

AFFILIATE CARRIER OPERATING AGREEMENT

FOR

**TAMPA INTERNATIONAL AIRPORT
TAMPA, FLORIDA**

**BY AND BETWEEN
HILLSBOROUGH COUNTY AVIATION AUTHORITY**

AND

AIRLINE

AND

AFFILIATE

Prepared by:

Hillsborough County Aviation Authority
Real Estate Department
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AFFILIATE CARRIER OPERATING AGREEMENT
BETWEEN
HILLSBOROUGH COUNTY AVIATION AUTHORITY
AND
AIRLINE
AND
AFFILIATE

This Affiliate Carrier Operating Agreement (the "**Affiliate Agreement**"), is made and entered into this ____ day of _____, 202_, by and among the Hillsborough County Aviation Authority (the "**Authority**"), _____ ("**Airline**"), and _____ ("**Affiliated Airline**") (the Authority, Airline and Affiliated Airline, each a "**Party**" and, collectively, the "**Parties**").

WITNESSETH

WHEREAS, the Authority owns and operates the Tampa International Airport (the "**Airport**"); and

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

WHEREAS, the Authority has adopted the Tampa International Airport Airline Rates, Fees and Charges Resolution dated September 3, 2020 and effective October 1, 2020 for the use of the Airport by Air Carriers (as defined therein); and

WHEREAS, Airline has entered into that certain Space Rental Agreement with the Authority, dated and effective **October 1, 2020** (the "**Space Rental Agreement**"), pursuant to which Airline leases from the Authority, or otherwise has certain rights with respect to, certain Airline Premises; and

WHEREAS, Affiliated Airline is an Air Carrier which qualifies as an "Affiliate" under the Rates Resolution, but does not lease any space, property or facilities at the Airport from the Authority; and

WHEREAS, Affiliated Airline desires to land and depart its aircraft at and from the Airport and to use space and facilities leased by or made available to Airline under the Space Rental Agreement, and to exercise certain rights, licenses, services and privileges in connection with and on the Airport, pursuant to its affiliation with Airline, but without leasing any premises; and

WHEREAS, Airline is willing to be unconditionally responsible for the payment of all Airline Fees and Charges, including Passenger Facility Charges (“**PFCs**”), due under the Rates Resolution by Affiliated Airline relating to its operations on behalf of Airline at the Airport; and

WHEREAS, based upon Airline’s and Affiliated Airline’s undertakings set forth in this Affiliate Agreement, the Authority is willing to permit Affiliated Airline to use space and facilities and grant such rights, licenses, services, and privileges to Affiliated Airline upon the terms and subject to the conditions hereinafter stated; and

WHEREAS, Affiliated Airline, Airline and the Authority agree to enter into this Affiliate Agreement, specifying the rights and obligations of the Parties with respect to the use of the Airport by Affiliated Airline.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Affiliate Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Affiliated Airline, Airline and the Authority hereby agree as follows:

ARTICLE 1: DEFINITIONS

Capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Rates Resolution. The following capitalized words, terms and phrases wherever used in this Affiliate Agreement shall, for the purposes of this Affiliate Agreement, have the following meanings:

- 1.1 Activity Report shall have the meaning set forth in Section 4.1.
- 1.2 Affiliated Airline shall mean **Affiliate Airline** and its successors and permitted assigns.
- 1.3 Affiliated Airline Event of Default shall have the meaning set forth in Section 6.1.
- 1.4 Affiliated Airline Premises shall mean the Airline’s Airline Premises and any other non-exclusive area of the Airport designated in writing by the Authority from time to time for use by Affiliated Airline, along with all facilities, improvements, and equipment which are, or hereafter may be, provided for such use.
- 1.5 Air Carrier shall mean any air carrier or foreign air carrier, as defined in 49 U.S.C. § 40102, as amended, operating an Air Transportation Business from time to time at the Airport.
- 1.6 Air Transportation Business shall mean the carriage by aircraft of persons or property as a common carrier for compensation or hire, or carriage of cargo or mail by aircraft, in air commerce, as defined in 49 U.S.C. § 40102, as amended.

- 1.7 Airline shall mean **Airline Name** and its successors and permitted assigns.
- 1.8 Airline Fees and Charges shall mean, for any period, the aggregate of Landing Fees, Terminal Facility Fees, Aircraft Parking Fees, Joint Use Charges, FIS Fees, Baggage Handling System Fees, the Air Carrier Share of Passenger Transfer System Fees, Airline Terminal Support Fees, and all other fees, if any, payable by an Air Carrier pursuant to the Rates Resolution for such period.
- 1.9 Affiliated Airline Parties shall mean, collectively, Affiliated Airline and its officers, volunteers, representatives, agents, employees, contractors, subcontractors, licensees, subtenants, or suppliers.
- 1.10 Airline Premises shall mean those portions of the Office and Club Premises, Preferential Use Premises and the portion of Joint Use Premises to which Affiliated Airline has been granted certain rights by Airline derivative of Airline's rights under the Space Rental Agreement.
- 1.11 Applicable Laws shall mean all laws, statutes, ordinances, rules, and regulations (including without limitation Environmental Laws) lawfully issued or promulgated by any Governmental Authority governing or otherwise applicable to an Air Carrier or the Airport (including Authority Rules and Regulations adopted by the Authority), as any of the same may now exist or may hereafter be adopted or amended, modified, extended, re-enacted, re-designated, or replaced from time to time, and judicial interpretations thereof.
- 1.12 Authority Rules and Regulations shall collectively mean the lawful rules and regulations governing the conduct and operation of the Airport promulgated from time to time by the Authority pursuant to Applicable Laws including, without limitation, Policies, Standard Procedures and Operating Directives, and the Airport Security Plan, as well as the Airport Certification Manual, Ground Operations Manual, Surface Movement Guidance, Control System Plan and Airport Emergency Plan and any other operational matters related to the operation of the Airport, in each case as such may be in force and as amended from time to time.
- 1.13 Chief Executive Officer ("CEO") shall mean the Chief Executive Officer of the Authority and shall include such person or persons as may from time to time be authorized in writing by the Authority or by the Chief Executive Officer or Applicable Law to act for the Chief Executive Officer with respect to any or all matters.
- 1.14 Effective Date shall have the meaning set forth in Article 2.

- 1.15 FAA shall mean the Federal Aviation Administration created under the Federal Aviation Act of 1958, as amended, or any duly authorized successor agency thereto.
- 1.16 Fiscal Year shall mean the annual accounting period of the Authority for its general accounting purposes, which at the time of entering into this Affiliate Agreement, is the period of twelve (12) consecutive months, ending with the last day of September of any year.
- 1.17 Governmental Authority shall mean any Federal, State of Florida, county, municipal, or other governmental entity (including the Authority in its governmental capacity), or any subdivision thereof, with authority over the Airport or Air Carriers.
- 1.18 Indemnified Party or Indemnified Parties shall mean the Authority, its successors and assigns, and each of its Board members, officers, officials, employees, agents, contractors, subcontractors, and volunteers.
- 1.19 Payment Security shall have the meaning set forth in Section 4.4.
- 1.20 Rates Resolution shall mean the Tampa International Airport Airline Rates, Fees and Charges Resolution dated September 3, 2020 and effective October 1, 2020.
- 1.21 Term shall have the meaning set forth in Article 2.

ARTICLE 2: TERM

This Affiliate Agreement shall be effective beginning on [REDACTED] 1, 202_, or the date Affiliated Airline first operates at the Airport, whichever occurs later (the “**Effective Date**”), and shall continue until the earlier of (x) it is terminated, at any time, by any Party giving at least thirty (30) days’ prior written notice to the other Parties or (y) Airline ceases to operate at the Airport (such period, the “**Term**”).

ARTICLE 3: AFFILIATED AIRLINE USE

3.1 Premises.

- A. The Authority hereby grants Affiliated Airline the right to use the Affiliated Airline Premises for the operation of Affiliated Airline’s aircraft and related passenger services on behalf of Airline at the Airport in the Terminal Complex and/or on Terminal Aircraft Aprons, subject to the terms and conditions of this Affiliate Agreement.
- B. The Affiliated Airline Premises are provided as-is, where-is, and with all faults, and the Authority makes no warranties, guarantees, or representations of any kind, either express or implied,

arising by law or otherwise, including, but not limited to, any warranty, guarantee, or representation with respect to the merchantability or fitness for intended use or condition of such Affiliated Airline Premises. Affiliated Airline hereby waives, and the Authority expressly disclaims, all warranties, guarantees, and all representations, express or implied, arising by law or otherwise, including, but not limited to, any implied warranty arising from the course of performance, course of dealing, or usage of trade, and any implied warranty of fitness for a particular purpose. In no event shall any Party's liability of any kind under this Affiliate Agreement include any consequential damages.

- 3.2 Terminal Equipment. Terminal equipment owned or acquired by the Authority for use by Affiliated Airline shall remain the property of the Authority.
- 3.3 Rights, Privileges and Use. Subject to the provisions of this Affiliate Agreement and the Authority Rules and Regulations, and incidental to Affiliated Airline's Air Transportation Business at the Airport, Affiliated Airline shall be entitled to use the Affiliated Airline Premises as permitted under the Space Rental Agreement (derivative of Airline's rights thereunder), and otherwise as may be designated or changed by Authority staff in writing from time to time.

ARTICLE 4: FEES AND CHARGES

Airline's payment of Rents pursuant to and in accordance with the Space Rental Agreement shall constitute payment of Airline Fees and Charges for use of the Affiliated Airline Premises, other than any use by Affiliated Airline of Per Use Gates or Per Use Ticket Counters. Airline shall pay the remaining applicable Airline Fees and Charges, including PFCs, Per Use Ticket Counter Fees and Per Use Gate Fees, associated with and on behalf of Affiliated Airline's use of the Airport as an Affiliate of Airline during the Term. The Enplaned Passengers of the Affiliated Airline when operating on behalf of Airline shall be counted as Airline's Enplaned Passengers for purposes of the Rates Resolution. Affiliated Airline's Airline Fees and Charges shall be charged at the same rates assessed against Airline, as set forth in the Rates Resolution. The Authority shall use commercially reasonable efforts to notify Affiliated Airline of any changes to the applicable Airline Fees and Charges to be established prior to the following Fiscal Year. Affiliated Airline hereby agrees that in the event of any failure by Airline to pay Affiliated Airline's Airline Fees and Charges as and when due, Affiliated Airline shall be unconditionally responsible for the payment of all such Airline Fees and Charges, including PFCs, due under the Rates Resolution from Affiliated Airline.

4.1 Information to be Supplied by Airline.

- A. Not later than the tenth (10th) day after the end of each calendar month, Airline shall file with the Authority a written report in such form as may be provided by the Authority from time to time, for activity conducted by Affiliated Airline at the Airport during said month ("**Activity Report**"). Such Activity Report shall include the information required by Section 8.1 of the Rates Resolution, which may be consolidated with the report(s) filed by Airline for its activities at the Airport. The Activity Reports may also include additional statistical data regarding Affiliated Airline's activities at the Airport as the Authority reasonably may request.
- B. Airline shall have full responsibility for the accuracy of the Activity Reports. Payment deficiencies due to incomplete or inaccurate Activity Reports shall be subject to interest charges as set forth in the Rates Resolution. As provided in the Rates Resolution, the Authority may, but shall not be required to, rely on the Activity Reports submitted by Airline in determining Airline Fees and Charges due hereunder. Acceptance of monthly reports and payments by the Authority does not constitute agreement by the Authority with the activities reported or amounts paid.
- C. Affiliated Airline shall at all times maintain and keep records reflecting the activity statistics of its activities at the Airport to be reported pursuant to Section 4.1.A and such records are subject to audit as provided in the Rates Resolution. Such records shall be retained by Affiliated Airline for a period of three (3) years subsequent to the activities reported therein, or such other retention period as set forth in FAR Part 249, and upon prior written notice to Affiliated Airline shall be made available at Tampa, Florida for audit and/or examination by the Authority or its duly authorized representative during all normal business hours.

4.2 Payments. The Authority will issue monthly invoices to Airline and Airline will pay such invoices within fifteen (15) days from the date of issuance of each such invoice as provided in the Rates Resolution and the Space Rental Agreement. The acceptance of payment by the Authority from Airline shall not preclude the Authority from verifying the accuracy of Airline's reports on which Affiliated Airline's Airline Fees and Charges are based as provided in this Article and shall not be deemed a waiver of interest due, if any.

4.3 Proration. In the event that Affiliated Airline's obligations with respect to its rights, licenses, or privileges granted hereunder shall commence or terminate on any date other than the first or last day of the month, Affiliated Airline's Airline Fees and Charges shall be prorated on the basis of the number of days for such rights, licenses, services, or privileges that were enjoyed during that month.

- 4.4 Security for Performance. Affiliated Airline (or Airline on behalf of Affiliated Airline) shall provide the Authority, on the Effective Date, with a direct pay irrevocable letter of credit or other similar security acceptable to the Authority ("**Payment Security**") under the terms and conditions of the Space Rental Agreement as if such terms and conditions were set forth herein and applicable to Affiliated Airline and its Air Transportation Business at the Airport hereunder. Airline may provide a single Payment Security for both its obligations and those of Affiliated Airline.
- 4.5 No Further Charges. Except as provided in this Affiliate Agreement, as may be due from Airline under the Space Rental Agreement, or as may be permitted by any governmental entity (other than the Authority, acting within its proprietary capacity) having jurisdiction over the Airport, no further rentals, fees, or charges shall be charged against or collected from Affiliated Airline, its passengers, its shippers and receivers of freight, its suppliers of material, its contractors or furnishers of services, by the Authority, acting in its capacity as Airport proprietor, for the rights, licenses, and privileges granted to Affiliated Airline herein.

ARTICLE 5: INDEMNIFICATION AND INSURANCE

5.1 Indemnification.

- A. To the maximum extent permitted by Florida law, in addition to Affiliated Airline's obligation to provide, pay for and maintain insurance as required under Section 5.2 below, Affiliated Airline will indemnify and hold harmless the Authority and each Indemnified Party from any and all liabilities, suits, claims, procedures, liens, expenses, losses, costs, royalties, fines, and damages (including but not limited to claims for reasonable attorney's fees and court costs) caused in whole or in part by the Affiliated Airline's or any Affiliated Airline Party's:
1. Presence on, use or occupancy of Authority property;
 2. Acts, omissions, negligence (including professional negligence and malpractice), errors, recklessness, intentional wrongful conduct, activities, or operations;
 3. Any breach of the terms of the Rates Resolution or Airline's Space Rental Agreement;
 4. Compliance, non-compliance or purported compliance with the Rates Resolution;
 5. Violation of any Applicable Laws; and/or
 6. Infringement of any patent, copyright, trademark, trade dress or trade secret rights

whether the liability, suit, claim, lien, expense, loss, cost, fine or damages is caused in part by an Indemnified Party. This indemnity obligation expressly applies, and shall be construed to include, any and all claims caused in part by negligence, acts or omissions of the Authority, its members, officers, agents, employees and volunteers.

B. In addition to the foregoing duty to indemnify and hold harmless, Affiliated Airline will have the separate and independent duty to defend the Authority and each other Indemnified Party from all suits, claims, proceedings, or actions of any nature seeking damages, equitable or injunctive relief expenses, losses, costs, royalties, fines or attorney's fees or any other relief in the event the suit, claim, or action of any nature arises in whole or in part from the Affiliated Airline's or any Affiliated Airline Party's:

1. Presence on, use or occupancy of Authority property;
2. Acts, omissions, negligence (including professional negligence and malpractice), recklessness, intentional wrongful conduct, activities, or operations;
3. Any breach of the terms of the Rates Resolution or Airline's Space Rental Agreement;
4. Compliance, non-compliance or purported compliance with the Rates Resolution;
5. Violation of any Applicable Laws; and/or
6. Infringement of any patent, copyright, trademark, trade dress or trade secret rights

whether it is caused in part by Authority or another Indemnified Party. This duty to defend exists immediately upon presentation of written notice of a suit, claim or action of any nature to Affiliated Airline by a party entitled to a defense hereunder. This indemnity obligation expressly applies, and shall be construed to include any, and all claims caused in part by negligence, acts or omissions of Authority, its members, officers, agents, employees and volunteers.

C. If the above indemnity or defense provisions or any part of the above indemnity or defense provisions are limited by Florida Statute §725.06(2)-(3) or Florida Statute §725.08, then with respect to the part so limited, Affiliated Airline agrees to the following: To the maximum extent permitted by Florida law, Affiliated Airline will indemnify and hold harmless Authority, its members, officers, agents, employees, and volunteers from any and all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fee, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of Affiliated Airline or any Affiliated Airline Party.

- D. If the above indemnity or defense provisions or any part of the above indemnity or defense provisions are limited by Florida Statute §725.06 (1) or any other applicable law, then with respect to the part so limited the monetary limitation on the extent of the indemnification shall be the greater of the (i) coverage amount of Commercial General Liability Insurance required under this Affiliate Agreement or (ii) \$1,000,000.00. Otherwise, the obligations of this Section 5.1 will not be limited by the amount of any insurance required to be obtained or maintained under this Affiliate Agreement.
- E. In addition to the requirements stated above, to the extent required by a FDOT Public Transportation Grant Agreement and to the fullest extent permitted by Applicable Laws, the Affiliated Airline shall indemnify and hold harmless the State of Florida, FDOT, including the FDOT's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the Affiliated Airline and its Affiliated Airline Parties. This indemnification in this paragraph shall survive the termination of this Affiliate Agreement. Nothing contained in this paragraph is intended nor shall it constitute a waiver of the State of Florida's and FDOT's sovereign immunity.
- F. Affiliated Airline's obligations to defend and indemnify as described in this Section 5.1 will survive until it is determined by final judgment that any suit, claim or other action against the Authority or any Indemnified Party for which it is entitled to indemnification and defense hereunder is fully and finally barred by the applicable statute of limitations or repose.
- G. Nothing in this Section 5.1 will be construed as a waiver of any immunity from or limitation of liability the Authority or any Indemnified Party may have under the doctrine of sovereign immunity under common law or statute.
- H. The Authority and the Indemnified Parties may, at their option, participate in the defense of any suit, without relieving Affiliated Airline of any of its obligations under this Article.
- I. If the above paragraphs A – H or any part of paragraphs A – H are deemed to conflict in any way with any Applicable Laws, the paragraph or part of the paragraph will be considered modified by such law to remedy the conflict.
- 5.2 Insurance. During the Term, Affiliated Airline shall, at its own expense, provide, pay for, and maintain with companies reasonably satisfactory to the Authority the types of insurance under the terms and conditions set forth in the Space Rental Agreement as if such terms and conditions were set forth herein and applicable to Affiliated Airline and its Air Transportation Business at the Airport hereunder. Affiliated Airline shall provide a certificate or certificates of insurance to the Authority

demonstrating that Affiliated Airline holds such coverage in such minimum limits as may be required at least ten (10) days before the Effective Date.

- 5.3 Airline Indemnity. As a condition of permitting Affiliated Airline to operate at the Airport under this Affiliate Agreement (and without affecting any obligation of the Affiliated Airline to Airline under any agreement between Affiliated Airline and Airline), Airline hereby agrees to indemnify, hold harmless and defend the Authority and each other Indemnified Party from all liabilities, suits, claims, procedures, liens, expenses, losses, costs, royalties, fines, and damages (including but not limited to claims for attorney's fees and court costs) caused in whole or in part by the Affiliated Airline or any of its Affiliated Airline Parties as provided in Section 5.1 above; provided, however, Airline shall only have the obligation set forth herein when and to the extent the Affiliated Airline operates as an affiliate of Airline.

ARTICLE 6: DEFAULT AND TERMINATION

- 6.1 Affiliated Airline Events of Default. Any Event of Default by Affiliated Airline described in the Space Rental Agreement shall be deemed an "**Affiliated Airline Event of Default**" hereunder, and the Authority's rights in such terms and conditions shall apply, as if such terms and conditions were set forth herein and applicable to the Parties hereunder (with applicable provisions cross-referenced in this Affiliate Agreement).
- A. Continuing Responsibilities of Affiliated Airline and Airline. Notwithstanding the occurrence of an Affiliated Airline Event of Default, Affiliated Airline and Airline, jointly and severally, shall remain liable to the Authority for all Airline Fees and Charges payable hereunder and for all preceding breaches of any covenant of this Affiliate Agreement. Furthermore, unless the Authority elects to cancel this Affiliate Agreement, Affiliated Airline and Airline, jointly and severally, shall remain liable for and promptly pay all Airline Fees and Charges accruing hereunder until termination of this Affiliate Agreement as set forth in Article 4.
- B. Authority's Remedies. Upon the occurrence of any Affiliated Airline Event of Default that remains uncured following the expiration of any applicable notice and cure periods, the Authority shall have the right to avail itself of the rights and remedies set forth in the Space Rental Agreement as if such rights and remedies were set forth herein, and Affiliated Airline shall pay to the Authority all other costs incurred by the Authority in the exercise of any remedy in this Section 6.1.B, including but not limited to reasonable attorney fees, disbursements, court costs, and expert fees.

ARTICLE 7: SURRENDER OF AFFILIATED AIRLINE PREMISES

- 7.1 Surrender and Delivery. Upon termination or cancellation of this Affiliate Agreement, Affiliated Airline shall promptly and peaceably surrender to the Airline the Affiliated Airline Premises and all improvements thereon in good and fit condition, reasonable wear and tear excepted; provided, however, nothing in this Section 7.1 shall be construed to modify the obligations of the Parties set forth in the Space Rental Agreement or Article 5 hereunder.
- 7.2 Removal of Property. Provided Affiliated Airline is not in default for payment of Airline Fees and Charges hereunder, Affiliated Airline shall have the right at any time during the Term to remove from the Airport its aircraft, tools, equipment, trade fixtures, and other personal property, title to which shall remain with Affiliated Airline, unless otherwise set forth in this Affiliate Agreement, and shall remove such aircraft, tools, equipment, trade fixtures, and other personal property within fifteen (15) business days following termination of this Affiliate Agreement, whether by expiration of time or otherwise, as provided herein. Affiliated Airline shall not abandon any portion of its property at the Airport without the written consent of the Authority. Any and all property not removed by Affiliated Airline within thirty (30) business days following the date of termination of this Affiliate Agreement shall, at the option of the Authority: (i) become the property of the Authority at no cost to the Authority; (ii) be stored by the Authority, at no cost to the Authority; or (iii) be sold at public or private sale at no cost to the Authority. Except as may be agreed to otherwise by the Authority and Affiliated Airline, all Authority property damaged by or as a result of the removal of Affiliated Airline's property shall be restored by Affiliated Airline to the condition existing before such damage at Affiliated Airline's expense. Notwithstanding the foregoing, if Affiliated Airline is an Affiliate of another Air Carrier operating at the Airport, the foregoing provisions shall be inapplicable to such Affiliate's operations at the Airport on behalf of such other Air Carrier. Nothing contained herein may be construed to give the Authority any rights with respect to Affiliated Airline's aircraft.

ARTICLE 8: MISCELLANEOUS PROVISIONS

- 8.1 Assignment or Transfer. Affiliated Airline shall not directly or indirectly assign, sell, hypothecate, or otherwise transfer this Affiliate Agreement, any portion of the Affiliated Airline Premises, or any rights granted hereunder. In the event Affiliated Airline violates the prohibition contained in the immediately preceding sentence, any such assignment shall be automatically null and void and the Authority, in its sole discretion, may terminate this Affiliate Agreement without prior notice.
- 8.2 Rights Non-Exclusive. Notwithstanding anything herein contained that may be or appear to the contrary, the rights, privileges, and licenses granted to Affiliated Airline under this Affiliate Agreement are "non-exclusive," and the Authority reserves the right to grant similar privileges to others.

8.3 Other Agreements. Nothing herein shall override or negate Affiliated Airline's obligations and responsibilities under or in relation to the Space Rental Agreement or constitute a waiver of the Authority's rights under any such Space Rental Agreement.

8.4 Rules and Regulations and Operational Directives.

- A. Affiliated Airline shall observe the Authority Rules and Regulations which the Authority may promulgate from time to time, including without limitation the Authority's duly adopted and generally applicable Policies, Operating Directives, Standard Procedures, Ordinances, and the Airport Security Plan, in each case as such may be in force and as amended from time to time. The Authority reserves the right from time to time to make modifications to such Authority Rules and Regulations which shall be binding on Affiliated Airline and all other tenants and subtenants. Affiliated Airline and each of its Affiliated Airline Parties shall also observe all Applicable Laws which may affect Affiliated Airline's operations under this Affiliate Agreement.
- B. Affiliated Airline shall be strictly liable and responsible for obtaining, maintaining current, and fully complying with, any and all permits, licenses, and other governmental authorizations, however designated, as may be required at any time throughout the Term by any Governmental Authority or any court of law having jurisdiction over Affiliated Airline or Affiliated Airline's operations and activities.
- C. This Affiliate Agreement shall be subject and subordinate to all the terms and conditions of any instruments and documents under which the Authority acquired the land or improvements thereon constituting the Airport. This Affiliate Agreement shall be subject and subordinate to the provisions of any existing or future agreements between the Authority and the United States of America, or any of its agencies, relative to the operation and maintenance of the Airport, the terms and execution of which have been, or may be, required as a condition precedent to the expenditure or reimbursement to the Authority of federal funds for the development of the Airport, and to any terms or conditions imposed upon the Airport by any other governmental entity ("**Grant Assurances**"). In the event that this Affiliate Agreement, either on its own terms or by any other reason, conflicts with or violates any such Grant Assurances, the Authority has the right to amend, alter, or otherwise modify the terms of this Affiliate Agreement in order to resolve such conflict or violation.

8.5 Inspection. Affiliated Airline shall allow and not interfere with the Authority's authorized representatives' access to the Affiliated Airline Premises for the purpose of examining and inspecting said premises for purposes necessary, incidental to, or connected with the

performance of its obligations under this Affiliate Agreement, or in the exercise of its governmental functions. Except in the case of an emergency, the Authority shall conduct such inspections during reasonable business hours, after reasonable prior notice to Affiliated Airline and in the presence of Affiliated Airline's representative.

- 8.6 No Individual Liability. No member, officer, agent, director, or employee of the Authority, Airline or Affiliated Airline shall be charged personally or held contractually liable by or to any other Party under the terms or provisions of this Affiliate Agreement or because of any breach thereof or because of its or their execution or attempted execution.
- 8.7 Relationship of Parties. Nothing contained herein shall be deemed or construed by the Parties, or by any third party, as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship between the Parties.
- 8.8 Savings. The Parties acknowledge that they have thoroughly read this Affiliate Agreement, including any exhibits or attachments hereto, and have sought and received whatever competent advice and counsel was necessary for them to form a full and complete understanding of all rights and obligations herein. The Parties further acknowledge that this Affiliate Agreement is the result of extensive negotiations between the Parties and shall not be construed against the Authority by reason of the preparation of this Affiliate Agreement by the Authority.
- 8.9 Severability. In the event that any covenant, condition, or provision of this Affiliate Agreement is held to be invalid by any court of competent jurisdiction, the invalidity of such covenant, condition, or provision shall not materially prejudice any of the Authority, Airline, or Affiliated Airline in their respective rights and obligations contained in the valid covenants, conditions, or provisions of this Affiliate Agreement.
- 8.10 Amendments. Except as specifically provided in this Affiliate Agreement, no amendment, modification, or alteration of the terms of this Affiliate Agreement shall be binding unless the same is in writing, dated subsequent to the date hereof, and duly executed by the Affiliated Airline, Airline and the Authority.
- 8.11 Approvals. Unless otherwise stated herein, whenever this Affiliate Agreement calls for approval by the Authority, such approval shall be evidenced by the written approval of the CEO.
- 8.12 Notice. All notices under this Affiliate Agreement shall be in writing and delivered to the following addresses:

If intended for the Authority, notices shall be delivered to:

(MAIL DELIVERY)

Hillsborough County Aviation Authority
Tampa International Airport
P. O. Box 22287
Tampa, Florida 33622
Attn: Chief Executive Officer

Or

(HAND DELIVERY)

Hillsborough County Aviation Authority
Tampa International Airport
5411 SkyCenter Dr.
Suite 500
Tampa, FL 33607
Attn: Chief Executive Officer

SAMPLE

If intended for Affiliated Airline notices shall be delivered to:

If intended for Airline notices shall be delivered to:

8.13 Agent for Service. If Affiliated Airline is not a resident of the State of Florida (the “**State**”), or is an association or partnership without a member or partner resident of the State, or is a foreign corporation, then Affiliated Airline shall appoint an agent for the purpose of service of process in any court action between it and the Authority arising out of or based upon this Affiliate Agreement. Affiliated Airline shall, within ten (10) days of execution of this Affiliate Agreement, notify the Authority, in writing, of the name and address of said agent. If Affiliated Airline is not a resident of the State, or is an association or partnership without a member or partner resident of the State, or is a foreign corporation, then in any such event the Secretary of State, State of Florida, may serve as Affiliated Airline’s agent for the purpose of service of process in any court action between it and the Authority arising out of or based upon Affiliated Airline’s operations at the Airport and the service will be made as provided by the laws of the State for service upon a non-resident. Further, if for any reason service of such process is not possible, and Affiliated Airline does not have a duly noted resident agent for service of process, as an alternative method of service of process, Affiliated Airline may be personally served with such process out of the State by the registered mailing of such complaint and process to Affiliated Airline and such service will constitute valid service upon Affiliated Airline as of the date of mailing and Affiliated Airline will have thirty (30) days from date of mailing to respond thereto. Affiliated Airline agrees to the process so served, submits to the jurisdiction of the court and waives any and all obligation and protest thereto, any laws to the contrary notwithstanding.

8.14 COMPLIANCE WITH CHAPTER 119, FLORIDA STATUTES PUBLIC RECORDS LAW

IF THE AFFILIATED AIRLINE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE AFFILIATED AIRLINE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AFFILIATE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (813) 870-8721, ADMCENTRALRECORDS@TAMPAAIRPORT.COM, HILLSBOROUGH COUNTY AVIATION AUTHORITY, P.O. BOX 22287, TAMPA FL 33622.

To the extent required by Applicable Laws, the Affiliated Airline agrees in accordance with Florida Statute Section 119.0701 to comply with public records laws including the following:

- A. Keep and maintain public records required by the Authority in order to perform the services contemplated by this Affiliate Agreement.
- B. Upon request from the Authority custodian of public records, provide the Authority with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Fla. Stat. or as otherwise provided by Applicable Law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by Applicable Law for the duration of the Term of this Affiliate Agreement and following completion of the Term of this Affiliate Agreement.
- D. Upon completion of the Term of this Affiliate Agreement, keep and maintain public records required by the Authority to perform the services. The Affiliated Airline shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Authority, upon request from the Authority custodian of public records, in a format that is compatible with the information technology systems of the Authority.

The Authority maintains its records in electronic form in accordance with the State of Florida records retention schedules. As a result, the paper original version of this document (to the extent it exists) will be scanned and stored electronically as the authoritative record copy as part of the Authority's record management process. Once that occurs, the paper original version of this document will be destroyed

8.15 Governing Law and Forum. This Affiliate Agreement will be construed in accordance with the laws of the State of Florida. Venue for any action brought pursuant to this Affiliate Agreement will be in

Hillsborough County, Florida, or in the Tampa Division of the U.S. District Court for the Middle District of Florida.

The Affiliated Airline hereby waives any claim against the Authority and the Indemnified Parties for loss of anticipated profits caused by any suit or proceedings directly or indirectly attacking the validity of this Affiliated Agreement or any part hereof, or by any judgment or award in any suit or proceeding declaring this Affiliated Agreement null, void, or voidable, or delaying the same, or any part hereof, from being carried out.

8.16 Radon Gas Notification.

In accordance with requirements of the State, the following notification statement will be included in all agreements relating to rental of real property. This is provided for information purposes only.

RADON GAS: Radon is naturally occurring radio-active gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

8.17 Non-Discrimination.

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

1. Terminate this Affiliate Agreement;
2. Seek suspension/debarment of the Affiliated Airline; or
3. Take any other action determined to be appropriate by Authority or the FAA.

B. Civil Rights – General – 49 USC § 47123

The Affiliated Airline agrees to observe and comply with, those requirements of the FAA set forth in **Exhibit A**, as such requirements may be amended or interpreted by the FAA or the United States Department of Transportation from time to time.

The Affiliated Airline shall 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 Affiliated Airline transfers its obligation to another, the transferee is obligated in the same manner as the Affiliated Airline.

This provision is in addition to that required of Title VI of the Civil Rights Act of 1964

8.18 Entire Agreement. It is understood and agreed that this Affiliate Agreement, together with the Space Rental Agreement, contains the entire agreement among the Parties. It is further understood and agreed by Affiliated Airline that the Authority or its agents have not made any representations or promises with respect to this Affiliate Agreement or the making or entry into this Affiliate Agreement, except as expressly set forth herein, and that no claim or liability or cause for termination shall be asserted by Affiliated Airline against the Authority for, and the Authority shall not be liable by reason of, the breach of any representations or promises not expressly stated herein.

IN WITNESS WHEREOF, the parties hereto have set their hands and corporate seals on this _____ day of _____, 202_.

ATTEST:

HILLSBOROUGH COUNTY AVIATION AUTHORITY

_____, Executive Assistant
Office of the Chief Executive Officer

By: _____
Joseph W. Lopano, Chief Executive

Address: P.O. Box 22287
Tampa, FL 33622

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 by means of this ____ day of _____, 202_, by Joseph W. Lopana in the capacity of Chief Executive Officer and by _____ in the capacity of Executive Assistant, Office of the Chief Executive Officer, HILLSBOROUGH COUNTY AVIATION AUTHORITY, an independent special district 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)

AFFILIATE AIRLINE

Signed in the presence of:

By: _____

Title: _____

Witness Signature

Print Name

Print Name

Print Address

Witness Signature

Print Name

Print Name

AFFILIATE AIRLINE

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 202_, by _____ as
(name of person)

_____ for _____
(type of authority) (name of party on behalf of whom instrument was executed)

(Signature of Notary Public – State of _____)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known to me OR Produced Identification

(Type of Identification Produced)

AIRLINE

Signed in the presence of:

By: _____

Title: _____

Witness Signature

Print Name

Print Name

Print Address

Witness Signature

Print Name

AIRLINE

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 202_, by _____ as
(name of person)

_____ for _____
(type of authority) (name of party on behalf of whom instrument was executed)

(Signature of Notary Public – State of _____)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known to me OR Produced Identification

(Type of Identification Produced)

Exhibit A
Federal Aviation Administration Required Provisions

- A.** Civil Rights – General. The Authority and each Air Carrier operating at the Airport shall 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 an Air Carrier transfers its obligation to another, the transferee is obligated in the same manner as the Air Carrier.

This provision obligates Air Carriers for the period during which any property at the Airport is owned, used or possessed by the Air Carrier and the Airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

- B.** Civil Rights – Title VI Assurances – Compliance With Nondiscrimination Requirements.

1. Compliance with Regulations: Each Air Carrier operating at the Airport (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Affiliate Agreement.
2. Non-discrimination: Each Air Carrier, with regard to the work performed by it during the period it operates at the Airport, 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. Air Carriers will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the 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 an Air Carrier 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 the Air Carrier of the Air Carrier's obligations under this provision and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. Information and Reports: Air Carriers 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 the Authority or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of an Air Carrier is in the exclusive possession of another who fails or refuses to furnish the information, the Air Carrier will so certify to the Authority or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of an Air Carrier's noncompliance with the non-discrimination provisions of this Affiliate Agreement, the Authority will impose such sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Air Carrier under the Affiliate Agreement until the Air Carrier complies; and/or
 - b. Cancelling, terminating, or suspending the Air Carrier's rights under the Affiliate Agreement, in whole or in part.
6. Incorporation of Provisions: Each Air Carrier must include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. Each Air Carrier will take action with respect to any subcontract or procurement as the Authority or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if an Air Carrier becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Air Carrier may request the Authority to enter into any litigation to protect the interests of the Authority. In addition, an Air Carrier may request the United States to enter into the litigation to protect the interests of the United States.

C. Civil Rights – Title VI Clauses for Use/Access to Real Property.

1. Each Air Carrier for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Airport, (2) that in the construction of any improvements on, over, or under such land, and

the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that such Air Carrier will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities in Paragraph D below.

2. In the event of breach of any of the above nondiscrimination covenants, the Authority will have the right to terminate the Air Carrier's rights under this Affiliate Agreement and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Affiliate Agreement had never been made or issued.

D. Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this Affiliate Agreement, each Air Carrier, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 USC § 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 USC § 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 USC § 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 USC § 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 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
9. The Federal Aviation Administration's Nondiscrimination statute (49 USC § 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, which ensures nondiscrimination 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, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, Air Carrier must take reasonable steps to ensure that LEP persons have meaningful access to Air Carrier's programs (70 Fed. Reg. at 74087 to 74100);
12. Title IX of the Education Amendments of 1972, as amended, which prohibits Air Carrier from discriminating because of sex in education programs or activities (20 USC 1681 et seq).