



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

Issued by the Department of Transportation
on the 25th day of October, 2017

AGREEMENT BY and BETWEEN

**ALASKA AIRLINES, VIRGIN AMERICA
and
U.S. DEPARTMENT OF TRANSPORTATION**

Docket DOT-OST-2017-0168

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, Alaska Airlines (Alaska) and Virgin America (Virgin) reported to the Department Virgin's temporary inability to comply with the Department's final rule on kiosk accessibility within the time period specified while Alaska and Virgin work to integrate their operations following Alaska Air Group's December 2016 acquisition of Virgin.

WHEREAS, Virgin anticipates installing approximately 20 inaccessible proprietary kiosks prior to its migration to Alaska's reservations system.

WHEREAS, it is not feasible to replace the Virgin kiosks with accessible kiosks given the limited time period during which they will remain in use.

WHEREAS, Alaska intends to remove all 20 inaccessible kiosks from operation once Alaska and Virgin constitute a single carrier with a single FAA operating certificate operating on Alaska's reservations system, a process which Alaska expects to be completed no later than the end of 2018.

WHEREAS, Alaska installed 13 proprietary kiosks since December 12, 2016 that were temporarily inaccessible between March 20, 2017, when the first of these 13 kiosks was installed, and June 2, 2017, when the last of these 13 kiosks was remediated.

WHEREAS, it is in the public interest for airlines to provide accessible kiosks beyond the Department's required 25 percent threshold and for airlines to comply prior to the deadline of December 12, 2023, both of which Alaska has agreed to do.

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

Compliance and Mitigation Plan

1. No later than December 31, 2019, Alaska/Virgin must provide at least 50 percent accessible kiosks across its entire proprietary kiosk fleet in service at U.S. airports with annual enplanements of 10,000 passengers or more.
2. After December 31, 2019, Alaska/Virgin 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.

Verification and Certification of Plan Implementation

3. By January 31, 2020, Alaska 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) in service at U.S. airports with annual enplanements of 10,000 passengers or more as of December 31, 2019;
 - b. The total number of its accessible proprietary kiosks in service at U.S. airports with annual enplanements of 10,000 passengers or more as of December 31, 2019;

U.S. Department of Transportation Action Plan

4. The Department's Office of Aviation Enforcement and Proceedings will refrain from taking enforcement action against Alaska or Virgin for either carrier's temporary noncompliance with the Department's kiosk accessibility requirements from the publication date of this Agreement to December 31, 2019, provided that Alaska/Virgin undertakes the compensatory measures outlined in paragraphs 1 and 2 above and submits the verifications and certifications in accordance with paragraph 3.

Miscellaneous

5. 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.
6. This Agreement shall take effect and become final within 10 days of its issuance.

7. 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 6.
8. Should Alaska/Virgin fail to fulfill any provision of paragraphs 1, 2, or 3 above, the Department will take enforcement action against the carrier for each installation of an inaccessible proprietary kiosk between the publication date of this Agreement and December 31, 2019. The Department will hold Alaska/Virgin responsible for each violation in accordance with 49 U.S.C. 46301(a)(1).¹

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the 25th day of October, 2017.

U.S. DEPARTMENT OF TRANSPORTATION ALASKA AIRLINES/VIRGIN AMERICA

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¹ 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.