

Use and Lease Agreements

Use and lease agreements between the airport and its users/tenants are the bedrock on which airport finances are built. We bring our unparalleled airport expertise to bear in guiding clients through negotiation and drafting of airline use and lease agreements, on-airport leases, development agreements, and concessions agreements. Just as importantly, we frequently advise clients in preparing a strategy for decision making on the type, duration, and terms of use and lease agreements—strategies that can have long-term implications for airport operations, maintenance, and development.

The airline–airport relationship—determined by use and lease agreements—has changed dramatically over the past 30 years: airports can no longer rely on antiquated, standard-form agreements. Instead, a holistic approach is needed to incorporate complex and interrelated matters that span from the airport’s capital improvement plans to an analysis of how a particular airport fits into airlines’ route system. Concerns over local air service; costs per enplaned passenger; origination and destination traffic; control of airport-generated, non-aeronautical revenue; and a myriad of other factors all come into play.

Our mastery of all aspects of airport operation enables us to provide our clients with strategic counsel on negotiations of new use and lease agreements. We partner with our clients and draw upon the airport’s knowledge, experience, and expectations to devise and implement negotiation strategies.

Kaplan Kirsch & Rockwell has negotiated and drafted use and lease agreements for some of the largest fortress hub airports as well as for medium and small hub airports. We have also successfully incorporated strategies to incentivize new air service in order to address issues such as reducing local fares as well as increasing the number of non-stop destinations.

We also advise both commercial service and general aviation airports on other key leasing arrangements for concessions, general aviation users, and, increasingly, non-aeronautical development. See [Airport Concessions](#) for more information.

Further, we have vast experience in counseling and litigation related to the administration of use and lease agreements, including disputes involving the allocation of costs and revenue, distribution of non-aeronautical revenue, and damages related to termination. In efforts to avoid litigation, we often work with airport clients to seek FAA regulatory approval or review of innovative or novel use and lease arrangements. To that end, we communicate continually with senior FAA officials and keep abreast of legal, policy, and financial developments that implicate airline–airport relations.

Representative Matters

- Advised, negotiated, and drafted use and lease agreement at large commercial airport in Texas, in which a major U.S. carrier agreed to finance and build a \$100 million international terminal in exchange for the new use and lease agreement.
- Advised and drafted selected provisions of use and lease agreement at large hub airport in the Mid-Atlantic states with a dominant, major U.S. carrier and counseled the airport regarding locally based labor regulation matters and potential impacts upon airline operations.
- Advised, negotiated, and drafted an amended use and lease agreement for development and construction of an expansion of the international terminal at the largest fortress hub airport in the Southwest.
- Assisted in renegotiation of use and lease agreements at multiple large and medium hub airports after bankruptcy-based rejection of such agreements.



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- Advised, negotiated, and drafted use and lease agreement at the largest fortress hub airport in the Rocky Mountain states regarding matters related to construction and operation of new airport terminal and concourse facility.
- Advised and drafted services to medium hub airport related to multiple extensions of use and lease agreements with a large, dominant U.S. carrier and involving approval of large-scale capital improvements.
- Strategically counseled, negotiated, and drafted use and lease agreement that provided for private design, financing, construction, operation, and maintenance of passenger facilities at a large commercial airport in the Pacific Northwest that was to receive commercial passenger service for the first time.
- Assisted both large and small hub airports in their preparations to transition from use and lease agreements to implementing rates by ordinance during pendency of negotiations with airlines.
- Counseled a group of small regional airports in negotiations among legacy carriers and an ultra-low-cost carrier over terminal changes and the permissibility of adopting different rate structures for different airport terminal facilities; included close coordination with FAA and industry groups because of the precedential nature of the arrangements.
- Counseled one of the nation's first combined commercial airports and spaceports in the revision of use and lease agreements to account for the new financial realities presented by the presence of space transportation.