



City of Phoenix Aviation Department Rules & Regulations

Authority: This Rule and Regulation is promulgated pursuant to Phoenix City Code Chapter 4; Article I, Section 4-2.

Rule and Regulation: **General Terms and Conditions for Non-Commercial Permits**

Purpose: This Rule and Regulation shall be applicable to non-commercial permits issued by the Aviation Department under the Airports Rules and Regulations and/or Minimum Standards. All persons shall comply with these Rules and Regulations, restrictions and conditions at all times.

Application of Rule and Regulation:

Except as may be prohibited by other provisions of these Rules and Regulations and any other applicable law these Rules and Regulations shall be deemed to be a part of each non-commercial permit issued under the Airports Rules and Regulations and/or Minimum Standards unless such provisions are amended or modified by the City of Phoenix Aviation Department. The mere omission of any particular standard from a written permit shall not constitute a waiver or modification of such standard in the absence of clear and convincing evidence that the Aviation Department intended to waive or modify such standard.

Non-Exclusive Rights

Permits are non-exclusive and nothing herein shall prevent the City from accessing or using the Airport or shall prohibit the City from permitting other persons to access or use the Airport. Nothing herein shall be construed to bar the City from further alteration, development, expansion or improvement of the Airport and the City expressly reserves the right to do so.

Indemnification

Permittee shall indemnify, defend, save and hold harmless the City of Phoenix and its officers, officials, agents, and employees (hereinafter referred to as "City") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury



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(including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Permittee or any of its owners, officers, directors, agents, employees or contractors, arising out of or related to Permittee's use of Airport Premises. It is the specific intention of the parties that the City shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the City, be indemnified by Permittee from and against any and all claims. It is agreed that Permittee will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration for the use of Airport Premises, the Permittee agrees to waive all rights of subrogation against the City, its officers, officials, agents and employees for losses arising from the use of Airport Premises.

Accidents, Damages, and/or Injuries

Persons, Permittees, or other operators shall immediately report any on-Airport accident, damages, or injuries. Persons, Permittees, or operators shall be fully responsible for all damages to airport property including environmental damages, whether caused by negligence, abuse, or carelessness on the part of their employees, agents, visitors, contractors or persons with whom they may do business, in addition to any terms that might be contained in any Permit.

Any person, Permittee, or operator causing or liable for, any damage to airport property shall be required to pay to the City of Phoenix on demand the full cost of the damage plus appropriate administrative fees. Any person failing to comply with this section shall be in violation of these Rules and Regulations and shall be refused access to the Airport until the City of Phoenix has been fully reimbursed.

The City of Phoenix assumes no responsibility or liability for loss, injury or damage to persons, property or business on the Airport or airport facilities, by reason of fire, vandalism, wind, flood, earthquake or other acts of God, civil disorder, armed conflict or collision damage, nor does it assume any liability by reason of injury to persons or property while using said facilities.

Compliance with Law

All persons, Permittees, and other operators shall observe and comply with all laws, ordinances, rules, regulations and orders of the United States Government, the State of Arizona, the County of Maricopa, and the



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City of Phoenix and all agencies thereof, including guidance issued by the Federal Aviation Administration, which may be applicable to its operations or to the operation, management, maintenance or administration of the Airport now in effect or hereafter promulgated.

Failure to comply with such laws shall be grounds for denial of, or immediate termination of, the Permit.

Permittees shall abide by all Airport Rules and Regulations of the City of Phoenix Aviation Department including environmental laws regarding the handling, discharge, release and dumping of hazardous substances.

In the event of spillage, discharge or dripping of gasoline, oil, grease, pollutant or any material which may be unsightly, detrimental or regulated under any environmental law, onto the surface in any area of the Airport, the same shall be removed immediately and reported to Airport Operations and the Airport Environmental Coordinator in accordance with the Aviation Department Storm Water Enforcement and Civil Penalty Policy. The responsibility for the immediate removal of such gasoline, oil, grease, or other material shall be assumed by the operator or owner of the aircraft or equipment causing the same or by the Permittee responsible for the deposit on the surface. Upon default of the responsible party to clean such area, the City may provide the necessary cleaning and bill the responsible party or parties for the expense thereof including Administrative fees.

Conflicting Regulations

Where a conflict exists between any of the regulations, limitations, or restrictions prescribed or adopted hereunder, or in conflict with a provision of the safety, fire, health codes or other ordinances of the City, or any other matter, the provision which establishes the higher standard and more stringent limitation or requirement for the promotion and protection of the health and safety of the people, shall govern and prevail. The definition of conflicting regulations shall include laws, ordinances, regulations, contracts, agreements, leases and permits.

Notices of Violation, Suspension or Revocation

In accordance with the City of Phoenix Aviation Department Minimum Standards and Notice of Violation (NOV) Program, a permit is subject to suspension or revocation for any violation of any term of the City of



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Phoenix Aviation Department Rules and Regulations including, without limitation, failure to make payments in the amounts and at the times specified in these Rules and Regulations, operation of any unauthorized commercial aviation activity, or failure to comply with any of the federal, state, local laws or ordinances, or Rules and Regulations of the City of Phoenix. Any violation of the Rules and Regulations will be deemed a violation of the permit, and any suspension, revocation or other penalty will be assessed against the permit holder.

Amendment or Modification of Requirements

The Aviation Department may waive or modify any portion of these Rules and Regulations, for any person, when it is determined that such waiver or modification is in the best interest of the City and will not result in any unjust discrimination among Permittees on or accessing the Airport.

Assignment

Permittee shall not assign its authorization under the Permit. Any attempt to assign, sell, transfer or encumber the Permit shall be void. The Permit, or any interest therein, shall not be subject to assignment by operation of law. It is specifically stipulated and agreed that the Permittee will not enter into any other arrangement(s) or agreement(s) with any other operator(s) or assign any of the rights herein whereby other operators share in the privileges or services authorized in the Permit or allow other operators to access the airport under the Permit. Such assignment or transfer shall be grounds for immediate termination of the Permit without recourse.

Severability

If any terms, rules, regulations or restrictions herein contained are ruled invalid or unenforceable by any court or agency of competent jurisdiction, then the remaining terms, rules, regulations or restrictions shall remain in full force and effect.

Subordination

Any rights herein granted to the Permittee are subordinate and/or junior to any rights of the Federal Government touching or concerning the City's ownership, management and operation of the Airport including, but not limited to, any rights accruing to the Federal Government as a result of federally assisted grant programs accepted by the City.



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Supplemental Conditions

The City of Phoenix reserves the right to further develop, improve, repair and alter the Airport and all roadways, parking areas, terminal facilities, landing areas and taxiways as it may reasonably see fit, free from any and all liability to Permittee for losses or damages of any nature whatsoever to Permittee occasioned during the making of such improvements, repairs, alterations and additions.

The City of Phoenix reserves the right, but is in no way obligated to Permittee, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Permittee in this regard.

Permittee acknowledges that the permit is subordinate to any existing or future agreement between the City of Phoenix and the United States concerning the development, operation or maintenance of the Airport.

The permit is subordinate to the reserved right of the City of Phoenix, its successors and assigns, to occupy and use for the benefit of the public the airspace above the Premises for the right of flight for the passage of aircraft. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft through said airspace or in landing at or taking off from, or operation on an Airport.

Permittee, by accepting this permit, covenants for itself and its successors that no use will be made of the Premises that might in any manner interfere with the landing and taking off of aircraft from the Airport, or otherwise constitute a hazard to air navigation. As a remedy for the breach of said covenant the City of Phoenix reserves the right to enter upon the Premises and cause the abatement of such interference, all at the expense of Permittee.

Permittee acknowledges that nothing contained in the permit shall be construed to grant or authorize the granting of an exclusive right within the meaning of 49 U.S.C. §40103(e) and nothing in the Permit shall be construed to ban the City from permitting other persons to access or use the Airport.



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The permit and all the provisions hereof are subordinate to whatever rights the United States now has or in the future may acquire affecting the control, operation, regulation and taking-over of the Airport, or the exclusive or non-exclusive use of the Airport by the United States during a time of war or national emergency.

The foregoing Rule and Regulation is hereby adopted and promulgated this 1st day of October, 2004.

David Cavazos, A.A.E.
Acting Aviation Director

Nancy Kesteloot
Assistant City Attorney