

AMENDMENT NO. 1 TO OPERATING AGREEMENT FOR NON-SIGNATORY CARGO AIR CARRIERS

TAMPA INTERNATIONAL AIRPORT

BY AND BETWEEN

HILLSBOROUGH COUNTY AVIATION AUTHORITY

AND

SOUTHERN AIR, INC.

Prepared by:

Hillsborough County Aviation Authority
Real Estate Department
Attn: Mandi Schuler
Tampa International Airport
P. O. Box 22287
Tampa, Florida 33622

HILLSBOROUGH COUNTY AVIATION AUTHORITY
AMENDMENT NO. 1 TO OPERATING AGREEMENT FOR NON-SIGNATORY CARGO AIR CARRIERS
TAMPA INTERNATIONAL AIRPORT

THIS AMENDMENT to that certain Operating Agreement for Non-Signatory Cargo Air Carriers (Agreement) at Tampa International Airport, dated May 2, 2019, by and between the HILLSBOROUGH COUNTY AVIATION AUTHORITY, a public body corporate under the laws of the State of Florida (Authority), and Southern Air, Inc., a foreign profit corporation organized under the laws of the State of Delaware and authorized to conduct business in the State of Florida (Company) (hereinafter individually and collectively referred to as Party or Parties) is entered into this ____ day of _____, 2020 (Amendment No. 1).

WITNESSETH:

WHEREAS, Authority has the ownership, custody, control and management of Tampa International Airport (Airport) located in Hillsborough County, State of Florida; and

WHEREAS, Authority has the right to provide for the use of land, property and facilities of the Airport and has full power and authority to enter into this Amendment in respect thereof; and

WHEREAS, Company is engaged in the business of transportation by air of property, mail, parcels and/or cargo; and

WHEREAS, non-signatory airlines operating at the Airport are, at a minimum, required to execute an operating agreement for the use of the Airport prior to commencing service at the Airport; and

WHEREAS, on May 2, 2019, Authority and Company entered into the Agreement for Company to obtain certain rights, services and privileges as a non-signatory airline in connection with the use of the Airport; and

WHEREAS, the Parties desire to extend the term of the Agreement for one year and to amend certain administrative provisions pursuant to this Amendment No. 1.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency whereof are hereby mutually acknowledged, the Parties do agree that the Agreement is amended as follows:

1. The above recitals are true and correct and are incorporated herein.
2. ARTICLE 2, TERM, Section 2.02, Term, is hereby deleted in its entirety and replaced by the following:

2.02 Term

The term of this Agreement commences May 1, 2019 and terminates September 30, 2021, unless terminated earlier as provided herein.

3. ARTICLE 14, NON-DISCRIMINATION, is hereby deleted in its entirety and replaced by the following:

ARTICLE 14
NON-DISCRIMINATION

These provisions apply to all work performed under this Agreement. Failure to comply with the terms of these provisions may be sufficient grounds to:

- A. Terminate this Agreement;
- B. Seek suspension/debarment of Company; or
- C. Take any other action determined to be appropriate by Authority or the FAA.

14.01 Civil Rights – General – 49 USC § 47123

- A. Compliance:
Company agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability, be excluded from participating in any activity conducted with or benefitting from Federal assistance. If Company transfers its obligation to another, the transferee is obligated in the same manner as Company.
- B. Duration:
This provision obligates Company for the period during which the property is owned, used or possessed by the Company and the Airport remains obligated to the FAA. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

14.02 Civil Rights – Title VI Assurances

- A. Compliance with Non-Discrimination Requirements:

During the performance of this Agreement, Company, for itself, its assignees,

successors in interest, subcontractors and consultants agrees as follows:

1. **Compliance with Regulations:** Company will comply with the Title VI List of Pertinent Non-Discrimination Statutes and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. **Non-Discrimination:** Company, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Company will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including but not limited to those listed at Section 14.02(B) below, including employment practices when this Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by Company for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier will be notified by Company of Company's obligations under this Agreement and the Acts and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** Company will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Authority or the FAA to be pertinent to ascertain compliance with such Acts, Regulations, and directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, Company will so certify to Authority or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Non-compliance: In the event of Company's non-compliance with the non-discrimination provisions of this Agreement, Authority will impose such Agreement sanctions as it or the FAA may determine to be appropriate, including, but not limited to, cancelling, terminating, or suspending this Agreement, in whole or in part.
6. Incorporation of Provisions: Company will include the provisions of paragraphs one through five of this Article in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Company will take action with respect to any subcontract or procurement as Authority or the FAA may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided, that if Company becomes involved in, or is threatened with litigation by a subcontractor or supplier because of such direction, Company may request Authority to enter into any litigation to protect the interests of Authority. In addition, Company may request the United States to enter into the litigation to protect the interests of the United States.

B. Title VI List of Pertinent Non-Discrimination Authorities:

During the performance of this Agreement, Company, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
5. The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.) (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987 (PL 100-209) (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
8. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
9. The FAA’s Non-Discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (LEP), and resulting agency guidance, national origin discrimination includes discrimination because of LEP. To

ensure compliance with Title VI, Company must take reasonable steps to ensure that LEP persons have meaningful access to Company's programs (70 Fed. Reg. at 74087 to 74100); and

12. Title IX of the Education Amendments of 1972, as amended, which prohibits Company from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

The Company agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the Company transfers its obligation to another, the transferee is obligated in the same manner as the Company.

This provision obligates the Company for the period during which the property is owned, used or possessed by the Company and the Airport remains obligated to the FAA. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

4. Except as otherwise stated herein, all other terms remain in full force and effect and are hereby ratified and confirmed. The Agreement and this Amendment No. 1 represent the entire understanding between the Parties on the issues contained therein, either written or oral, and may be amended only by written instrument signed by both Parties.

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the Parties hereto have set their hands and corporate seals on this _____ day of _____, 2020.

ATTEST:

HILLSBOROUGH COUNTY AVIATION AUTHORITY

Jane Castor, Secretary
Address: P. O. Box 22287
Tampa, FL 33622

By: _____
Gary W. Harrod, Chairman
Address: P. O. Box 22287
Tampa, FL 33622

Signed, sealed, and delivered
in the presence of:

Witness Signature

LEGAL FORM APPROVED:

Print Name

By: _____
David Scott Knight
Assistant General Counsel

Witness Signature

Print Name

HILLSBOROUGH COUNTY AVIATION AUTHORITY

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by Gary W. Harrod in the capacity of Chairman, and by Jane Castor in the capacity of Secretary, of the Board of Directors, Hillsborough County Aviation Authority, a public body corporate under the laws of the State of Florida, on its behalf. They are personally known to me and they did not take an oath.

(Stamp or seal of Notary)


Signature of Notary

Type or print name of Notary

Date of Commission Expiration (if not on stamp or seal)

SOUTHERN AIR, INC.

Signed in the presence of:

By: 

Title: Adam R. Kokas
Executive Vice President
General Counsel and Secretary


Witness Signature

Jacqueline Pareres
Print Name

Print Name
2000 Westchester Avenue
Print Address


Witness Signature

Samantha Owens
Print Name

Purchase, NY 10577
USA

SOUTHERN AIR, INC.

STATE OF New York
COUNTY OF Westchester

The foregoing instrument was acknowledge before me this 24th day of March, 2020,
by Adam R. Kokas in the capacity of EVP, Gen. Counsel + Secretary
(Individual's Name) (Individual's Title)
at Southern Air, Inc. a Corporation
(Name of organization or company, if any) (Corporation/Partnership/Sole Proprietor/Other)
on its behalf. He is personally known to me and has produced
(He is/She is) (Personally known to me / not personally known to me)

the following document of identification _____.

(Stamp or seal of Notary)
NOTARY PUBLIC-STATE OF NEW YORK
No. 01CR6146655
Qualified in Westchester County
My Commission Expires 05-22-2022


Signature of Notary

Julia Crupi
Type or Print Name of Notary

May 22, 2022
Date of Commission Expiration (if not on stamp or seal)



**HILLSBOROUGH COUNTY AVIATION AUTHORITY
DOCUMENT EXECUTION CHECKLIST**



CORPORATION:

Choose one of the options below. Check the items off as completed and return this form with the attached document.

OPTION 1 ✓

EXECUTION BY PRESIDENT OR CHIEF EXECUTIVE OFFICER (CEO)

- A. Two Witnesses - REQUIRED.
- B. Notary Acknowledgement - REQUIRED. (Must be completed and executed by Notary. Notary also may be a witness.)

OPTION 2

EXECUTION BY REPRESENTATIVE SUCH AS - VICE PRESIDENT, DIRECTOR, MANAGER, ETC.

- A. Two Witnesses - REQUIRED.
- B. Corporate Resolution – authorizing the representative to execute the attached document - REQUIRED.
- C. Notary Acknowledgement - REQUIRED. (Must be completed and executed by Notary. Notary also may be a witness.)

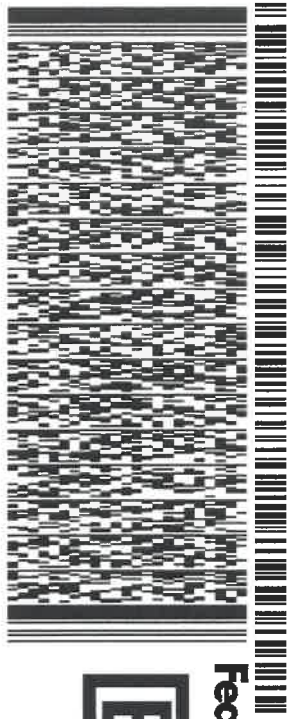
ORIGIN ID: NESA (914) 701-8547
 JULIA CRUPI
 ATLAS AIR INC
 2000 WEST CHESTER AVENUE
 3RD FLOOR
 PURCHASE, NY 10577
 UNITED STATES US

SHIP DATE: 25MAR20
 ACTWGT: 1.00 LB
 CAD: 3832502/INET/4220

BILL SENDER

TO **MANDI SCHULER, PROJECT MANAGER**
TAMPA INTERNATIONAL AIRPORT
4160 GEORGE J. BEAN PARKWAY
SUITE 2400, ADMINISTRATION BUILDING
TAMPA FL 33607

REF: (913) 801-6012
 NV:
 PO:
 DEPT:



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