



MINISTÉRIO DA INFRAESTRUTURA
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CONTRATO Nº 1/2020

PROCESSO Nº 50000.017531/2020-61

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**SERVICES PROVISION CONTRACT
TERM Nº 01/2020, WHICH IS DONE
BETWEEN THE FEDERAL
GOVERNMENT OF BRAZIL, AND
THE FIRM TAM LINHAS AÉREAS S/A
(LATAM).**

The **Federal Government of Brazil**, through the Ministry of Infrastructure, headquartered at *Esplanada dos Ministérios*, Block R, in the city of Brasília/DF, registered with CNPJ/MF nº 37.115.342/0001-67, in this act represented by the Honorable Mr. TARCÍSIO GOMES DE FREITAS, Minister of Infrastructure, appointed by Decree on January 1st, 2019, published in the official press (D.O.U.) on January 1st, 2019, hereinafter referred to as CONTRACTING PARTY, and the company **TAM LINHAS AÉREAS S/A (LATAM)**, registered with CNPJ/MF nº 02.012.862/0001-60, headquartered at Rua VERBO DIVINO, Nº 2001, ANDARES 3, 4, 5, 6, 8, 10, 12, 13, 15, 16, 17, CONJ 31, 32, 42, 51, 52, 61, 62, 81, 82, 101, 102, 121, 122, 131, 132, 151, 161, 171, 172, *Bairro CHÁCARA SANTO ANTONIO (ZONE SOUTH)*, SÃO PAULO/SP, CEP 04.719-002, hereinafter referred to as CONTRACTED PARTY, hereby represented by Mr. JEROME PAUL JACQUES CADIER - PRESIDENT DIRECTOR (CEO), holder of Identity Card nº 9.706.109-8, issued by SSP/SP, and CPF nº 127.225.208-69, and Mr. EUZÉBIO ANGELOTTI NETO - DIRECTOR, holder of Identity Card nº 6023233, issued by SSP/SP, and CPF nº 493.269.538-15, in face of what is in the process nº 50000.017531/2020 -61 and in compliance to the Law nº 13.979, from February 6th/2020, the Law nº 8.666, from June 21st/1993, of Decree No. 9.507, from September 21st/2018, the Normative Instruction SEGES/MP nº 5, from May 26th/2017, the Montreal Convention (promulgated by Decree nº 5.910, from September 27th/2006), the Law nº 7.565, from December 19th/1986 (Brazilian Aeronautical Code), the Law nº 12.527, November 18th/2011, and other applicable legislation, decide to enter into this Contract Term, arising out of Bidding Waiver nº. 01/2020, under the clauses and conditions set out below.

1. CLAUSE 1 – OBJECT

1.1. The object of this Contract Term is the provision of international air cargo transportation services from Xiamen Gaoqi - XMN and Ghanzhou Baiyun - CAN International Airports, both in China, to Guarulhos International Airport in São Paulo - GRU (Brazil), and freight forwarding services, including customs services (advising, clearance and customs clearance at the airports of origin and destination), but not limited to these, according to the conditions, quantities and requirements established in this instrument and in the Basic Project.

1.2. The contract object has the nature of a common international air cargo transportation service.

1.3. Contracting object:

| DESCRIPTION/SPECIFICATION | UNIT OF MEASUREMENT | NUMBER OF FLIGHTS | ROUTE |
|---|---------------------|-------------------|---------------------------|
| International air cargo transportation from Xiamen Gaoqi - XMN and Ghanzhou Baiyun - CAN International Airports, both in China, to Guarulhos International Airport in São Paulo - GRU (Brazil), and freight forwarding services, including customs services (advisory, clearance and customs clearance at the airports of origin and destination), but not limited to these. | Flights | 42 | XMN/CAN – AMS – GRU |

2. CLAUSE 2 – VALIDITY

2.1. The period of validity of this Contract Term is up to 6 (six) months, starting with its signature date, which can be renewed for successive periods, while lasting the public health emergency of international relevance, due the COVID-19 pandemic crisis, declared by the Ministerial Order nº 188, from February 3rd/2020, by the Minister of Health.

3. CLAUSE 3 - PRICE

3.1. The total value of the contract is USD 14,936,312.31 (fourteen million, nine hundred and thirty-six thousand, three hundred and twelve dollars and thirty-one cents), as shown in the table below:

| UNIT OF MEASUREMENT | NUMBER OF FLIGHTS | VALUE PER FLIGHT (USD) | CONTRACT TOTAL VALUE (USD) |
|---------------------|-------------------|------------------------|----------------------------|
| Flights | 42 | 355.626,48 | 14.936.312,31 |

3.2. If the CONTRACTED PARTY is a national company that has submitted a bid in foreign currency, payment will be made in local currency (Brazilian Real - BRL), effected through conversion, based on the exchange rate of the working day immediately preceding the effective payment date.

3.3. The above amount includes all direct and indirect ordinary expenses arising from the execution of the object, including fees and/or taxes, social, labor and social security charges, inspection and commercial incidental charges, administration fees, freight, insurance and others necessary for the full contract object completion.

3.4. The amount above is merely estimate, so that the payments due to the CONTRACTOR will depend on the quantity of services really provided.

4. CLAUSE 4 - BUDGET ALLOCATION

4.1. The expenses arising from this contract are programmed in own budget allocation, foreseen

in the Federal Government of Brazil budget, for the fiscal year 2020, in the classification below:

Management/Unity:

Source: **6151000000**

Working Program: **10.122.5018.21C0.6500**

Nature of Expense: **33.90.39**

5. CLAUSE 5 – PAYMENT

5.1. The deadline for payment to the CONTRACTING PARTY and other related conditions are defined in the Basic Project in Annex XI of IN SEGES/MP nº 5/2017.

6. CLAUSE 6 – READJUSTING PRICES IN BROAD SENSE

6.1. The rules regarding price readjustments in broad sense are those established in the Basic Project.

7. CLAUSE 7 – IMPLEMENTATION GUARANTEE

7.1. The provision of a guarantee will be required in this contract, according to the rules contained in the Basic Project.

8. CLAUSE 8 – SCHEME OF EXECUTION OF SERVICES AND SUPERVISION

8.1. The service execution regime to be performed by the CONTRACTED PARTY, the materials to be used and the inspection by the CONTRACTING PARTY are those provided for in the Basic Project.

8.2. The execution of the object will follow the following dynamics:

8.2.1. It will start from the signing of the contract and the delivery of the products will be according to schedule and Service Order/Demand.

8.2.2. Flights will be weekly.

8.2.3. The products can be transported in cargo or passenger aircraft.

8.2.4. The pick-up and drop-off locations will be as indicated below:

| GOODS DESCRIPTION/SPECIFICATION | QUANTITY | PICK-UP LOCATION | DROP-OFF LOCATION |
|------------------------------------|-------------|--|--|
| 3 Layers Surgical Mask | 190.952.000 | International Airport of Xiamen Gaoqi – XMN China | International Airport of Guarulhos - GRU - Sao Paulo/Brazil. |
| KN95 Mask | 40.000.000 | International Airport of Ghanzhou Baiyun - CAN China | International Airport of Guarulhos - GRU - Sao Paulo/Brazil. |

8.2.5. International air routes will be under company's responsibility.

8.2.6. The Ministry of Health will be responsible for transporting products from Guarulhos Airport (GRU) to the Ministry of Health Distribution Center.

8.2.7. The CONTRACTED PARTY must follow the bellow schedule, based on the partial availability of the material, making a total of 28 deliveries, formally receiving the cargo, loading and starting transportation at both Chinese airports, as shown below:

| Month | Delivery | Day (MM/DD/YYYY) | 3 LAYERS MASK – XIAMEN GAOQI | KN95 MASK – GUANGZHOU BAIYUN |
|--------------|----------|---------------------|---------------------------------|---------------------------------|
| | | | Quantity | Quantity |
| APRIL | 1 | 04/25/2020 | 1.952.000 | |
| | 2 | 04/27/2020 | 6.000.000 | |
| MAY | 3 | 05/01/2020 | 5.000.000 | 3.000.000 |
| | 4 | 05/03/2020 | 6.000.000 | |
| | 5 | 05/05/2020 | 6.000.000 | |
| | 6 | 05/07/2020 | 5.000.000 | |
| | 7 | 05/08/2020 | | 3.000.000 |
| | 8 | 05/09/2020 | 6.000.000 | |
| | 9 | 05/11/2020 | 6.000.000 | |
| | 10 | 05/13/05/2020 | 8.000.000 | |
| | 11 | 05/15/2020 | 9.000.000 | 5.000.000 |
| | 12 | 05/17/2020 | 8.000.000 | |
| | 13 | 05/19/2020 | 9.000.000 | |
| | 14 | 05/21/2020 | 8.000.000 | |
| | 15 | 05/22/020 | | 5.000.000 |
| | 16 | 05/23/05/2020 | 9.000.000 | |
| | 17 | 05/25/2020 | 8.000.000 | |
| | 18 | 05/27/2020 | 9.000.000 | |
| | 19 | 05/29/2020 | 8.000.000 | 8.000.000 |
| | 20 | 05/31/2020 | 9.000.000 | |
| JUNE | 21 | 06/02/2020 | 8.000.000 | |
| | 22 | 06/04/2020 | 9.000.000 | |
| | 23 | 06/05/2020 | | 8.000.000 |
| | 24 | 06/06/2020 | 8.000.000 | |
| | 25 | 06/08/2020 | 9.000.000 | |
| | 26 | 06/10/2020 | 8.000.000 | |
| | 27 | 06/12/2020 | 9.000.000 | 8.000.000 |
| | 28 | 06/15/2020 | 13.000.000 | |
| Total | | | 190.952.000 | 40.000.000 |

9. CLAUSE 9 – OBLIGATIONS OF THE CONTRACTING AND CONTRACTED PARTIES

9.1. The obligations of the CONTRACTING PARTY and the CONTRACTED PARTY are those listed in the Basic Project.

10. CLAUSE 10 – SUBCONTRACTING

10.1. Partial subcontracting of the object is permitted, subject to the conditions and obligations established in the Basic Project and in the CONTRACTED PARTY's proposal.

11. CLAUSE 11 – ADMINISTRATIVE PENALTIES

11.1. The sanctions related to the execution of this contract are those foreseen in the Basic Project.

12. CLAUSE 12 - TERMINATION

- 12.1. This Contract Term may be terminated:
- 12.1.1. By unilateral and written act from the Federal Government, in the situations listed in the items I to XII and XVII of art. 78 of the Law n° 8.666/1993, and with the consequences indicated in art. 80 of the same Law, without prejudicing the application of sanctions foreseen in the Basic Project;
- 12.1.2. Friendly, under the terms of art. 79, item II, of Law n° 8.666/1993.
- 12.2. The cases of contractual termination will be formally motivated, ensuring the CONTRACTED PARTY the right to a prior and broad defense.
- 12.3. The CONTRACTED PARTY recognizes the CONTRACTING PARTY's rights in case of administrative termination provided in art. 77 of Law n° 8.666/1993.
- 12.4. The termination term will be preceded by a report indicating the following aspects, according to each case:
- 12.4.1. Balance of contractual events already fulfilled or partially fulfilled;
- 12.4.2. List of payments already made and still due;
- 12.4.3. Indemnities and fines.

13. CLAUSE 13 – PROHIBITIONS

- 13.1. The CONTRACTED PARTY is prohibited of:
- 13.1.1. Bailing or using this Contract Term for any financial transaction;
- 13.1.2. Interrupting the service provision under justification of default by the CONTRACTING PARTY, except in the cases provided for by law.

14. CLAUSE 14 – MODIFICATIONS

- 14.1. Any contractual modification will be ruled by the art. 65 of Law n° 8.666/1993.
- 14.2. The CONTRACTED PARTY is obliged to accept, under these same contractual conditions, the additions or suppression that may be necessary, limited to 50% (fifty percent) of the updated contract initial value, under the terms of article 4-I, of Law n° 13.979/2020.

15. CLAUSE 15 – OMITTED CASES

- 15.1. Omitted cases will be decided by the CONTRACTING PARTY, according to the Law n° 13.979/2020, Law n° 8.666/1993, Law n° 7.565/1986 (Brazilian Aeronautical Code), in Decree n° 5.910/2006 (Montreal Convention) and other federal bidding rules and administrative contracts and, subsidiarily, according to the Law n° 8.078/1990 (Consumer Protection Code) and contracts general rules and principles.

16. CLAUSE 16 – BIDDING WAIVER

- 16.1. The notice of this Contract Term referring to Bidding Waiver n° 01/2020 is made based on art. 4 of Law 13.979 / 2020, enforcing the CONTRACTING PARTY make available on its official website on the world wide web (internet), beyond the information listed in the § 3 of art. 8 of Law n° 12.527/2011, the name of the contracted company, the number of its register at the *Receita Federal do Brasil (Customs of Brazil)*, the contractual terms (validity), the contract total value and the respective procurement process identification.
- 16.2. This Contract Term is linked to the CONTRACTING PARTY's Basic Project and the CONTRACTED PARTY's proposal.

17. **CLAUSE 17 – FORUM**

17.1. The Federal Court of Justice – Federal District Judiciary Section is elected to settle disputes arising from the execution of this Contract Term that cannot be composed by conciliation, according to art. 55, §2 of Law nº 8.666/93.

And, being in agreement, after read and found to be in conformity, this contract was electronically signed by the parties.

Brasília/DF, May, 2nd of 2020.

Your Excellency Sir TARCÍSIO GOMES DE FREITAS
Minister of Infrastructure of Brazil
Legal Representative of the CONTRACTING PARTY

JEROME PAUL JACQUES CADIER - CEO - TAM LINHAS AÉREAS S/A (LATAM)
Legal Representative of the CONTRACTED PARTY

EUZÉBIO ANGELOTTI NETO - Director
- TAM LINHAS AÉREAS S/A (LATAM)
Legal Representative of the CONTRACTED PARTY



Documento assinado eletronicamente por **Tarcísio Gomes de Freitas, Ministro de Estado da Infraestrutura**, em 02/05/2020, às 21:51, conforme horário oficial de Brasília, com fundamento no art. 3º, inciso V, da Portaria nº 446/2015 do Ministério dos Transportes.



Documento assinado eletronicamente por **JEROME PAUL JACQUES CADIER, Usuário Externo**, em 02/05/2020, às 23:01, conforme horário oficial de Brasília, com fundamento no art. 3º, inciso V, da Portaria nº 446/2015 do Ministério dos Transportes.



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