

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

	X		
	:		
<i>In re</i>	:		Chapter 11
	:		
SOUTHERN AIR HOLDINGS, INC., et al.,	:		Case No. 12-12690 (CSS)
	:		
Debtors.¹	:		Jointly Administered
	:		
	:		Re: Docket No. 6
	X		

**INTERIM ORDER AUTHORIZING DEBTORS
TO PAY PREPETITION OBLIGATIONS OF CERTAIN
(I) CRITICAL VENDORS, (II) FOREIGN CREDITORS, (III) POSSESSORY
LIEN HOLDERS, AND (IV) PRIORITY VENDORS PURSUANT TO SECTIONS
105(a), 361, 363(b), 503(b)(9), 507(a)(2), AND 542 OF THE BANKRUPTCY CODE**

Upon the motion, dated September 28, 2012 (the “Motion”),² of Southern Air Holdings, Inc. and its affiliated debtors, as debtors and debtors in possession (collectively, the “Debtors”), for authority to pay all or a portion of the Prepetition Obligations pursuant to sections 105(a), 361, 363(b), 503(b)(9), 507(a)(2), and 542 of the Bankruptcy Code, as more fully set forth in the Motion; and upon consideration of the *Declaration of Daniel J. McHugh in Support of the Debtors’ Chapter 11 Petitions and First Day Relief*; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 1334 and 157, and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated as of February 29, 2012; and consideration of the Motion and the

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: (i) Southern Air Holdings, Inc., 6605; (ii) Cargo 360, Inc., 4233; (iii) Southern Air Inc., 2187; (iv) Air Mobility Inc., 3824; (v) 21110 LLC, 3761; (vi) 21111 LLC, 8100; (vii) 21221 LLC, 1567; (viii) 21550 LLC, 8103; (ix) 21576 LLC, 6341; (x) 21590 LLC, 8105; (xi) 21787 LLC, 0617; (xii) 21832 LLC, 7893; (xiii) 23138 LLC, 7192; (xiv) 24067 LLC, 6360; (xv) 46914 LLC, 0322; (xvi) Aircraft 21255, LLC, 5500; (xvii) Aircraft 21380, LLC, 1753; and (xviii) CF6-50, LLC, 9733. The address for all Debtors is 117 Glover Avenue, Norwalk, Connecticut 06850.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.



requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the parties listed therein, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors and their respective estates and creditors; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on an interim basis, as set forth herein.
2. The Debtors are authorized, but not directed, in the reasonable exercise of their business judgment ~~and to the extent consistent with the DIP Credit Agreement~~, pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, to pay, in an aggregate interim amount not to exceed \$1.0 million, some or all of the prepetition claims of Critical Vendors who agree to continue to supply goods and services to the Debtors on Customary Trade Terms for a period following the date of the agreement and on other such terms and conditions as are acceptable to the Debtors. As used herein, “Customary Trade Terms” means, with respect to a Critical Vendor: (a) the normal and customary trade terms, practices, and programs (including, without limitation, credit limits, pricing, cash discounts, timing of payments, allowances, rebates, coupon reconciliation, normal product mix and availability, and other applicable terms and programs) that were most favorable to the Debtors and in effect between such Critical Vendor and the Debtors prior to the Petition Date; or (b) such other trade terms as agreed by the Debtors and a Critical Vendor so long as the Critical Vendor extends trade credit to the Debtors.

3. After the date hereof, the Debtors shall determine, in the ordinary course of business, who is a Critical Vendor by considering, among other things: (a) which suppliers were sole source or limited source suppliers, without whom the Debtors could not continue to operate without disruption; (b) which suppliers would be prohibitively expensive to replace; and (c) which suppliers present an unacceptable risk of business disruption should they cease the provision of truly essential goods or services.

4. The Debtors may, in their sole discretion, declare a Vendor Agreement with an individual Critical Vendor to be terminated (together with the other benefits to the Critical Vendor as contained in this Order) on the date that the Debtors deliver notice to the Critical Vendor that such Critical Vendor has not complied with the terms and provisions of the Vendor Agreement; *provided, however*, that the Vendor Agreement may be reinstated if:

- a. Such termination is subsequently reversed by this Court, after notice and a hearing following a motion by the Critical Vendor, for good cause shown that the determination was materially incorrect;
- b. The underlying default under the Vendor Agreement was fully cured by the Critical Vendor not later than five (5) business days following the Debtors' notification to the Critical Vendor that a default had occurred; or
- c. The Debtors, in their sole discretion, reach a favorable alternative agreement with the Critical Vendor.

5. The Debtors are authorized, but not required, in the reasonable exercise of their business judgment ~~and to the extent consistent with the DIP Credit Agreement~~, to pay Foreign Creditor Claims in the ordinary course of the Debtors' business in an aggregate interim amount not to exceed \$2.4 million, on such terms as the Debtors deem appropriate.

6. The Debtors are authorized, but not required, in the reasonable exercise of their business judgment ~~and to the extent consistent with the DIP Credit Agreement~~, to pay

Possessory Lien Claims in the ordinary course of the Debtors' business in an aggregate interim amount not to exceed \$400,000, on such terms as the Debtors deem appropriate.

7. The Debtors, are authorized, but not required, in the reasonable exercise of their business judgment ~~and to the extent consistent with the DIP Credit Agreement~~, to pay Priority Vendor Claims in the ordinary course of the Debtors' business in an aggregate interim amount not to exceed \$200,000, on such terms as the Debtors deem appropriate.

8. The Vendor Agreement, substantially in the form attached hereto as Exhibit 1, is approved.

9. Any Critical Vendor, Foreign Creditor, Possessory Lien Holder, or Priority Vendor that accepts payment from the Debtors on account of a Critical Vendor Claim, Foreign Creditor Claim, Possessory Lien Claim, or Priority Vendor Claim shall be deemed to have agreed to the terms and provisions of this Order.

10. As a condition to receiving any payment pursuant to this Order, the Possessory Lien Holders shall waive and release any previously asserted possessory lien on the assets of the Debtors.

11. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

12. The requirements of Bankruptcy Rule 6004(a) are waived.

13. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

14. The Debtors are authorized to take all steps necessary to carry out this Order.

15. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

16. A final hearing to consider the relief requested in the Motion shall be held on 10/25/12 at 1:00 PM (Eastern Time) and any objections or responses to the Motion shall be filed on or before seven (7) days before the final hearing date set forth herein and served on the parties as required by Rule 9006-1(c)(ii) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware.

Dated: 9/28, 2012
Wilmington, Delaware



CHRISTOPHER S. SONTCHI
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1
Form of Vendor Agreement

[LETTERHEAD OF DEBTOR]

_____, 2012

To: [Critical Vendor]
[Name]
[Address]

Dear Valued Supplier:

As you are aware, Southern Air Inc., and certain of its affiliates (collectively, the "Debtors")¹ commenced cases under chapter 11 of the United States Bankruptcy Code (the "Bankruptcy Cases") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") on September 28, 2012 (the "Petition Date"). On the Petition Date, the Debtors requested authority from the Bankruptcy Court to pay pre-bankruptcy claims of certain suppliers in recognition of the importance of the Debtors' relationships with such suppliers and their desire that the Bankruptcy Cases have as little effect on the Debtors' ongoing business operations as possible. On September [], 2012, the Bankruptcy Court entered an order (the "Interim Order") authorizing the Debtors, under certain conditions, to pay the prepetition claims of certain trade creditors that agree to the terms set forth below and to be bound by the terms of the Interim Order. A copy of the Interim Order is enclosed. The Debtors anticipate entry of a final order shortly (the "Final Order").

To receive payment on account of prepetition claims, you must agree to continue to supply goods and services to the Debtors based on "Customary Trade Terms." In the Interim Order, Customary Trade Terms are defined as the normal and customary trade terms, practices and programs (including, without limitation, credit limits, pricing, cash discounts, timing of payments, allowances, rebates, coupon reconciliation, normal product mix and availability, and other applicable terms and programs), that were most favorable to the Debtors and in effect between you and the Debtors prior to the Petition Date, or such other trade terms as you and the Debtors agree.

For purposes of administration of this trade program as authorized by the Bankruptcy Court, you and the Debtors both agree that:

1. The estimated balance of the prepetition claim (net of any setoffs, credits or discounts) (the "Critical Vendor Claim") that you will receive from the Debtors is \$ _____.

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2. You waive any general unsecured claim against the Debtors.
3. You will provide an open trade balance or credit line to the Debtors for shipment of postpetition goods in the amount of \$_____ (which shall not be less than the greater of the open trade balance outstanding on: (a) _____, or (b) normal and customary terms on a historical basis before and up to the Petition Date).
4. The terms of such open trade balance or credit line are as follows (if more space is required, attach continuation pages):

5. During the pendency of the Bankruptcy Cases you will continue to extend to the Debtors all Customary Trade Terms (as defined in the Interim Order).
6. You will not demand a lump sum payment upon consummation of a plan of reorganization in these chapter 11 cases on account of any administrative expense priority claim you assert, but instead agree that such claims will be paid in the ordinary course of business after consummation of a plan under applicable Customary Trade Terms, if the plan provides for the ongoing operations of the Debtors.
7. The undersigned, a duly authorized representative of [Critical Vendor], has reviewed the terms and provisions of the Interim Order and agrees that [Critical Vendor] is bound by such terms.
8. You will not separately seek payment for reclamation and similar claims outside of the terms of the Interim Order unless your participation in the Critical Vendor payment program authorized by the Interim Order (the "Critical Vendor Payment Program") is terminated.
9. You will not file or otherwise assert against the Debtors, the estates or any other person or entity or any of their respective assets or property (real or personal) any lien (regardless of the statute or other legal authority upon which such lien is asserted)

related in any way to any remaining prepetition amounts allegedly owed to you by the Debtors arising from agreements entered into prior to the Petition Date. Furthermore, you agree to take (at your own expense) all necessary steps to remove any such lien as soon as possible.

10. If either the Critical Vendor Payment Program or your participation therein terminates as provided in the Interim Order, or you later refuse to continue to supply goods to the Debtors on Customary Trade Terms during the pendency of the Bankruptcy Cases, any payments you receive on account of your Critical Vendor Claim will be deemed voidable postpetition transfers pursuant to section 549(a) of title 11 of the United States Code. You will immediately repay to the Debtors any payments made to you on account of your Critical Vendor Claim to the extent that the aggregate amount of such payments exceeds the postpetition obligations then outstanding without giving effect to alleged setoff rights, recoupment rights, adjustments, or offsets of any type whatsoever. Your Critical Vendor Claim shall be reinstated in such an amount so as to restore the Debtors and you to the same positions as would have existed if payment of the Critical Vendor Claim had not been made.
11. Any dispute with respect to, or arising from, this letter agreement, the Interim Order and/or your participation in the Critical Vendor Payment Program shall be determined by the Bankruptcy Court.

If you have any questions about this Agreement or our financial restructuring, please do not hesitate to call.

Sincerely,

Southern Air Inc.

By: _____
Name:
Title:

ACCEPTED AND AGREED BY:
[NAME OF CRITICAL VENDOR]

By: _____

Its: _____

Dated: _____, 2012