



**DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

Issued by the Department of Transportation  
on the 25<sup>th</sup> day of October, 2017

**AGREEMENT BY and BETWEEN**  
  
**SPIRIT AIRLINES**  
**and**  
**U.S. DEPARTMENT OF TRANSPORTATION**

**Docket DOT-OST-2017-0169**

WHEREAS, the Air Carrier Access Act prohibits airlines from discriminating on the basis of disability and provides the U.S. Department of Transportation (Department) with authority to create regulations to prevent such discrimination.

WHEREAS, the Department issued a final rule on November 12, 2013, requiring that proprietary and shared use automated airport kiosks installed on or after December 12, 2016, at a U.S. airport having 10,000 or more annual enplanements meet the rule's technical accessibility standard for such kiosks.

WHEREAS, the final rule applies to all proprietary and shared use (also known as common use self-service or CUSS) automated airport kiosks installed on or after December 12, 2016, until at least 25 percent of the kiosks in each location at an airport are accessible models.

WHEREAS, Spirit Airlines (Spirit) voluntarily reported to the Department in March 2017 its temporary inability to comply with the Department's final rule on kiosk accessibility within the time period specified due to a delay in the availability of accessible software provided by its vendor.

WHEREAS, Spirit is actively working on obtaining the accessible software through another vendor which has guaranteed that the software will be provided to the carrier on or before September 30, 2017.

WHEREAS, Spirit has installed 64 kiosks at U.S. airports between December 12, 2016, and the date of this Agreement.

WHEREAS, Spirit anticipates installing approximately 125 inaccessible proprietary kiosks at U.S. airports from the date of this Agreement to October 31, 2017.

WHEREAS, Spirit anticipates that from the date of this Agreement to October 31, 2017, its inaccessible software will operate on approximately six accessible CUSS kiosks installed at Bradley International Airport after December 12, 2016.

WHEREAS, Spirit requests an extension until October 31, 2017 (10.5 months after the regulatory deadline) to integrate and activate accessible software on all kiosks installed on or after December 12, 2016.

WHEREAS, the Department's Office of Aviation Enforcement and Proceedings within the Office of the Secretary (OST), which enforces the kiosk accessibility requirements against airlines, has coordinated with the Department's Federal Aviation Administration (FAA), which enforces the kiosks accessibility requirements against airports, to promote a consistent approach to compliance oversight where inaccessible Spirit kiosk software is running on accessible CUSS airport kiosks installed between December 12, 2016, and October 31, 2017.

WHEREAS, it is in the public interest for airlines to meet or exceed the Department's required 25 percent threshold for accessible kiosks prior to the deadline of December 12, 2023, which Spirit has agreed to do.

NOW, THEREFORE, Spirit Airlines and the U.S. Department of Transportation hereby agree to the provisions below.

### **Compliance and Mitigation Plan**

1. No later than October 31, 2017, Spirit must ensure that any inaccessible software on kiosks installed at U.S. airports with annual enplanements of 10,000 passengers or more on or after December 12, 2016, is replaced with accessible software.
2. No later than October 31, 2017, Spirit must ensure that any inaccessible CUSS software that it provided to U.S. airports with annual enplanements of 10,000 passengers or more for kiosks installed on or after December 12, 2016, is replaced with accessible CUSS software.
3. After October 31, 2017, Spirit agrees to install only accessible kiosks in its proprietary kiosk fleet system-wide to ensure that 100 percent of new kiosk installations are accessible models in the future.
4. After October 31, 2017, Spirit agrees to deliver only accessible kiosk software to be run on accessible CUSS kiosks in service at U.S. airports with annual enplanements of 10,000 passengers or more, and to work with the airports to ensure that 100 percent of the Spirit software running on accessible CUSS kiosks is accessible.
5. No later than December 31, 2017, Spirit must provide at least 50 percent accessible kiosks across its entire proprietary kiosk fleet in service at each location at U.S. airports with annual enplanements of 10,000 passengers or more.
6. No later than December 31, 2017, for each location at U.S. airports with annual enplanements of 10,000 passengers or more at which Spirit operates, and which contains accessible CUSS kiosks installed on or after December 12, 2016, Spirit must work with the airports to ensure that at least 50 percent of kiosks at such locations use Spirit's accessible software.

### **Verification and Certification of Plan Implementation**

7. By January 31, 2018, Spirit must provide, with supporting documentation, a sworn statement from a responsible company official verifying and certifying:
  - a. The total number of its proprietary kiosks (accessible and inaccessible) installed between December 12, 2016, and October 31, 2017;
  - b. The total number of its accessible proprietary kiosks in service at each U.S. airport with annual enplanements of 10,000 passengers or more as of October 31, 2017;
  - c. The total number of its proprietary kiosks (accessible and inaccessible) in service at each U.S. airport with annual enplanements of 10,000 passengers or more as of December 31, 2017;
  - d. The total number of its accessible proprietary kiosks in service at each U.S. airport with annual enplanements of 10,000 passengers or more as of December 31, 2017;
  - e. The total number of CUSS kiosks in service at each U.S. airport with annual enplanements of 10,000 passengers or more on which Spirit kiosk software (accessible and inaccessible) was operational, as of October 31, 2017;
  - f. The total number of CUSS kiosks in service at each U.S. airport with annual enplanements of 10,000 passengers or more on which Spirit accessible kiosk software was operational, as of October 31, 2017;
  - g. The total number of accessible CUSS kiosks on which accessible Spirit kiosk software runs that were installed on or after December 12, 2016, at each U.S. airport with annual enplanements of 10,000 passengers or more;
  - h. The total number of CUSS kiosks in service at each U.S. airport with annual enplanements of 10,000 passengers or more on which Spirit kiosk software (accessible and inaccessible) was operational, as of December 31, 2017;
  - i. The total number of CUSS kiosks in service at each U.S. airport with annual enplanements of 10,000 passengers or more on which Spirit accessible kiosk software was operational, as of December 31, 2017;

### **U.S. Department of Transportation Action Plan**

8. The Department's Office of Aviation Enforcement and Proceedings will refrain from taking enforcement action against Spirit for temporary noncompliance with the Department's kiosk accessibility requirements with regard to proprietary and CUSS kiosks from December 12, 2016, to October 31, 2017, provided that Spirit undertakes the compensatory measures outlined in paragraphs 1 through 6 above, and submits the verifications and certifications in accordance with paragraph 7.

### **Miscellaneous**

9. This Agreement shall not be waived, changed, or otherwise altered, except in writing with approval by the Department's Office of Aviation Enforcement and Proceedings.
10. This Agreement shall take effect and become final upon signature by both parties.
11. The provisions of this Agreement shall be binding on the parties and shall remain effective until waived, changed, or otherwise altered as set forth in paragraph 9.
12. Should Spirit fail to fulfill any provision of paragraphs 1 through 6 above, the Department will take enforcement action against the carrier for each installation of an inaccessible proprietary kiosk or delivery of inaccessible CUSS kiosk software between December 12, 2016, and October 31, 2017. The Department will hold Spirit responsible for each violation in accordance with 49 U.S.C. 46301(a)(1).<sup>1</sup>
13. In any instance where a violation occurs as a result of the delivery of inaccessible Spirit kiosk software for installation on an accessible CUSS kiosk between December 12, 2016, and October 31, 2017, the Department will coordinate with the FAA to promote an appropriate enforcement approach based on the totality of the circumstances with respect to the airports involved.

U.S. DEPARTMENT OF TRANSPORTATION      SPIRIT AIRLINES

---

Blane A. Workie  
Assistant General Counsel  
for Aviation Enforcement and Proceedings

---

Joanne W. Young  
Counsel  
Spirit Airlines

---

<sup>1</sup> Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114-74; 117 Stat. 584, November 2, 2015), the maximum monetary civil penalty amount that a person other than a small business or an individual may be assessed for violations that are covered by 49 U.S.C. § 46301(a)(1)(A) or (B) increased from \$27,500 to \$32,140 on August 10, 2016. The adjusted maximum civil penalty amount is effective and applies to civil penalties assessed on or after August 1, 2016, for violations occurring before or after the effective date. *See* 81 FR 52763, August 10, 2016.