

## Developing a Business Aircraft Use Policy

### Introduction

Strong governance dictates that companies that utilize business aviation have a board-approved use policy for the use of the aircraft. The policy should be written broadly enough to permit appropriate uses of the aircraft and include checks and balances to ensure there is no misuse or abuse of this business tool.

Key components of a Business Aircraft Use Policy typically include:

1. A statement containing the Objectives of Business Aircraft Use Policy underscores to board members and employees the importance of the policy while setting expectations that it be followed and introducing the criteria for the use of the aircraft.
2. The Purpose of the Business Aircraft should be documented. How does the aircraft support the mission and objectives of the business?
3. Methods to Achieve the Purpose describes who is responsible for overseeing and enforcing the policy.
4. Who authorizes employee, customer, or guest travel on the aircraft and the criteria for use of the aircraft should be contained in Access to the Aircraft.
5. Compliance tax and other regulatory implications also may be addressed in the policy, particularly for Special Uses of the aircraft.
6. Prioritization of aircraft Scheduling and the use of supplemental lift, if any, when there are conflicts or if your company's airplane is not ideally suited for a particular flight.
7. Some companies elect to charge-back divisions for use of the aircraft. Permissible or required Charges and limitations on such charges should be included.
8. Business continuity planning may require that companies adopt policy language limiting certain employees from traveling with one another. This should be addressed in a section on Restrictions on Travel of Key Employees on the Same Aircraft.
9. Certain employees may be under a Security plan and their use of the aircraft may be required under such a plan.
10. For safety of flight purposes, it must be made clear to all passengers, and endorsed by the board of directors, that the Pilot in Command of a flight has ultimate decision making authority that cannot be superseded by any passenger. This is addressed in the section on Aircraft Operating Standards and Pilot Authority.
11. Additional Information relevant to a particular company's business aircraft use also should be noted.

While a board-approved business aircraft use policy is intended to be a company-confidential internal document, it should be written with care to ensure it is harmonious with the image the company. The purpose of the policy is to effect good governance; if the policy ever were to be disclosed publicly, it should support the company's brand, not detract from it.

### Guidelines for Developing a Business Aircraft Use Policy

Well-managed flight departments will have documented procedures for aircraft safety, operations, and administration, which will more fully articulate the company's processes related to these concepts. If there is a board-approved change to your aircraft use policy, it is important to coordinate within the flight department's procedures to maintain consistency.

NBAA recognizes that business aircraft use policies will vary depending on a company's size, mission, business reasons for aircraft ownership, and other factors. The following paragraphs describe the typical sections of a business aircraft use in detail, provide guidance for companies developing a new policy or revising an existing policy, and offer sample policy language (*in italics*) for illustration purposes.

## **1. Objectives of Business Aircraft Use Policy / Scope of the Policy**

This section is used to detail the purpose and the breadth of the Business Aircraft Use Policy (the “Policy”). The objectives of the Policy will vary depending on the activities that the aircraft will be involved, including aircraft charter operations or non-business use. The objectives section may specifically provide that the aircraft usage is required to comply with any applicable statutes and regulations. Additionally, there may be internal purposes for the Policy which may be outlined in the objectives section. The Policy can be used to ensure that the use of the aircraft is conducted in a controlled, efficient, cost-effective manner with sufficient oversight. The objectives section may also detail which companies, individuals and subsidiaries that the policy applies to.

### Sample Policy Language:

*The objective of this policy is to provide the criteria and procedures to ensure efficiency and optimization of Company A's business aircraft use worldwide while meeting the applicable standards for safety and operations in a cost-effective manner. This policy is applicable to use of the aircraft by all Company A's affiliated entities.*

## **2. Purpose of the Business Aircraft**

Providing a statement of purpose for the aircraft use can prevent the aircraft from unintended and indiscriminate use. This section should give a brief description of the intended use of the aircraft but more detailed information and specific examples may be included if necessary. It is impossible to detail every use of the aircraft so it is important to provide a general statement of purpose. Some operating characteristics or operation limitations may also be listed, if the Policy is meant to apply to a specific aircraft. Also, if charter services are provided, the statement of purpose may provide additional information on those services.

### Sample Policy Language:

*Company A owns, operates and maintains business aircraft to provide business and non-business air transportation services for its employees, employees of affiliated entities, and guests such as customers and suppliers, and to transport company property. Business aviation is a safe, efficient, flexible business tool which increases productivity, increases face-to-face business contact and facilitates travel to locations with inadequate commercial service. In utilizing business aircraft, Company A promotes growth of profits and shareholder value, market share, asset efficiency, customer and employee satisfaction and innovation.*

## **3. Methods to Achieve Compliance**

The methods used by different companies to ensure compliance with an aircraft use policy can greatly vary depending on which procedures would be beneficial to the particular company. The methods may be simple. For example, a specific employee may be directly responsible for overseeing the aircraft use and that individual implements the controls based on the Policy. Other companies may require more complicated methods that outline specific procedures for establishing policies detailing the restrictions on the aircraft use and procedures for the review of the aircraft use. The procedures also may vary depending on whether a material aspect of the aircraft use is affected or whether the expenses are incurred outside of the normal course of business. Finally, specific policies may also be laid out in the document.

### Sample Policy Language:

*The CFO is responsible for monitoring and implementing this business aircraft use policy. The CFO shall develop and implement controls that provide for responsible use of the aircraft considering expense management and legitimate business purposes and retain appropriate records.*

## **4. Access to the Aircraft / Eligible Users and Authorization / Criteria for Use**

For the company and its users, access to the aircraft and the criteria for its use can vary greatly depending on the nature of the services that the aircraft provides. The Policy may lay out specific criteria for the aircraft use or the criteria may be at the behest of the senior management, board member, or department that authorizes the trip. Examples of specific guidelines could be: a minimum number passengers; a mandate from the Board of Directors; existence of passenger security issues; combination(s) of management-level personnel; specified number of passengers which provide clear economic justification; or any of the business uses listed in Section 4.a.

The Policy should state who within the organization has final approval authority for a trip request. The policy should identify “authorized users”; provisions, if any, for additional passengers as appropriate, and travel for others outside the scope of the business of the particular business unit/division, and guest travel. In all cases, they play an important management role ensuring each authorized trip is legitimate, sensible, and will benefit the company.

The Policy specifically should require aircraft usage be in compliance with any applicable statutes and regulations. Any exceptions to the Policy, such as emergency or bereavement travel, should be included and whether such exceptions apply uniformly.

#### 4.a. Business Use

Because the primary purpose of the aircraft is to support the mission of the company, the predominant use of on-demand aviation (whether on a company owned aircraft or via supplemental lift, such as charter) shall be for business purposes. Following are examples of business purposes for choosing business aviation that may apply to your company's business aircraft utilization:

- **Competitive edge in serving customers.** A company with a business airplane can quickly reach customers if a product requires repairs or replacement, and/or transport customers to its facilities/offices.
- **Reach multiple destinations quickly and efficiently.** Companies needing to fly to several locations in a single day often rely on business aviation, because that type of mission could be difficult or impossible to complete on the airlines or by driving or taking a train.
- **Turn travel time into productive work time.** Business aviation is a productivity tool – when traveling aboard business aircraft, employees can meet, plan and work en route, and also remain in communication with the home office. Business aviation also allows employees to discuss proprietary information in a secure environment, without fear of eavesdropping.
- **Ensure scheduling flexibility.** In today's business environment, companies need to move quickly and respond to changing demands and circumstances. Unfortunately, 25 percent of airline flights are delayed, 3 percent are canceled entirely, and problems for travelers are compounded when connections between delayed and canceled flights are involved.
- **Move sensitive equipment.** Companies often need to quickly transport sensitive or critical equipment that won't fit in an airliner's overhead bin and can't be checked in at an airport or shipped as cargo. Business aviation is often the best solution for rapid transit of the equipment.
- **Transport teams of employees.** Companies often send teams of employees to a given destination because it is the most cost-effective means of transport. NBAA surveys have shown that 72 percent of passengers aboard business airplanes are non-executive employees and the CEO is aboard the plane only 15 percent of the time.
- **Efficiently fly to and from locations with limited or no airline service.** Business aviation serves 5,000 communities versus the 500 airports served by the airlines. This means business aviation can allow companies to locate plants or facilities in small towns or rural communities with little or no airline service. Nearly 100 communities have lost airline service in the past year, meaning that business aviation is often the only option for reaching those locations.

#### 4.b. Domestic Use

For the purposes of this section, domestic use may be considered as use only within the continental United States. Domestic use could also include travel beyond the continental U.S., such as travel between the continental U.S. and Alaska, Hawaii and the US territories and in that event, should be so stated. This may vary depending on the needs of the business, capabilities of the aircraft, training of crew, and cost-benefit of overwater and/or long-range domestic operations.

Access for domestic flights can be determined in three ways: who gets to use the aircraft; the purpose of a trip; cost-benefit analysis.

#### 4.c. International Use

For the purposes of this section international use may be considered as any use outside of the continental United States depending on the covenants of the insurance coverage in place.

Policies for international use must be designed to meet the specific needs of the passengers and be adaptable to the specific countries and localities being visited as well as the potential threats to the aircraft, facilities, flight crews, and passengers. The procedures must be methodically implemented and reviewed on a regular basis for deficiencies. Periodic examinations of the Policy must be made to meet the dynamic contingencies that arise while traveling internationally.

In addition to the domestic use guidance, examples of specific guidelines for international use could be: geographical limitations; maximum trip duration; a minimum or maximum number of passengers; potential passenger, crew, and aircraft security issues; lack of ground equipment used by commercial travel; and lack of navigational aids used in the particular area which can be substituted in the company aircraft. The Policy specifically should require aircraft usage be in compliance with any applicable statutes and regulations for all of the airspace and control requirements, as well as each of the countries and principalities visited. Any exceptions to the Policy, such as emergency or bereavement travel, should be included in the Policy.

Access for international flights can be determined in four ways. First is who gets to use the aircraft. Second is purpose of trip. Third is safety and security of the passengers, crew and the equipment. Fourth is the cost-benefit analysis.

Sample Policy Language:

*Each [division head] is responsible for authorizing on-demand travel on Company A's aircraft for employees within his/her division and/or guest (e.g., customer) travel. The [CEO] is responsible for authorizing travel on Company A's aircraft for [division head] trip requests. Each trip request will be reviewed for its essential business purpose and value to the company. Written approval by the [division head/CEO] shall be received prior to submitting the trip request to the [aircraft scheduler].*

*For domestic operations, use of the aircraft may be authorized after: 1) providing the name of each passenger and his/her business purpose for travel. 2) identifying the business objective(s) that will be achieved through the use of the aircraft; 3) completing a cost-benefit analysis for the time and expense of this form of travel against alternative travel means.*

*For international operations, the aircraft shall be used to the satisfaction of four main criteria – the three criteria for domestic travel, plus the trip must meet the overall security objectives for passengers, crew, and the equipment.*

## **5. Special Uses**

**Political** - Carriage of Elected Officials, if permitted, should be performed in accordance with applicable rules and regulations and should be vetted through qualified legal counsel. Carriage of elected officials, candidates for public office, government employees or their agents may require payment from, or on behalf of, the passenger prior to the flight. The required payment amounts may vary, and in some cases the proposed transportation of the individual may be prohibited under applicable election laws, ethics rules or FAA regulations. The applicable rules vary depending on factors such as the jurisdiction (e.g., Federal or State), the public office, whether the passenger is a candidate or is currently serving in public office, and the purpose of the flight.

The vetting should be obtained from the company's qualified legal counsel prior to carrying any candidate for public office, elected official, government employee or any of their agents. Requests for clearance from the general counsel should include (a) the identity of the passenger, (b) the passenger's public office or government post, or the office for which the passenger is a candidate, (c) the amount (if any) that the passenger proposes to pay for the flight, and (d) the purpose for the flight.

The use of the business aircraft by public officials, including elected officials, those running for office, and those who could be deemed to be running for office, is governed by not only the Federal Election Campaign Act, the Honest Leadership and Open Government Act of 2007, the Federal Aviation Administration as well the laws of the various individual states. The U.S. House of Representatives has significantly curtailed its members use. Therefore if use by a candidate or official is allowed, the candidate or official is required to reimburse the operator for his or her use of the aircraft. When a state or local candidate or official travels on board an aircraft, the state or local election laws must be used to determine the amount to be reimbursed, if any. Such reimbursements must be made in advance in all Federal and most all state and local cases. Companies should have Policy in place which sets specific triggers for notifications once a trip is requested so that the legal, accounting and authorized person can respond. The Policy should outline a procedure for determining the requirements for the particular candidates, communicate those requirements back to official or candidate, gain necessary internal approvals for the trip and provide a reasonable timetable to receive said payment in advance. Therefore it is paramount that the trip request is detailed enough to support such requirements to ensure all of the regulatory requirements of the FAA, FEC, SEC and State and local municipalities are met.

Sample Policy Language:

*The carriage of elected officials and candidates has specific regulatory requirements which must be determined on a case by case basis. The [General Counsel] office shall be notified no later than [time period] in advance of the trip so that an investigation as to the regulatory requirements can be made and the reimbursement by the public official or candidate can be made, where applicable. The trip requires advance written approval by the [General Counsel]. Any Federal Excise Taxes due as a result of payments received will be remitted in accordance with IRS regulations.*

**Personal** – Some companies may permit or require that key employees use the business aircraft for all flights, including non-business flights, for example: for security purposes, in order to attract or retain top talent, or to maintain communications with key employees on non-business flights. The use of a company owned, leased or provided aircraft for other than business purposes may have tax implications for the employee and for the company, and may have to be reported to outside third parties including various governmental agencies.

Some of the issues to consider are:

The personal use of an airplane may trigger on behalf of the passenger or their host being subject to IRS fringe benefit rules. Governmental reporting (IRS and local state government) is accomplished by including the flight's value as other income on the employee's end of year W-2 or included on the end of year 1099R or 1099Misc if not an employee.

If the entity is a public company the personal use of an airplane is treated as a perquisite under SEC Regulation S-K. The value of the flight is reported in company's proxy statement and included with the disclosures of executive compensation. The aggregate incremental cost (AIC = full out of pocket cost to the company associated with the trip) is reported as "Other Income" when in the aggregate the trips totaled an amount of \$10,000.

If the passenger has paid for the flight (allowed under IRS rules, but limited by FAA rules to aircraft on a charter certificate or operated under a time sharing agreement) excise taxes will be due.

If the company and the executive desire personal travel be reimbursed in cash, a time sharing agreement must be in place before the travel occurs. This document is a wet lease (airplane & crew) and must be filed with the FAA and carried on board the aircraft. The agreement may also need to be disclosed to the SEC if the company is a public company and the employee is deemed an insider. For good corporate governance, the agreement also should be approved by the company's board of directors.

Reimbursements made by the company insider are limited under FAA regulations to those items listed in FAR 91.501(d). These cash reimbursements are disclosed annually in the insider transaction section of the company's proxy statement. If the reimbursement is equal to or greater than the company's AIC then no additional disclosure is required in the executive compensation section of the proxy statement. As discussed above excise tax payments will need to be calculated and paid on the reimbursement.

NBAA has published a Personal Use of Employer-Provided Aircraft Handbook that explains the tax and regulatory issues in detail. This resource is available to NBAA Members at <http://www.nbaa.org/taxes>.

Sample Policy Language:

*In order to maintain an open line of communications, [position title] is authorized to use Company A's aircraft for non-business purposes. Such flights shall be conducted under a time sharing agreement in accordance with FAA regulations, with payment to Company A up to the maximum allowable reimbursement rate. The time sharing agreement shall be approved by the Board of Directors.*

**Humanitarian/Charitable Use** - Flights for humanitarian or charitable purposes may be an important component of a businesses social responsibility culture. However, purely humanitarian flights can result in unexpected Federal tax consequences. Requests for flights for humanitarian or charitable purposes should be identified to the [Aircraft Scheduler] as flights for charitable purposes. The [Aircraft Scheduler] will consult with the Tax Department regarding such flights.

Sample Policy Language:

*Company A supports the mission of the Corporate Angel Network (CAN) and, at the request of CAN, may make available otherwise empty seat(s) on scheduled business flights. Other humanitarian missions that may be in the best interest of the company, the community, or the nation may be approved by the [CEO] on a case-by-case basis.*

## 6. Scheduling

All trip requests must be submitted to the [aircraft scheduler] for coordination. If the company's aircraft is unavailable, the [aircraft scheduler] will assist in obtaining supplemental lift (e.g., a chartered aircraft) for the approved flight. A trip request shall contain ample information for the scheduler to determine the availability of the aircraft. All requests shall be submitted as far in advance of possible to ensure aircraft and crew availability for a flight. Typical information that must be provided in order to schedule the aircraft includes: dates desired; business purpose for the flight (for each passenger); detailed itinerary (requested arrival or departure times, travel locations); passenger manifest; any special requirements for the flight. It is common for the [aircraft scheduler] also to arrange catering and ground transportation logistics to and from the airport, so those details should be provided as well. Companies should create a standard trip request form for authorized users to submit to the [aircraft scheduler].

There may be times when multiple trip requests are submitted for the same dates/times and the company's aircraft or crew are unavailable to facilitate the multiple flight requests. Or, perhaps the company's aircraft is not ideally suited for a particular flight request. If supplemental lift (e.g., third party charter) is not a viable option to accommodate the multiple flight requests, the Policy should include a prioritization process to determine which trip request(s) will be accommodated with the business airplane and which request(s) will be deferred or handled via alternative means. Typically, the trip request that will provide the greatest value to the company, based on the company's mission, goals, and established priorities will be honored.

### Sample Policy Language:

*As far in advance of a trip as possible, the authorized user shall submit a completed, signed trip request form to the [aircraft scheduler] who will determine if the aircraft, crew, and other resources are available for the trip. If a trip request is not ideally suited for Company A's airplane, or if the trip request cannot be accommodated, the [aircraft scheduler] will assist in obtaining supplemental lift appropriate for the mission. The [division] will be responsible for all costs associated with the supplemental lift.*

*In the event of multiple trip requests for the same aircraft, the [CFO] shall assist in the prioritization of the trip requests. First priority shall go to the flight request projected to provide the greatest return on the investment, in-line with the company's mission.*

## 7. Charges

It is important to decide if the cost of the company aircraft should be allocated internally. Charges may be allocated by a parent to subsidiary companies or by a subsidiary to the parent company or other subdivisions within the corporation or consolidated group. Many companies choose not to levy chargebacks and instead allow the cost to be absorbed by the company overhead account. The chargeback policy may help recover a portion of the operating costs and better allocate the asset, but this decision should be based on the size and complexity of the company structure as well as the company culture. It is also important to note that chargebacks may conflict with the Federal Aviation Regulations or have inadvertent tax consequences depending on the company structure and use of the aircraft.

If the company decides to use chargebacks, then it is important lay out how and where this will be done. The manner and rate with which the chargeback is applied may have a direct effect on not only the health but the perceived value of the flight department. The costs may be allocated to all departments or only to those departments or divisions that use the aircraft. The complexity of allocations increases in proportion to the size and complexity of the company structure. The method chosen will have some impact on the use of the aircraft, as costs that are perceived by users as excessive may limit utilization of this business tool.

Several methods exist for allocating the costs for company aircraft. The most common are:

**Central Allocation/Head Office Charge:** Some corporations consolidate all of the headquarters services costs, including the company aircraft, and divide those costs among all the operating divisions, whether or not they used the aircraft. There are a variety of formulas used in this method (e.g., a percentage of net sales, the percentage assets of the subsidiary or the number of employees in the subsidiary compared to the total in the consolidated group).

**Direct Operating Costs Allocation:** Under the direct operating cost method, each division that has use of the company aircraft is assessed the direct operating costs for a given flight. The company absorbs all of the fixed costs as part of headquarters' operating expenses. If several passengers are on board for the same flight from more than one division, those costs may be prorated for each individual, so the cost of the flight is divided proportionately among the divisions.

Direct and Fixed Costs Allocation: Fixed costs may be higher than direct costs so some companies use the direct and fixed costs method where each division may bear a share of the total cost of operating the aircraft, including costs incurred whether or not the aircraft is flown.

Flat Mileage Assessment. Finally, some companies use a flat mileage assessment of costs. A variation of this is to assess amounts that equate to commercial airline airfares between established airline points of service or amounts used to approximate the charter rate.

Sample Policy Language:

*Each employee shall provide in the trip request a budget code for his/her travel on board Company A's aircraft. The amount to be charged is the passenger's pro-rata share of the Direct Operating Costs (DOCs) for the flight. The items included in the DOCs shall be maintained by the [CFO and the Flight Department Manager]. The [aircraft coordinator] will provide the budget code and appropriate charges by cost center following each flight.*

## **8. Restrictions on Travel of Key Executives on the Same Aircraft**

A company's business continuity plan may include restrictions on which positions within the company may travel together. This should be taken into consideration with respect to on-demand aviation as well as any ground transportation to/from the aircraft, and associated over-night accommodations.

This Policy language should derive from corporate philosophy, legal and risk management review, prudence, and a careful assessment of the risks involved should an accident occur that could jeopardize the continuity of executive management. Because of the critical and sensitive nature of this Policy, it should be developed by senior management. Corporate risk and insurance specialists also should be consulted. Review potential on-demand aviation travelers and identify limitations on who may travel with whom. As always, this Policy must be balanced with the need of the employees to work/prepare for the upcoming business meeting.

Sample Policy Language:

*Company A's Chairman and the company CEO shall not travel in the same vehicles to attend a business meeting, because in the event of a delay, accident or incident, the loss to Company A would be too great. The use of supplemental on-demand lift may be utilized if both positions are required at such meeting. For added security during international travel, the individuals in these positions shall not overnight in the same hotel.*

## **9. Security**

A principal reason for using on-demand air transportation is to protect the well-being of individual travelers and to ensure privileged information regarding corporate activities is not compromised. Therefore, information regarding travel plans, potential or actual, will be treated as corporate confidential information. Specific details of trips will be made known only to those requiring that information.

Sample Policy Language:

*The [aircraft scheduler] should be informed of any known security risks or issues regarding a planned flight as soon as possible. Requests for security personnel or security arrangements should be submitted to the [aircraft scheduler]. Any security risks or concerns that arise during a trip should be reported to the [aircraft scheduler].*

## **10. Aircraft Operating Standards and Pilot Authority**

A flight operations manual is an essential tool for all business aviation flight departments. The manual's principal function is to improve safety and efficiency by standardizing administrative and operational procedures and management philosophy. The established procedures shall ensure the aircraft is operated efficiently and legally. The manual also serves as a communication tool that transmits the aviation department's goals, policies and procedures to the entire company.

Board-approved policies governing on-demand aviation should include a section requiring the development, implementation, and on-going use of a flight operations manual.

A properly executed manual serves as a contract between the company's Chief Executive Officer (CEO) and the aviation department. It communicates expectations, limitations and objectives. Once it has the CEO's approval, the manual becomes a corporate directive that protects the aviation department from abuse and provides operational expectations and rules for the department to follow. Because the manual is used to establish Policy, it must be carefully crafted and reviewed at regular, scheduled intervals to ensure that it continues to meet corporate and departmental needs.

The manual must also clearly state that the Pilot-in-Command of a flight has the ultimate authority over the safe operation of that flight. This authority cannot be ceded to any other employee or passenger, regardless of title or position within the company or its Board of Directors.

The Board's approval of the Policy and the CEO's endorsement of the flight operations manual contents indicates company approval and sets the criteria for use and operation of the aircraft and department.

Sample Policy Language:

*Company A recognizes and acknowledges the professional judgment of the Pilot-in-Command (PIC) for each flight. The Pilot-in-Command of a flight has the ultimate authority over the safe operation of that flight. This authority cannot be ceded to any other employee or passenger, regardless of title or position within the company or its Board of Directors. The PIC shall report to the [CEO] the name of any passenger who attempts to over-rule the PIC's decision, and that person will be subject to disciplinary action, including, but not limited to, restrictions on his/her travel on board Company A's aircraft and could include termination of his/her employment.*

## 11. Additional Information

**Metrics & Record Retention-** Effective performance metrics will help emphasize the importance of your company's business aviation operation, and how your aircraft contributes to your company's enterprise value. Each company's metrics will differ, depending on the mission and goals of the company and how the aircraft supports that mission. An individual or team within the company should be assigned responsibility for determining the appropriate metrics to track, record, and manage. Adjustments should be made as appropriate to maximize the efficiency of the business aircraft and its contribution to enterprise value.

Sample Policy Language:

*Company A's [CFO] shall establish metrics to determine the effective utilization of business aviation and its contribution to the success of the company. This tracking system will include metrics related to efficiency and productivity of key employees when traveling, new markets/business generated as a result of sales team and customer travel on board Company A's aircraft, and . The [CFO] shall report and review these metrics quarterly with the [CEO], [Flight Department Manager] and manage the measurements to ensure effective utilization of the business aircraft.*

**Availing Aircraft to Third Party Charters –** To off-set the costs of aircraft ownership and operations, or to allow greater flexibility in charging for flights on the business aircraft, some companies elect to place their aircraft on a charter certificate, or to obtain their own charter certificate (also referred to as a Part 135 certificate, as such flights are regulated under Part 135 of the Federal Aviation Regulations). There may be tax implications, insurance/risk management implications, and, certainly, greater regulatory oversight of the business aircraft operations.

Sample Policy Language:

*Company A's has placed its aircraft [aircraft tail number] on [certificate holder's name] Part 135 air carrier certificate. The [aircraft scheduler] may release the aircraft to the charter operator for third party flights [72 hours] prior to a trip initiation, only if there are no pending trip requests for the airplane for Company A's business.*

**Public Company Considerations –** Public companies face disclosure and reporting required by the Securities & Exchange Commission (SEC) and. Sarbanes-Oxley restrictions may apply to business aircraft utilization. As discussed above, certain relationships between the company and its key personnel and/or board members and perquisites, including personal use of the company's aircraft, may be subject to disclosure. Even if security considerations have led the company to mandate that certain employees use the business airplane for personal trips, the flights are reportable. To ensure proper compliance with SEC and Sarbanes-Oxley regulations and requirements, NBAA urges public companies to consult with qualified legal counsel.

Sample Policy Language:

*As a publicly-listed corporation, Company A's [securities counsel] will develop, implement, and monitor a system to ensure compliance with SEC reporting requirements to disclose the time sharing agreements that are in place with the [CEO] and the [President]. The system will include procedures to disclose the Aggregate Incremental Cost (AIC) in excess of \$10,000 for all flights conducted for a non-business purpose for other covered individuals.*

## About NBAA

Founded in 1947 and based in Washington, DC, the National Business Aviation Association (NBAA) is the leading organization for companies that rely on general aviation aircraft to help make their businesses more efficient, productive and successful. <http://www.nbaa.org>

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