



## RALEIGH-DURHAM AIRPORT AUTHORITY

### CREDITWORTHINESS COMPLIANCE - TENANT INSTRUCTIONS

*Note to Tenant: The most recent version of the Creditworthiness Compliance - Tenant Instructions ("Instructions") is posted on the Authority's "Do Business with RDU" Page (<https://www.rdu.com/do-business-with-rdu/>). Tenants are encouraged to review the on-line version of the Instructions carefully and periodically for any updates that may occur during the term of their Agreement.*

#### 1.0 PURPOSE

The purpose of these Instructions is to describe how Prospective Tenants and Tenants demonstrate their ability to fulfill Agreement obligations, thereby reducing potential risk loss to the Authority.

#### 2.0 DEFINITIONS

**The following definitions apply to this Procedure:**

- A. Agreement - a contract governing the use of any Authority property and/or facilities by a Tenant
- B. Airport - the Raleigh-Durham International Airport
- C. Authority – the Raleigh-Durham Airport Authority entity, organization and/or its staff
- D. Department Staff – Employees within the Authority organization assigned responsibilities within this Procedure.
- E. Prospective Tenant – an entity requesting use of Authority property and/or facilities pursuant to an Agreement
- F. Standards – Information and documentation required by the Authority from Prospective Tenants or Tenants, evidencing financial capacity to fulfill the obligations of an Agreement, including company background and contact information, credit references, financial information, and such other information, documentation, and approvals as the Authority may deem necessary
- G. Tenant - an entity using Authority property and/or facilities pursuant to an Agreement

#### 3.0 DOCUMENTATION REQUIREMENT

3.1 Prospective Tenants and existing Tenants will provide information and documentation required by the Authority to demonstrate their ability to fulfill Agreement obligations, and reduce potential risk loss to the Authority. The Department Staff will review the information and documentation provided by the Prospective Tenant or Tenant, and determine whether the information and documentation meet the Authority's Standards. If a Tenant does not meet the Authority's Standards, either Agreement provisions will apply, or Department staff will proceed with risk mitigation actions described within Section A. below.



## RALEIGH-DURHAM AIRPORT AUTHORITY

### A. Risk Mitigation

Tenants and Prospective Tenants should be aware that the Authority may, in its sole discretion, elect to take risk mitigating actions, including but not limited to, those listed below, if the information and documentation provided by a Tenant or Prospective Tenant does not meet the Authority's Standards, or if the Tenant's account has a history of delinquent charges. The Tenant or Prospective Tenant may be subject to one or more of the following mitigation actions:

1. Tenant or Prospective Tenant will provide an amount of security deposit greater than that normally required.
2. Tenant or Prospective Tenant will be required to pay rents, fees and charges owed in advance as determined at the discretion of the Authority.
3. Tenant's business opportunities and/or authorization to lease property and/or facilities will be limited.
4. The Tenant should be aware that the Authority may terminate the business relationship and any Agreements with the Tenant.

Each Tenant should be aware that a Standards review will be conducted by Department Staff on an annual or more frequent basis, at the discretion of the Authority, to determine whether mitigating actions are required.

## 4.0 SECURITY DEPOSIT

4.1 Tenants and Prospective Tenants will provide a security deposit to Department Staff, prior to the start of operations and/or occupancy of leased space. Tenants and Prospective Tenants shall deposit with the Authority, and continuously maintain throughout the term of their Agreement, a security deposit that complies with their Agreement and/or Authority's requirements (see Attachment A: Letter of Credit Requirements).

Tenants and Prospective Tenants may execute more than one type of Agreement with the Authority. Each Tenant or Prospective Tenant will verify with Department Staff if the Authority may require a security deposit for each Agreement, or may require one deposit requirement for all Agreements with that Prospective Tenant or Tenant.

### A. Amount of Security Deposit

1. Each Tenant should be aware that Department Staff will calculate the security deposit requirement at least annually, based on the requirements of the Agreement. Additionally, security deposits will be recalculated when: 1) an increase or decrease in leasehold space occurs; 2) a rate changes; 3) a new Agreement is written; or 4) as determined by the Authority. Department Staff



## RALEIGH-DURHAM AIRPORT AUTHORITY

will provide a 30-calendar day notice to any Tenant when modification of the security deposit amount is required.

2. A Tenant may be required to provide a higher security deposit due to special circumstances, including those listed below:
  - a. A Tenant or Prospective Tenant does not meet the Standards established by the Authority
  - b. A Tenant has a history of Delinquent Charges
  - c. A Tenant or Prospective Tenant operates in a corporate structure that requires risk mitigation; i.e. the tenant operates a limited liability company without corporate assets.

### B. Acceptance of Security Deposits

1. Effective upon the adoption date of this Creditworthiness Procedure, the Tenant must provide a Letter of Credit as security deposit, although an exception may be made to accept a cash deposit in some circumstances.
  - a. Tenants that have submitted a Surety Bond as their security deposit instrument prior to the adoption date of this Creditworthiness Procedure, are required to replace the Surety Bond with a Letter of Credit either upon the next renewal date of the instrument, anniversary date of the instrument, or other date as identified by the President and CEO. Tenants will be provided with 60 calendar days' advance notice of the date the replacement Letter of Credit must be received by the Authority.
2. The Tenant or Prospective Tenant will discuss with Department Staff whether the Authority will accept digital copies of security documents in lieu of hard copies of security instruments, conditional upon the surety company forwarding a digital distribution letter stating the scanned copy of the security instrument will not have any impact on the ability of the obligee to make a claim under the LOC.
3. Cash Deposit
  - a. If the security deposit requirement is less than \$5,000, the Tenant will submit a cash deposit in lieu of a LOC. If the security deposit requirement is more than \$5,000, and the Tenant or Prospective Tenant wants to provide the security deposit in cash, the Tenant or Prospective Tenant will request in writing that the Authority's Chief Financial Officer accept a cash deposit.



## RALEIGH-DURHAM AIRPORT AUTHORITY

### C. Use of the Security Deposit

1. The Tenant should be aware that Department Staff may, but is not obligated to, draw upon and apply a security deposit to: 1) pay any rent not paid by the due date; 2) pay any outstanding fees on the account; and/or 3) remedy any other violation, unless the applicable Agreement provides otherwise. Typically, the AR/AP Supervisor will apply the security deposit against Tenant's outstanding balances that reach sixty (60) calendar days past due. Department Staff may draw upon a security deposit upon notice of non-renewal of the LOC, if the Tenant's account is in arrears.

### D. Return of Security Deposit

1. If a Tenant has fully performed all of its obligations under its Agreement, and no issues exist regarding Tenant's full compliance with the Agreement, the Tenant shall request that Department Staff release the security deposit, or any balance remaining thereof, within ninety (90) calendar days from the expiration date or termination of the Agreement, and/or as may be further stipulated in the Agreement. Under no circumstances will the security deposit be returned until Department Staff have received satisfactory responses to all outstanding issues, and the Tenant has met all outstanding obligations.
2. If any question exists concerning the Tenant's full compliance with the Agreement, or if there is any obligation under the Agreement to be performed after the expiration date or earlier termination of the Agreement, the Tenant should be aware that Department Staff shall be entitled to require that the security deposit remain in full force and effect until Department Staff is fully satisfied that there has been no violation of the Agreement, and all obligations due from Tenant under the Agreement have been fully performed, even if such period of time to make such a determination to Department Staff's satisfaction exceeds ninety (90) calendar days.
3. The Tenant should be aware that Department Staff will determine a Security Deposit should be returned to a Tenant under one of these methods:
  - a. If the Tenant Security Deposit is in the form of cash, a credit in the amount of the security deposit will be placed on the Tenant's account. If the amount of the credit to be placed on the Tenant's account cannot be exhausted during the remaining term of the Tenant's Agreement, the Tenant shall request from Department Staff approval to allow the amount of the security deposit to be returned to the Tenant in the form of a check.



## RALEIGH-DURHAM AIRPORT AUTHORITY

- b. If the Security Deposit is in the form of a LOC, the LOC will be returned to the Tenant once Department Staff approvals are obtained.
- c. A Tenant's security deposit requirement may increase due to reasons described within 5.1.A.1. If the new security deposit requirement is greater than \$5,000, and the initial deposit requirement was less than \$5,000 and Department Staff accepted a cash deposit, the cash deposit will be returned to the Tenant as described within Section D.3 above, after the Tenant has forwarded an acceptable LOC as replacement security deposit.



# RALEIGH-DURHAM AIRPORT AUTHORITY

## Attachment A

<b>LETTER OF CREDIT REQUIREMENTS</b>	
<b>Party Issued To/Obligee</b>	Raleigh-Durham Airport Authority
<b>Party Issued on Behalf of/Principal</b>	Name of Tenant or Ground Transportation Provider
<b>Type of Security Instrument</b>	Letter of Credit or security instrument that modifies the Letter of Credit
<b>Security Instrument Number</b>	Unique identifying number
<b>Agreement(s) the Instrument Secures</b>	Description/Name of Agreement; e.g., Raleigh-Durham Airport Authority Operating Agreement; Terminal 2 Concession Agreement, etc.
<b>Effective Date &amp; Expiration Date</b>	Coverage start and end dates
<b>Cancellation Notice Period</b>	Concessions: Minimum of 30 calendar days' notice of cancellation Other Tenants: Minimum of 90 calendar days' notice of cancellation
<b>Renewal Terms</b>	Automatic renewal throughout term of Agreement, or throughout a ten-year period for month-to-month Agreements
<b>Amount</b>	Dollar amount of coverage
<b>Authentication</b>	Raised Seal or Security Paper is required for all instruments. Originals must be provided unless digital distribution letter has been received by Authority. Reference Creditworthiness Procedure, Section 5.1.B.3
<b>Surety</b>	Authority prefers surety is financial institution with a North Carolina office
<b>Draw Down</b>	<ul style="list-style-type: none"> <li>• Authority ability to immediately draw against security upon non-payment of rents and fees</li> <li>• Authority ability to immediately draw against security related to a default event other than non-payment of rents and fees, upon notice to Tenant</li> <li>• Authorization to draw down via facsimile</li> </ul>