

**BEFORE THE  
U.S. DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.**

Application of )  
)

SKY AIRLINE PERU S.A.C. )  
)

For an exemption pursuant to 49 U.S.C. § 40109 )  
and a foreign air carrier permit pursuant )  
to 49 U.S.C. § 41302 (Peru – U.S.) )  
)

Docket No. DOT-OST-2020-\_\_\_\_\_

**MOTION OF SKY AIRLINE PERU S.A.C.  
FOR CONFIDENTIAL TREATMENT**

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Counsel for Sky Airline Peru S.A.C.

August 10, 2020

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Pursuant to Section 302.12 of the Department of Transportation’s (the “Department”) Rules of Practice, Sky Airline Peru S.A.C. (“Sky Peru”) hereby files this Motion for Confidential Treatment relating to its concurrently-filed Application for an Exemption and Foreign Air Carrier Permit (“Application”). In support thereof, Sky Peru states as follows:

1. Sky Peru seeks to withhold from public disclosure Exhibit G (its financial summaries) and Exhibit H (its traffic and financial forecast) to its Application. These exhibits are enclosed in the accompanying sealed envelope marked in accordance with Rule 12.

2. The information sought to be withheld from public disclosure includes financial and/or commercial information of a privately-held company that has not been made public. This information falls within Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4), which provides protection from disclosure for “matters that are . . .

trade secrets and commercial or financial information obtained from a person and privileged or confidential[.]”


3. Three elements are required for protection under Exemption 4: (i) the information must be financial or commercial in nature; (ii) the information must be obtained from a person outside the government structure; and (iii) the information must be confidential or privileged. See, e.g., *Brown v. Perez*, 76 F. Supp.3d 1217, 1224 (D. Colo. 2014). Information will be deemed “confidential” if its disclosure is likely to cause substantial harm to the competitive position of the person reporting it to the government, or if the information is of the type that it would not customarily be made public by the person reporting it. See, e.g., *Natl. Parks and Conservation Ass’n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974).

4. Sky Peru submits that this information clearly satisfies all three elements required for protection under Exemption 4. First, the information is clearly financial and/or commercial in nature. Second, the information is from a person outside the government structure, and was not obtained from any governmental entities. Finally, the information is confidential and disclosure of such information could harm Sky Peru’s competitive position.

5. Department precedent supports the grant of confidential treatment for the materials which are the subject of this Motion. See, e.g., *Aerolinea del Caribe S.A. d/b/a Aer Caribe S.A.*, Order 2020-2-6 (served Feb. 6, 2020), n.2; *Empresa Publica TAME Linea Aerea Del Ecuador TAME EP*, Order 2013-7-8 (served July 10, 2013), n.2.

WHEREFORE, for the foregoing reasons, Sky Airline Peru S.A.C. respectfully requests that the Department grant the designated exhibits confidential treatment consistent with 14 C.F.R. § 302.12.

Respectfully submitted,



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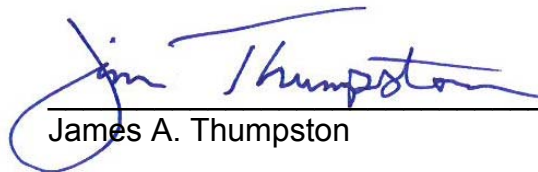
Counsel for Sky Airline Peru S.A.C.

August 10, 2020

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion for Confidential Treatment of Sky Airline Peru S.A.C. has been served this the 10<sup>th</sup> day of August 2020, upon each of the parties below by electronic mail.

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