlines will commence service on December 6, 2017. The Authority attributes this announcement to the hard work of this employee to establish a relationship with Frontier Airlines that took several years to build. BUF was able to handle Frontier Airlines facility needs.

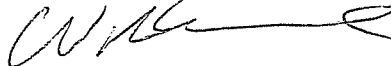
Area 2 – FAA recommended that the Authority develop a process to announce gate and RON availability to potential new entrants and existing carriers. Currently, this is accomplish through monthly meetings with the airlines and at our annual airline rates and charges meeting and through direct marketing to airlines. The Authority, as part of the updating of BUF's website, will identify gate and RON availability.

Area 3 – FAA recommended that the Authority establish a formal dispute resolution policy. Section 6 of the AULA provides guidance for resolution of disputes. Please note that the copy of the AULA provided to FAA as an attachment to the Authority's submission of the Competition Plan contained an incorrect version of Section 6. Attached to this letter is a copy of the correct version of Section 6. The

AULA at Section 6B provides for the Authority to adopt and publish a policy regarding the assignment of airlines to the use of aircraft parking positions, associated holdroom areas and loading bridges. The Authority will work with the airlines to develop a formal policy.

Area 4 – FAA correctly noted that Section 6B of the version of the AULA provided to FAA did not address the Authority's policies on sublease fees. As stated in the Authority's response under Area 3, an incorrect version of Section 6 was provided to the FAA. The correct version of the AULA does contain language regarding subleasing and sharing of space, including a 15% cap. See paragraph three of Section 6B attached hereto.

Very truly yours,



William R. Vanecek
Director of Aviation

reasonable rental charge for any such storage areas. The Airline shall apply de-icing/anti-icing fluids only in areas designated by the Airport Manager. Upon transfer of operations to the New Terminal, de-icing/anti-icing fluids may only be applied at specified containment areas located at the Terminal Ramp areas and at remote aircraft parking areas provided that containment areas have been installed and no application will be allowed at any other location on airport property except as designated by the Airport Manager. The Authority will implement a collection, storage and disposal system for these fluids upon transfer of operations to the New Terminal. The Authority reserves the right to include the costs associated with the operation and maintenance of this system in the Airline rates and charges.

The rights and privileges granted Airline pursuant to this Section 5 shall be subject to any and all reasonable Rules and Regulations established by Authority and to the provisions of Section 7. Any and all rights and privileges not specifically granted to Airline for its use of and operations at the Airport pursuant to this Agreement are hereby reserved for and to Authority.

SECTION 6. LEASED PREMISES

The Authority does hereby let and grant to the Airline and the Airline does hereby hire and take from the Authority the Airline's "Exclusive Use Space", "Preferential Use Space" and "Joint Use Space" in the Terminal Building and designated aircraft parking positions on the Terminal Ramp Area, as more particularly delineated in Exhibit B as revised from time to time. In addition, Airline shall have the non-exclusive right to use the Common Use Space delineated in Exhibit B.

Changes to Leased Premises depicting the letting of

space to a new entrant Airline, the letting of additional space to a Signatory Airline and the deletion of space due to an Airline bankruptcy shall be evidenced by the Authority's transmittal of a revised Exhibit B to Airline. Said revised Exhibit B shall be substituted herein and considered part of this Agreement without the necessity of amendment of this Agreement.

In the event changes to Exhibit B reflect changes in the premises leased to tenants other than Signatory Airlines, or reflect other space changes not inconsistent with the provisions of this Agreement, then in such event said revised Exhibit B may be substituted herein and be considered part of this Agreement without the necessity of amendment of this Agreement.

Authority may designate areas in the Terminal Building, or elsewhere on the Airport to be used by agencies of the United States government for the inspection of passengers and their baggage, and for the exercise of the responsibilities of said agencies with respect to the movement of persons and property to and from and among the United States.

A. Efficient Use Of Premises

The Airline and the Authority agree that efficient use of available Terminal Building space and facilities and minimizing disruptions to existing Airport lessees are common goals. During the term of this Agreement:

- (1) New entrant airlines initiating service at the Airport may need facilities.
- (2) Existing airlines may wish to expand their operations at the Airport.
- (3) Conditions may materialize within the Terminal Building whereby it would be prudent to relocate Airlines within existing facilities.
- (4) Due to the Capital Improvement Program it may be necessary to relocate Airlines.
- (5) Due to other construction it may be necessary to relocate Airlines at Authority's sole cost and expense into mutually acceptable alternate premises in the Terminal Building.

In the event any or a combination of the these or other conditions occur, the Authority may request, in writing, the cooperation and assistance of the Airline, in conjunction with other Signatory Airlines as appropriate, to determine satisfactory solutions for the handling of passengers, baggage and aircraft in a manner that maximizes and assures efficient use of the Terminal Building space and facilities. The Airline agrees to cooperate fully with the Authority and to use its best efforts to determine such satisfactory solutions. Any such solutions could include, but need not be limited to, an assignment, sublease, or temporary shared use of a portion of the Airline's Leased Premises; a ground handling agreement; construction of new facilities; use of temporary facilities; or any combination thereof.

In the event that the Authority and the Signatory Airlines are unable to reach a mutually agreeable satisfactory solution accommodating the needs of new entrants or incumbents wishing to expand service, the Authority may require that the Airline supply information regarding past and planned utilization of Airport facilities. Based on the information supplied by the Airline and other information available to the Authority, the Authority may determine that the Airline has capacity available to accommodate any requested shared use, and may require such sharing of Leased Premises. If the Airline refuses to provide the required information, the Authority may presume that the Airline has such capacity available. The Authority may, after considering any information submitted by Airline, require Airline to adjust its Leased Premises to permit the Authority to assure the most efficient use of the Terminal Building. Any such required modification to Airline's Leased Premises shall result in an adjustment of Airline's rent and other charges reflecting such modification, including a credit for unamortized capital improvements made by the Airline. In such circumstances Airline shall not be responsible for the costs of any physical modification required to the Leased Premises.

When the Authority undertakes Terminal Building

demolition and/or modifications to implement the Capital Improvement Program, as contemplated under subparagraph (4) above, then the Airline and the Authority shall use their best efforts to reach a satisfactory solution as to the handling of passengers, baggage and aircraft that will permit construction of the Capital Improvement Program to proceed in a timely fashion.

B. Preferential Use of Aircraft Parking Positions.

Aircraft parking positions on the Terminal Ramp Area of the Terminal Building will be assigned on a Preferential Use Space basis. The Airline will have priority in using such facilities assigned to it on a Preferential Use basis to accommodate its scheduled flights and those of any airline being ground handled by the Airline under an approved ground handling agreement; however, the Authority may assign any such facility for use by others in periods when they are not used by the Airline, so long as unassigned position(s), or any position(s) reserved by the Authority, are not available and such facility is vacated by others at least sixty (60) minutes prior to the Airline's next scheduled arrival at said parking position.

The Authority shall adopt and publish a policy regarding the assignment of airlines to the use of aircraft parking positions, associated holdroom areas and loading bridges, consistent with the provisions of this Section. Application of the policy shall be the sole responsibility of the Executive Director.

If another airline is assigned by the Authority to use the Airline's preferentially-assigned aircraft parking position(s), or Airline's associated holdroom area(s) or loading bridge(s), such airline shall enter into an agreement with the Airline covering the use of such space, and shall agree to pay the Airline a reasonable fee for each use. Said fee shall be based upon the cost of providing and maintaining such space and shall be limited to the total cost of providing and maintaining the space and facilities, plus an administrative surcharge not to exceed fifteen percent (15%), allocated among the total number of uses of the space. The Airline shall have the right to require

the other airline(s) to indemnify, defend and hold harmless the Airline against liability arising out of such use.

SECTION 7. RENT

A. The annual rent payable to the Authority for the Exclusive Use Space, Preferential Use Space, Joint Use Space and Common Use Space in Airline's Leased Premises shall be calculated according to this subsection and Exhibit D. The share of the total costs of the Terminal Building that shall be payable by Airline shall be that share of total Terminal Building costs that are attributable to Airline's Exclusive Use Space, Preferential Use Space, Joint Use Space and Common Use Space within the Terminal Building (as calculated on Exhibit B), its pro rata share of mechanical and administrative areas and any special assessments levied upon the Airport by local governmental agencies. Terminal Building costs payable by Airline shall exclude costs allocable to the concession areas and non-airline Common Use Space and areas leased to other airlines or remaining unleased.

The Authority shall absorb and recover from the Revenues generated from other than Signatory Airlines that share of all Terminal Building costs representing the percentage of the usable space in each Terminal Building not leased to Signatory Airlines. This percentage will be applied against all costs allocated to the Terminal Building including capital asset write-offs or depreciation or annual charges on investments.

Specifically, Authority shall calculate the total annual expense of each Terminal Building so long as the East and West Terminal Buildings are in use and thereafter the new Terminal Building; this total will then be divided by the amount of usable space to arrive at a cost per square foot. The cost per square foot will be applied only against square feet leased by Airline as set forth above.

B. The annual rent shall be payable in equal monthly installments, except as the rent may be adjusted as provided in Sections 11, 12 and 13, below.

