



Terms & Conditions

- §1. Charter** -Carrier shall charter and Customer shall take on charter the Aircraft on the terms and conditions herein contained.
- §2. Aircraft and Crew** - Carrier shall provide the Aircraft for Customer's use, properly equipped, manned and fuelled. The crew, who shall be Carrier's employees, servants or agents, shall, except as otherwise provided herein, fly the Aircraft on the Flight Schedule specified in paragraph 2 of this Agreement and any additional flights as contemplated in §10 hereof (the "**Flight Schedule**"). Carrier's employees, servants or agents shall follow Carrier's instructions only.
- §3. Carrier's Discretion** - Save as provided in §9 hereof, if the Aircraft shall for any reason whatsoever (whether before or after commencement of the Flight Schedule) become incapable of undertaking or continuing the Flight Schedule (or any portion thereof), Carrier may, at its discretion, substitute therefore an aircraft of the same or another type and the provisions of this Agreement shall apply *mutatis mutandis* to the substituted aircraft. If Carrier does not elect to substitute another aircraft, it shall notify Customer as soon as possible and shall be relieved of its obligations to provide the Aircraft for the Flight Schedule (or any portion thereof) which can no longer be undertaken by reason of the incapacity of the Aircraft and Carrier shall not be under any liability to Customer other than to refund to Customer such part of the Charter Price which relates to the cancelled Flight Schedule (or any portion thereof).
- §4. Captain's Discretion** -The Captain of the Aircraft (the "**Captain**") shall have absolute discretion to decide what load, including the number of passengers, may safely be carried in the Aircraft on any particular flight and how such load shall be distributed, whether and when a flight may be safely undertaken and when and where the Aircraft shall be landed. All such decisions of the Captain shall be final and binding on Customer and Carrier. Carrier shall not be liable to Customer for any loss, damage, costs or claims of whatsoever nature and howsoever arising as a result of any such decision by the Captain.
- §5. Additional Crew** -The Flight Schedule specified in paragraph 2 of this Agreement has been prepared to take account of relevant statutory and other official flight time limitation requirements. Carrier reserves the right to make additional charges if, for reasons beyond Carrier's control, it is necessary to provide additional crew or position replacement crew to continue the Flight Schedule and Carrier will have no liability or responsibility to Customer or any other party for any delay to passengers, baggage or cargo so occasioned.
- §6. Loading and Packing** - The amount and weight of accompanied baggage shall be at Carrier's discretion. The following or like articles, namely firearms, explosives, combustible materials and live animals may be carried only with Carrier's prior consent which may, in its absolute discretion, be withheld. Carrier may inspect and examine any baggage or cargo belonging to any passenger whether accompanied or not. Furthermore and without prejudice to the foregoing, the Carrier may refuse to carry any baggage considered by the Captain or by any other employee, servant or agent of Carrier to be unsuitable for carriage by air whether by its nature or any applicable laws or regulations of any country to, from or over which the Aircraft may be flown.
- §7. Charter Price** -Customer shall pay to Carrier the Charter Price specified in paragraph 4 of this Agreement in the manner herein provided and shall be responsible for, and pay Carrier on demand, any other additional expenses incurred by reason of any further request of Customer. For purposes of this §7 time shall be of the essence of this Agreement and non-payment of any due amount shall entitle Carrier to suspend or cancel the Flight Schedule (or any portion thereof) without warning or liability and without prejudice to Carrier's right to claim from Customer any and all monies remaining unpaid.
- §8. Carrier's Protection against Increased Cost** -The Charter Price is based on Carrier's costs, charges and expenses at the date hereof. In the event of any increase of such costs, charges and expenses of whatsoever nature and howsoever arising between the date hereof and the completion of the Flight Schedule, Carrier shall be entitled to increase the Charter Price by a sum equal to any extra amount incurred, or to be incurred, in completing the Flight Schedule as a result of any such increase in any such costs, charges or expenses. Any amounts payable by Customer pursuant to paragraph 4 of this Agreement and §5, §8, §10 and §15 hereof shall be notified to Customer as soon as reasonably practicable and shall be paid by Customer within 7 days of such notification.



§9. Non-performance or Delay -

- (a) In the event of non-performance or delay caused by any circumstances whatsoever beyond the reasonable control of Carrier including, but not limited to, the actions of third parties, labour difficulties, force majeure (including but not limited to inclement weather) or technical breakdown or accident to the Aircraft or any part thereof or any machinery to be used in relation to the Aircraft, Carrier shall use its reasonable endeavours to perform or continue the Flight Schedule but otherwise shall have no liability to Customer or any passengers for such non-performance or delay and any time so lost shall not count in computing demurrage unless the Aircraft is already on demurrage.
- (b) Notwithstanding §9(a), Customer shall be liable to pay Carrier such portion of the Charter Price as shall be proportionate to that part of the Flight Schedule which has been performed together with all passengers expenses and any additional charges payable by Customer pursuant hereto.

§10. Additional Flight(s) - If Customer requests the use of the Aircraft for any flight(s) other than as specified in the Flight Schedule at paragraph 2 of this Agreement, without prejudice to Carrier's absolute right to refuse such request, if Carrier agrees to perform any such flight(s) Customer shall, on demand, pay to Carrier in respect of such flight(s), such sum(s) as Carrier shall notify to Customer as the amount for such additional flight(s) together with all fees and charges incurred, arising from, or in connection with Carrier's performance of each additional flight including, without prejudice to the generality of the foregoing, landing fees, hangerage fees, parking fees, navigation fees, ground service and handling fees, customs duties and fees, airport surcharges, accommodation, meals and refreshment charges for passengers and crew and all other associated expenses thereby incurred.

§11. Diversions -If, for reasons of safety or security or other operational reasons not being the fault of Carrier or attributable to Customer or any passengers, the Aircraft is diverted from any scheduled destination specified in the Flight Schedule, Carrier shall use its reasonable endeavours to procure that, as soon as reasonably practicable after arrival at such alternate destination, the Aircraft is flown to its scheduled destination. Carrier shall have no liability or responsibility to Customer or any other party for any delay to passengers, baggage or cargo so occasioned but Carrier will pay the additional costs and expenses incurred by it arising as a result of the diversion and/or the flight to the scheduled destination.

§12. Termination by Either Party -

Subject to §13 and §14 hereof, either party may terminate this Agreement, by giving written notice to the other;

- (a) at any time before the time specified for the commencement of the first journey set out in the Flight Schedule; or
- (b) at any time if the other party commits any breach of this Agreement or commits an act of bankruptcy or becomes insolvent or enters into any arrangement or composition with its creditors or, being an individual, dies or, being a partnership, is dissolved or being a corporation, passes a resolution or has a petition presented for winding up (otherwise than for the purpose of merger or reconstruction only).

§13. Termination by Carrier - If the Charter Agreement is terminated by Carrier:

- (a) pursuant to §12(a) hereof, then Customer shall not be liable to pay the Charter Price and Carrier shall repay to Customer the Charter Price (or any portion thereof) made by Customer but shall be under no further obligation or liability to Customer by reason of such termination; or
- (b) pursuant to §12(b) hereof, then Customer shall be liable to pay the appropriate cancellation charges referred to in paragraph 8 of this Agreement together with such portion of the Charter Price as shall be proportionate to that part of the Flight Schedule which has been performed and additional charges and expenses payable by Customer pursuant hereto and Carrier shall be under no further obligation or liability to Customer by reason of such termination. Any termination by Carrier pursuant to this §13 will be without prejudice to its rights under this Agreement then accrued or in respect of the matter leading to termination (and in particular without prejudice to its rights under §18 hereof).



§14. Termination by Customer - If the Charter Agreement is terminated by Customer:

- (a) pursuant to §12(a) hereof, then Customer shall be liable to pay to Carrier the appropriate cancellation charge referred to in paragraph 8 of this Agreement; and
- (b) pursuant to §12(b) hereof, then Customer shall be liable to pay to Carrier such portion of the Charter Price as shall be proportionate to that part of the Flight Schedule which has been performed together with any additional charges and expenses payable by Customer pursuant hereto.

§15. Documents/Information and Delivery by Customer:

Carrier shall supply and complete such documents relating to the carriage undertaken pursuant to this Agreement as Carrier in its absolute discretion shall consider necessary and, when requested by Carrier, Customer shall give to Carrier in good time all information and assistance required to complete such documents. Customer represents and warrants that all passengers will hold all necessary passports, visas, health and other certificates necessary to secure transit through any intermediate points and entry into the country of destination of the flight. In the event that any immigration authorities impose any fines or penalties on Carrier, its employees, servants or agents or refuse entry to any passenger(s) and Carrier is required to transport such passenger(s) to the point of origin of the flight or to any other point, Customer shall pay to Carrier upon demand all fines, penalties, costs and expenses so incurred. Where notices or information are delivered to Customer or its agents by Carrier for distribution to passengers Customer warrants and undertakes to Carrier that it will effect delivery of such notices or information to the passengers at a reasonable time prior to the commencement of the Flight Schedule and shall indemnify Carrier against all liabilities, costs and expenses which result from any failure by Carrier to effect such delivery.

§16. Laws and Traffic Regulations -

- (a) The Aircraft shall be used only in compliance with the laws and regulations of the relevant authorities of Austria or any other country to, from or over which the Aircraft is flown. Carrier shall, at its own expense, apply for and use its reasonable endeavours to procure the grant of all licences or permits required by the laws of Austria and of any other country to, from or over which the Aircraft is to be flown for the performance of the Flight Schedule.
- (b) Customer will comply with and shall use its best endeavours to cause all passengers and owners of goods or other persons having an interest in goods carried in the Aircraft to observe and comply with all traffic regulations of Carrier and all customs, police, public health and other laws and regulations which are applicable in the countries in which flights are originated, landings are made or over which flights are made.

§17. Liability of Carrier - Carrier does not undertake any carriage as a common carrier or accept the obligations of a common carrier. Carrier does not accept any liability whatsoever (including without limitation consequential loss) whether for death to, or injury or delay of, passengers or loss of, damage to, or delay of, baggage or cargo whether arising in contract or in tort, including negligence or otherwise, and whether occasioned by Carrier, its employees, servants or agents (any such liability being hereby excluded). Carriage shall be subject to the rules and limitation relating to liability and to all other provisions established by the Warsaw Convention or by that Convention as amended from time to time and/or by any other treaty or convention applicable to such carriage insofar as such carriage is "international carriage" as therein defined. Carriage which is not so governed shall be subject to all applicable laws which extend provisions of the Convention to such carriage or which otherwise limit Carrier's liability.

§18. Indemnity -Customer shall indemnify (on a full indemnity basis) Carrier against all claims, costs and expenses

(including legal fees and costs) in respect of any:

- (a) liability of Carrier to third persons (including but not limited to passengers, consignors and consignees) for any loss or damage of whatsoever nature arising out of the negligence, wilful misconduct or any act or omission of Customer, its servants or agents or any passenger carried by authority of Customer; and
- (b) loss or damage of whatsoever nature suffered by Carrier, its employees, servant or agents, or to any equipment belonging to Carrier, its employees, servants or agents arising out of the negligence, wilful misconduct or any act or omission of Customer, its servants or agents or any passenger carried by authority of Customer and whether tortious or constituting a breach of this Agreement.



§19. Assignment and Vicarious Performance - Customer shall not be entitled to assign the benefit of this Agreement to any other person without the prior written consent of Carrier, which consent may be unreasonably withheld but Carrier may procure the vicarious performance of its obligations hereunder by any other person or company.

§20. Notices - Any notice required to be given hereunder shall be given by sending the same by facsimile, prepaid post or by hand delivery to the address of the addressee shown in this Agreement or to such other address as either party may notify to the other for this purpose. If sending by facsimile, notice shall be deemed to have been given at the time of dispatch and if sending by post, notice shall be deemed to have been given on the day on which it would have been received in due course of post.

§21. Changes in Agreement and Waiver - Alterations and additions to this Agreement will only be binding if made in writing and signed by the parties. Customer cannot rely on any verbal undertaking from, or given in the name of, Carrier which is different from, or additional to, the terms and conditions of this Agreement. Neither parties' rights shall be prejudiced or restricted by any indulgence or forbearance granted by it and no waiver of any breach shall operate as a waiver of any other or further breach.

§22. Applicable Law - This Agreement shall be construed in accordance with the laws of Austria and Customer agrees to submit to the non-exclusive jurisdiction of Austria.