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SHORT-TERM AIRCRAFT CHARTER AGREEMENT NO. PD/CXXX/15
BETWEEN
THE UNITED NATIONS
AND
Carrier's Name

THIS AIRCRAFT CHARTER AGREEMENT is made this --- DATE --- by and between **THE UNITED NATIONS**, an international inter-governmental organization with its Headquarters in New York, New York 10017, USA (hereinafter referred to as the "UN"), and --- a corporation incorporated under the laws of -- - and having its office at ... , with Air Operator Certificate No...., valid until DATE (hereinafter referred to as the "Carrier").

WITNESSETH

In consideration of the mutual covenants and subject to the terms and conditions hereinafter set forth, the Parties agree as follows:

Article 1: Contract Documents

1.1 This document (hereinafter referred to as the "Basic Charter Agreement"), including all of its Annexes, and the following named documents, incorporated herein by reference, constitute the entire Aircraft Charter Agreement between the Parties (hereinafter referred to as the "Charter Agreement" or the "Agreement"):

- (a) The UN's Invitation to Bid dated ---.
- (b) Carrier's bid dated ---.

1.2 The Annexes to this Charter Agreement are the following:

- (a) Annex A: Description of Air Transportation Services;
- (b) Annex B: Payment Schedule;
- (c) Annex C: United Nations General Conditions for Aircraft Charter Agreements.

1.3 In the event of any conflict or inconsistencies between or among any of the documents comprising this Agreement, then the following order of priority shall apply:

- (a) First, the Basic Charter Agreement and Annex C;
- (b) Second, the remaining Annexes to this Agreement;
- (c) Third, the UN's ITB;
- (d) Lastly, the Carrier's Bid.

Article 2: Definitions

2.1 For the purposes of this Charter Agreement, the expression:

- (a) "Aircraft" shall have the meaning set forth in the Description of Air Transportation Services in Annex A, hereof.
- (b) "Carrier" shall mean the entity performing the air transportation services required under this Charter Agreement, including Airlines, Governments and other air transport enterprises, and as such shall bear the responsibilities and liabilities applicable to carriers under regulations and rules governing carriage

by air.

- (c) "Charter" shall mean that the Carrier provides the Aircraft, equipped with crew and other necessary personnel, who shall remain the servants of the Carrier, for the use of the UN for the term of this Agreement, and the Carrier remains the owner and/or operator of the Aircraft and retains the risks and rewards of ownership and operation of the Aircraft.

Article 3: Price and Payment

3.1 In consideration of the complete and satisfactory provision by the Carrier of all of the services under this Agreement, the UN shall pay the Carrier the sums, in the manner and at the times, provided for in the Payment Schedule set forth in Annex B, hereto. The foregoing notwithstanding, in no event shall the UN pay the Carrier for all the services to be provided hereunder a total price in excess of ---, which shall constitute the maximum monetary liability of the UN to the Carrier under this Agreement.

3.2 The United Nations shall make payments to the Carrier under this Agreement within thirty (30) days after the UN's receipt of the Carrier's invoice and certification by the authorized UN official that the air transportation services have been satisfactorily performed. The Carrier shall forward the copy of the original invoice via email: unhq-accounts-payable@un.org. Alternatively, the original paper invoice can be delivered to the street address: ATTN: Chief, Vendor Claims Unit, Division of Administration, United Nations, 304 East 45th Street, 3rd Floor, New York, NY 10017, USA. The Carrier shall forward one additional copy of the original invoice to the Chief, Movement Control Section, Logistics Division, at dos-ld@un.org. Payment(s) will be made and discounts, if any, will be computed from the date of receipt of the Carrier's invoice and certification by the authorized UN official. For queries about invoice payments, please contact Accounts Payable at unhq-accounts-payable@un.org.

Article 4: Services

4.1 The Carrier recognizes that the UN requires air transportation services to be performed in connection with the United Nations peacekeeping activities mandated by the Security Council. Those services may include cargo re-supply, troop movements, VIP transport, and medical transport and reconnaissance flights. Due to the nature of peacekeeping missions, such air transportation services may involve operation into hostile areas or fields where there is no ground support or where airfield security cannot be guaranteed.

4.2 The Carrier agrees to provide to the UN the air transportation services, as more specifically described in Annex A hereof, the ITB and the Carrier's Bid. In particular, the Carrier shall provide to the UN the Aircraft, fit for the purpose for which they are required and properly equipped and maintained, and flight crew and maintenance personnel who are qualified, competent, and fully licensed for the duties required under this Charter Agreement. The Carrier shall perform the services under this Charter Agreement in good faith and in compliance with the terms and conditions of this Agreement, and shall abide by all reasonable instructions of the UN.

4.3 The Carrier shall retain operational responsibility for the air transportation services under this Charter Agreement and shall ensure that those services will be performed strictly in accordance with all applicable national and international regulations, rules, standards and recommended practices. In particular, the Carrier shall:

- (a) Maintain the Aircraft in a fully safe and operative condition, and completely airworthy for the duration of this Charter Agreement, in accordance with laws and regulations that conform to applicable international regulation, rules, standards and recommended practices, in particular, Annex 8 to the Convention on International Civil Aviation;
- (b) Safely operate the Aircraft at all times in compliance with laws and regulations which conform to applicable international regulation, rules, standards and recommended practices, in particular, Annex 6 to the Convention on International Civil Aviation.

4.4 The Carrier shall ensure that it has obtained all necessary certifications and authorizations by appropriate

governmental authorities to perform the air transportation services required under this Charter Agreement, and shall maintain such certifications and authorizations current and in good standing for the duration of this Agreement, and will avoid any actions which may lead to the cancellation of such certifications and authorizations. In addition, the Carrier shall ensure that the air transportation services under this Agreement do not violate the terms and conditions of any lease agreement, mortgage or other relevant agreement.

Article 5: Legal Status of Carrier

5.1 It is understood that the Carrier is an independent contractor, and shall remain in control of the Aircraft and shall be responsible for navigation, operation and maintenance of the Aircraft, and that the flight crew and maintenance personnel shall at all times remain the servants or agents of the Carrier. The UN shall have the right to provide reasonable instructions to the Carrier and shall provide to the Carrier the schedule of flights, as required. However, the pilot in command shall retain the right to make decisions as to the feasibility of a flight in the light of weather and other conditions, for the safety of the passengers.

5.2 In respect of the carriage of passengers under this Agreement, the Carrier agrees that the UN acts only as an agent of the passengers, who shall be regarded as having a direct contractual relationship with the Carrier, as principal, for purposes of all liability hereunder.

Article 6: Certifications, Licenses and Manuals

6.1 The Aircraft provided by the Carrier under this Charter Agreement shall carry valid Certificates of Registration issued by the appropriate air authority of the country of registration of the Aircraft showing, inter alia, the nationality or common mark and registration mark, the manufacturer, the serial number and the owner of the Aircraft. The Certificates of Registration shall be issued under laws and regulations which conform to applicable international regulations, rules, standards and recommended practices, in particular, Annex 7 to the Convention on International Civil Aviation.

6.2 The Aircraft provided by the Carrier shall also carry valid Certificates of Airworthiness issued by or rendered valid by the appropriate air authority of the country of registration of the Aircraft showing that the Aircraft complies with all appropriate airworthiness requirements. The Certificates of Airworthiness shall be issued or rendered valid under laws and regulations which conform to applicable international regulations, rules, standards and recommended practices, in particular, Annex 8 to the Convention on International Civil Aviation.

6.3 The Carrier shall possess and maintain a valid Air Operator Certificate or equivalent document issued by the appropriate governmental authority authorizing the Carrier to conduct air transport operations in the country and appropriate authorization to operate outside the country, in particular in the country or countries for which this Charter is intended and endorsed for the type and/or class of aircraft proposed. The Air Operator Certificate or equivalent document shall be issued under laws and regulations which conform to applicable international regulations, rules, standards and recommended practices, in particular, Annex 6 to the Convention on International Civil Aviation.

6.4 All flight crew and maintenance personnel for the Aircraft shall possess valid Certificates of Competency and Licenses issued or rendered valid by the licensing authority of the country of registration of the Aircraft under laws and regulations which conform to applicable international regulations, rules, standards and recommended practices, in particular, Annex 1 to the Convention on International Civil Aviation.

6.5 The Carrier shall possess an Operations Manual, for the use and guidance of its operations personnel, containing inter alia, instructions, checklists and other information relating to the operations of the Aircraft, in accordance with applicable international regulations, rules, standards and recommended practices, in particular, Annex 6 to the Convention on International Civil Aviation.

6.6 The Carrier shall also possess a Maintenance Manual, for the use and guidance of its maintenance personnel,

setting forth, inter alia, procedures, frequency and methods for servicing and maintenance of the Aircraft, in accordance with applicable international regulations, rules, standards and recommended practices, in particular, Annex 6 to the Convention on International Civil Aviation.

6.7 The Carrier shall submit to the UN copies of the Certificates mentioned in Articles 6.1 to 6.3, hereof. Upon request by the UN, the Carrier shall submit to the UN copies of the Certificates and Licenses mentioned in Article 6.4, hereof. The UN shall have the right to inspect the Manuals mentioned in Articles 6.5 to 6.6, hereof.

Article 7: Aircraft and Crew and other Personnel

7.1 The Aircraft shall be properly equipped for the purposes for which it is being chartered.

7.2 The flight crew and maintenance and other personnel shall, inter alia, be medically fit and possess the necessary training know-how, skill and experience to perform the duties under this Charter Agreement, and shall be appropriately and uniformly attired at all times while on duty. In addition, the flight crew shall contain at least one pilot who is fully fluent in technical aviation English language.

Article 8: Insurance

8.1 The UN and the Carrier acknowledge and agree as follows:

- (a) The Carrier represents and warrants that any and all Aircraft provided under this Agreement are fully airworthy, safe and certified for the air transportation of passengers, cargo or a combination of passengers and cargo in the designated area(s) of operation under this Agreement.
- (b) The Carrier shall, at its sole cost and expense, indemnify, hold and save harmless, and defend the UN, its officials, agents, servants and employees from and against all suits, proceedings, claims, demands, losses and liability of any nature or kind, including, but not limited to, all litigation costs, attorneys' fees, settlement payments, damages, and all other related costs and expenses, based on, arising out of, related to, or in connection with any acts or omissions of the Carrier, or any personnel, employees, agents, servants, officials, sub-contractors, or representatives of the Carrier in the performance of any services under this Agreement as well as any liability whatsoever arising out of, or related to, the ownership or operation of Aircraft under this Agreement and the provision of any Aircraft that may have been rendered unsafe for any reason, including, but not limited to, defects in manufacture, or otherwise arising out of, or related to, the operation or maintenance of the Aircraft, or any certification or lack thereof, or arising out of, or related to, the breach of any warranty or representation set forth in this Agreement, annexed hereto or incorporated by reference. This provision shall extend, inter alia, to claims and liability in the nature of worker compensation, products liability and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Carrier, or any personnel, employees, agents, servants, officials, sub-contractors, or representatives of the Contractor. The obligations under this Article do not lapse upon termination of this Agreement.
- (c) The UN shall promptly advise the Carrier about any such suits, proceedings, claims, demands, losses or liability after receiving any notice thereof, and shall reasonably cooperate with the Carrier, at the Carrier's sole cost and expense, in the defense or settlement thereof, subject to the privileges and immunities of the United Nations. The Carrier shall have sole control of the defense of any such suit, proceeding, claim or demand and of all negotiations in connection with the settlement or compromise thereof, except with respect to the assertion or defense of the privileges and immunities of the United Nations or any matter relating thereto. The UN shall have the right to be represented in any suit or proceeding, at its own expense, by independent counsel of the UN's own choosing.

8.2 Prior to the commencement of any air charter services under this Agreement, the Carrier shall obtain, and shall provide and maintain, for the entire duration of this Agreement and from an insurance carrier acceptable to the UN, comprehensive insurance coverage to cover all of the Carrier's liability under this Agreement. Except as

otherwise expressly provided herein, such insurance shall, at a minimum, consist of:

- (a) Comprehensive third-party liability insurance, including passenger legal liability, sufficient to cover all persons and all cargo authorized by the UN to be transported on the Aircraft, and protecting the UN and the Carrier against claims for bodily injury or death and property damage up to a combined minimum of US \$50 million per occurrence. Notwithstanding the generality of the foregoing or the combined minimum limit of US \$50 million per occurrence, such insurance shall be sufficient to cover, at a minimum, passenger liability for death or bodily injury up to 100,000 SDR's (i.e., Special Drawing Rights by the International Bank for Reconstruction and Development), or the maximum limit set forth under the Warsaw Convention (as defined in Article 4 of the General Conditions for Aircraft Charter Agreement set forth in Annex C), whichever is greater, per passenger;
- (b) Basic hull war risk and war risk liability insurance, including third party liability, for a minimum amount of fifty million dollars (US currency) (US\$50,000,000), based on endorsement number "AVN52E" as of 1 January 2002, or its current equivalent in the insurance marketplace, including hijacking and confiscation for the area of operations as described in Annex A, Paragraph 2;
- (c) Full hull insurance, including all risk, both in flight and not in flight; and,
- (d) Worker's compensation insurance.

8.3 It is agreed and understood by the Parties that the obligation of the Carrier to obtain and maintain insurance policies required in accordance with this Agreement is an essential term of this Agreement and that the UN relies on the Carrier to perform such obligation. The Parties further acknowledge and agree that the failure of the UN to require strict compliance with all the terms and conditions regarding insurance, as set forth in this Agreement, and as evidenced by any Certificates of Insurance, Slips and/or Binders, copies of insurance policies, or otherwise, shall not constitute a waiver or amendment of any of the terms, conditions and requirements of this Agreement regarding the provision of insurance coverage by the Carrier.

8.4 The insurance policies required in accordance with this Agreement shall:

- (a) Name the UN as additional insured;
- (b) Provide territorial limits as "worldwide" except that in respect of basic hull war risk and war risk liability, the insurance policy will clarify any territories that are excluded;
- (c) Under "conditions" shall provide "All and every use incidental to the UN's operations";
- (d) Include a waiver of subrogation of the Carrier's rights to the insurance carrier against the UN;
- (e) Include an agreement by the insurer(s) that such insurance policies shall be primary, including in respect of any re-insurance, and without any right or obligation of contribution by any insurance policies that may be carried by the UN;
- (f) Provide that the UN shall receive thirty (30) days written notice from the insurers prior to any cancellation or change of coverage and shall further provide that any act or omission of the Carrier affecting a cancellation of its insurance coverage will not apply as against the interests of the United Nations, as an additional insured, under such insurance policies without such thirty (30) day's prior notice to the UN; and,
- (g) Specify the registration number of each Aircraft covered and the amount of third party liability coverage.

8.5 Prior to engaging in any air operations under this Agreement, the Carrier shall deliver to the UN Certificates of Insurance specifying amongst other things territorial limits, and within thirty (30) days following the signing of this Agreement by authorized representatives of both of the Parties, the Carrier shall deliver to the UN a Slip and/or Binder in respect of the insurance policies that the Carrier is required to obtain and maintain in accordance with this Agreement. The Certificates of Insurance required to be delivered to the UN in accordance with this Article 8.5 shall include an endorsement, which indicates that the Carrier has received the benefit of "AVN 2001" and "AVN 52D or 52E" coverage. Promptly after issuance, if not already provided in accordance with this Article 8.5, the Carrier shall deliver to the UN a copy of any endorsement issued by the Carrier's insurance underwriter(s)

confirming the addition of the UN as an insured under such insurance policies. The UN, may at its sole election, require the Carrier to provide any Certificates of Insurance, Slips and/or Binders in accordance with the requirements of this Agreement, either before, during or after applicable periods of coverage.

8.6 The Carrier shall ensure that the air transportation services under this Agreement do not violate the terms and conditions of any insurance policy which is or may be provided by the Carrier hereunder, and that it shall take all measures necessary to avoid any actions which may lead to cancellation or voidance of such insurance policies.

8.7 (a) It is agreed that, in the event that war risk surcharges related to the hull war risk or war risk liability coverage are imposed by the insurer during the term of this Agreement, the Carrier shall immediately inform the UN in writing as to the amount of such surcharges. The UN shall not reimburse costs of war risk liability coverage in excess of the required minimum amount set forth in paragraph 8.2 above.

- (b) It is further agreed that for any such war risk surcharges, the UN will reimburse to the Carrier the actual cost of the insurance paid by the Carrier to the insurance company, provided that such cost is reasonable, has been obtained on the best terms available from the insurer, and the Carrier has made all diligent efforts to obtain all possible rebates or refunds to which the Carrier is entitled in accordance with the insurance coverage, proof of which shall be provided to the UN, and that the Carrier provides the UN with the documentation referred to in Article 3.2 and Article 8.7(c), hereof.
- (c) For purposes of reimbursement under Article 8.7(b), above, the Carrier shall submit to the UN, in addition to its invoices as provided in Article 3.2, hereof, the following documents:
 - (i) a copy of the original invoice(s) of the insurance underwriter(s) setting out a detailed breakdown of the daily war risk surcharges for each flight, if available, the number of such flights, the location covered and
 - (ii) commission(s), together with a letter from the Carrier's broker setting out in full the details of the invoice and the payments required, and the amended Slip and/or Binder confirming the insurance coverage and the war risk surcharges;
 - (iii) proof of payment by the Carrier to the insurance company (e.g., official receipts from the insurance company, proof of payment by cheque or wire transfer), setting out the details of the surcharges and of the relevant insurance policy; and
 - (iv) statement in writing by the Carrier confirming that the Carrier has made all diligent efforts to obtain all possible rebates or refunds, discounts or any lower price adjustments, including but not limited to any applicable no-claim bonuses, to which the Carrier is entitled in accordance with the insurance coverage and stating the amounts of such rebates, refunds, discounts or price adjustments, if any.
- (d) Any rebates, refunds, discounts or any lower price adjustments associated with the war risk surcharges shall be extended to the UN and shall be deducted from the Carrier's invoices. If the Carrier has not deducted such rebates, refunds, discounts or lower price adjustments from its invoices at the time that the Carrier submits such invoices to the UN for reimbursement of the war risk surcharges, the UN reserves the right to deduct the amount of the rebates, refunds, discounts or lower price adjustments from the amounts reimbursed to the Carrier. The UN reserves the right to seek confirmation from independent sources that the war risk insurance has been obtained on the best terms available from the insurer and that all rebates, refunds, discounts or any lower price adjustments associated with the war risk insurance have been extended to the UN. The UN also reserves the right to take appropriate action against the Carrier, including but not limited to suspension from the roster of registered vendors, should the UN ascertain that the Carrier did not obtain the war risk surcharges on the best terms available from the insurer or that the Carrier did not extend any rebate, refunds, discounts or any lower price or adjustment associated with the war risk surcharges to the UN.

Article 9: Clearances

9.1 The Carrier shall be responsible for obtaining authorizations from governmental or other authorities and

other documents necessary for the performance of the transportation under this Charter Agreement.

Article 10: Scheduling of flights

10.1 The flights under this Charter Agreement shall conform to a flight schedule agreed to by the Parties (Annex A). The flight schedule shall specify the dates and times of departure, originating airports, routes, number of passengers and/or total weight of cargo, type of Aircraft, estimated time of arrival.

10.2 The Carrier shall notify the UN of any delay in the performance of the flight(s) and the reasons for such delay.

10.3 If a flight is delayed, the Carrier shall use its best endeavors to provide alternate air transportation and shall bear any increased costs of such alternate air transportation.

Article 11: Facilities for Carrier's Operations (if applicable)

11.1 The Carrier may be provided such facilities as are necessary for the performance of services under this Agreement, as agreed by the Parties and specified in Annex A, hereof. These facilities are provided for the convenience of the Carrier and give rise to no liability on the part of the UN.

Article 12: Fitness

12.1 The UN shall have the right, but not the obligation, to inspect the Aircraft, and any document pertaining thereto, at any time, including upon arrival of the Aircraft at the operating bases, to ensure compliance with the specifications. Should there be, in the opinion of the UN, any deficiency which may affect the safety of the Aircraft and/or its passengers, the UN shall notify the Carrier in writing of the deficiency, and the Carrier, at its sole cost and expense, shall remedy such deficiency without undue delay to the satisfaction of the UN, before tasking commencement. In the event the Carrier is unable to remedy such deficiency to the satisfaction of the UN, the Carrier shall, upon request from the UN, withdraw the Aircraft from the fleet of Aircraft provided under this Agreement. Any failure on the part of the UN to conduct such inspections or to observe any deficiencies shall not relieve the Carrier of any of its obligations hereunder.

12.2 In the event of any cancellation of flights or unavailability of Aircraft during the term of this Agreement due to any act or omission on the part of the Carrier, the UN shall be entitled to a proportionate reduction in both (i) the total price set forth in Article 3.1, hereof as well as (ii) the Payment Schedule contained in Annex B, hereof.

12.3 The UN may request, in writing, withdrawal and replacement of any of the Carrier's crew, maintenance personnel, and any other personnel and sub-contractors performing services under this Agreement. Replacement of any such personnel and sub-contractors shall be provided as quickly as is reasonably possible by the Carrier. All expenses related to the withdrawal or replacement of the Carrier's personnel and sub-contractors shall be borne by the Carrier.

Article 13: Reporting and Accidents

13.1 In the event of any accidents or incidents involving the Aircraft, the Carrier shall immediately report such accidents or incidents to the UN and all appropriate governmental authorities, and shall protect and preserve all evidence in connection with the accidents or incidents. In addition, the Carrier shall cooperate with all investigations into the accidents or incidents which may be instituted by the UN and/or governmental authorities, including the preparation of reports.

Article 14: Notices

14.1 All notices and other communications required or contemplated under this Charter Agreement shall be in

writing and shall be delivered either by: (i) personal delivery; (ii) recognized overnight delivery service; (iii) postage prepaid, return receipt requested certified mail; (iv) electronic telefacsimile which must be confirmed by the addressee within twenty-four (24) hours of receipt by telefacsimile or telegram; or (v) telegram which must be confirmed by the addressee within twenty-four (24) hours of receipt by telefacsimile or telegram, addressed to the party or parties for whom intended at the address shown below or such other address as the intended recipient previously shall have designated by written notice previously given pursuant to this Charter Agreement:

TO THE CARRIER:

Attention:

Telephone: Facsimile: Email:

TO THE UN: UNITED NATIONS

405 East 42nd Street, S-1411

New York, NY 10017

Attention: Director, Procurement Division

Telephone: Facsimile:

WITH COPY TO: UNITED NATIONS

405 East 42nd Street, 14th Floor

New York, NY 10017

Attention: Director, Logistics Division

Telephone: Facsimile:

Notice by certified mail or recognized overnight delivery service shall be effective on the date it is officially recorded as delivered to (or refused by) the intended recipient by return receipt or equivalent. All notices and other communications required or contemplated by this Charter Agreement delivered in person, by telefacsimile, or by telegram shall be deemed to have been delivered to and received by the addressee and shall be effective on the date of actual receipt.

Article 15: Dates and Times of the Essence

15.1 The Carrier recognizes that, given the time constraints for the United Nations peacekeeping missions, the dates and times specified in this Agreement are of the essence.

IN WITNESS THEREOF, the Parties have signed this Charter Agreement No. **PD/CXXX/15**.

Carrier's name

THE UNITED NATIONS

By:

By:

Name:

Name:

Title:

Title:

Date:

Date:

ANNEX C
TO
PD/CXXX/15

**UNITED NATIONS GENERAL CONDITIONS
FOR AIRCRAFT CHARTER AGREEMENTS**

The term “aircraft” herein is used both in the singular and plural tense.

1. Provision of Aircraft and Carrier’s responsibility for employees

- (a) The aircraft provided by the Carrier under this Charter Agreement shall be properly manned, equipped, fuelled and fully insured during the entire term of this Charter Agreement. The Carrier shall be responsible for the professional and technical competence of its employees and will select, for work under this Charter Agreement, reliable individuals who will perform effectively in the implementation of this Contract, respect the local customs, and conform to a high standard of moral and ethical conduct.
- (b) **Sexual Exploitation:** The Carrier represents and warrants that it has taken all appropriate measures to prevent sexual exploitation or abuse of anyone by its employees or any other persons engaged by the Carrier to perform any services under this Charter Agreement. For these purposes, sexual activity with any person less than eighteen years of age, regardless of any laws relating to consent, shall constitute the sexual exploitation and abuse of such person. In addition, the Carrier represents and warrants that it has taken all appropriate measures to prohibit its employees or other persons engaged by the Carrier from exchanging any money, goods, services, or other things of value, for sexual favours or activities or from engaging in any sexual activities that are exploitive or degrading to any person. This provision constitutes an essential term of this Charter Agreement, and any breach of this representation and warranty shall entitle the United Nations to terminate this Charter Agreement immediately upon notice to the Carrier, without any liability for termination charges or any other liability of any kind.

2. Carrier's representations and warranties

The Carrier represents and warrants that:

- (a) all manufacturer's mandatory modifications are complete and the aircraft complies/y with the airworthiness requirements of the country of registry and is/are safe and airworthy and will be so maintained during the Charter Agreement;
- (b) the aircraft is/are fit for the purposes for which it is / they are being chartered;
- (c) the aircraft's crew are qualified, competent and fully licensed in conformity with applicable national and international air navigation laws and regulations; and
- (d) the condition of the aircraft and its/their operation shall conform to applicable national and international air navigation laws and regulations.

3. Tax exemption

Section 7 of the Convention on the Privileges and Immunities of the UN provides, inter-alia, that the UN, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the UN exemption from such taxes, duties or charges, the Carrier shall immediately consult with the UN to determine a mutually acceptable procedure.

Accordingly, the Carrier authorizes the UN to deduct from the Carrier's invoice any amount representing such taxes, duties or charges, unless the Carrier has consulted with the UN before the payment thereof and the UN has, in each instance, specifically authorized the Carrier to pay such taxes, duties or charges under protest. In that event, the Carrier shall provide the UN with written evidence that payment of such taxes, duties or charges has been

made and appropriately authorized.

4. Applicability of Warsaw Convention

- (a) This Charter Agreement shall be governed by the rules relating to liability established by the Convention for the Unification of Certain Rules relating to International Carriage by Air, signed at Warsaw, Poland, on October 12, 1929, as amended by the Hague Protocol of 1955 (At the Warsaw Convention).
- (b) Notwithstanding the provisions of paragraph (a), above, the Carrier agrees to increase the limits of its liability for death or bodily injury to \$135,000 per passenger and the Carrier agrees that, during the term of this Charter Agreement, it shall arrange and maintain, at its own cost, comprehensive insurance sufficient to cover its liability under this paragraph and as provided in the Basic Charter Agreement.
- (c) The Carrier shall take all measures required to enable it to invoke the limitation of liability provided for in the Convention and paragraph (b), above. In particular, the Carrier shall not permit any passenger to be carried unless such passenger has been issued a passenger ticket in accordance with Article 3 of the Warsaw Convention.

5. Utilization of excess aircraft space

Space, including cargo and/or passenger space, which is not utilized by the UN, shall not be utilized by the Carrier. If, notwithstanding the aforementioned prohibition, the Carrier utilizes such space, the UN shall be entitled, without prejudice to any other rights it may possess, to receive from the Carrier a reduction in the price equal to the rates normally charged by commercial carriers for such use of the space.

6. Cancellation by the Carrier

- (a) The aircraft shall be at all times under the exclusive control of the Carrier. The Carrier may cancel, delay or abort a flight should the pilot in command determine that to fly would in the circumstances endanger the safety of the passengers, aircraft or its crew.
- (b) In case a flight is cancelled, delayed or aborted, as provided in paragraph (a) above, the Carrier shall be entitled to payment from the UN, on a pro-rata basis, in respect only of flights, or portions of the flight already completed prior to the decision to cancel, delay or abort such flight.
- (c) In the event that the Carrier decides to cancel, delay or abort a flight for any other reasons not directly attributable to the UN, including but not limited to reasons of operational difficulties, technical failure of the aircraft, or unavailability of aviation fuel, the Carrier shall not, except where alternate air transportation has been provided by the Carrier, be entitled to payment from the UN for that flight, and where payment has already been made, the UN shall be entitled to full reimbursement of any amounts paid plus the reasonable expenses incurred by the UN as a result of such decision.

7. Cancellation by the UN

- (a) The UN may, subject to the conditions below, cancel any flight covered by this Charter Agreement by giving notice of cancellation to the Carrier:
 - (i) If such notice of cancellation is given more than seven (7) days before the scheduled departure of the flight, the UN shall not be subject to any cancellation penalty and the Carrier shall not be entitled to any part of the contract price attributable to that scheduled flight.
 - (ii) If such notice of cancellation is given less than seven (7) days prior to the scheduled departure of the flight, but more than forty-eight (48) hours before the scheduled departure, the Carrier shall be entitled to retain as liquidated damages ten percent (10 %) of that part of the contract price attributable to that flight.
 - (iii) If such notice of cancellation is given less than forty-eight (48) hours prior to the scheduled departure of the flight, the Carrier shall be entitled to retain as liquidated damages ten percent (10 %) of that part of the Charter price attributable to that flight and the Carrier's reasonable and unavoidable expenses

occasioned by the cancellation, provided that the Carrier has not dispatched the aircraft earlier than necessary to perform the flight.

- (b) The UN may request the Carrier to make a routing change or to delay a flight. In such cases the UN shall reimburse the Carrier for any reasonable additional flying hours and services required to effect the routing change or to accommodate the delay.

8. Termination of the Charter Agreement

- (a) Either Party may terminate this Charter Agreement for cause upon seven (7) days written notice to the other Party, which notice shall be provided in accordance with Article 14 of the Basic Charter Agreement. In the event of termination pursuant to this clause, no costs relating to termination shall be reimbursable by the terminating Party to the other Party. The initiation of arbitral proceedings in accordance with Article 16 (b) "Arbitration" below shall not be deemed a termination of this Agreement, provided, however, that in the event of termination by the UN pursuant to this clause, the UN shall be entitled to a proportionate reimbursement by the Carrier of the positioning costs paid to the Carrier and a proportionate reduction of the Carrier's depositioning costs.
- (b) Either Party may terminate this Charter Agreement, in whole or in part, upon thirty (30) days written notice to the other Party, which notice shall be provided in accordance with Article 14 of the Basic Charter Agreement. In the event of termination pursuant to this clause, the UN shall only be responsible for payment to the Carrier for services satisfactorily performed in accordance with this Agreement prior to the effective date of termination. In the event of termination by the Carrier, the UN shall be entitled to reimbursement by the Carrier for all reasonable costs relating to such termination, including, without limitation, any additional costs incurred to obtain a substitute aircraft. In the event of partial termination, the price shall be proportionately reduced.
- (c) The UN may also terminate this Charter Agreement at any time should the mandate or the funding of the mission relating to this Charter Agreement be curtailed or terminated, in which case the Carrier shall be entitled to reimbursement by the UN for all reasonable costs relating to such termination.

9. Forward Commitments

The Carrier shall, upon receipt of notice of termination of the Charter Agreement under paragraph 8 above, bring the Charter Agreement to a close in a prompt and orderly manner and reduce all expenses to a minimum and shall not undertake any forward or further commitments in connection with the Charter Agreement.

10. Assignment

The Carrier shall not assign, transfer, pledge or make other disposition of this Charter Agreement, or any part thereof, or any of the Carrier's rights, claims or obligations under this Charter Agreement, except with the prior written consent of the UN.

11. Insolvency

Should the Carrier be adjudged bankrupt, or be liquidated or become insolvent, or should the Carrier make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency of the Carrier, the UN may, without prejudice to any other right or remedy it may have under the terms of these conditions, terminate this Agreement forthwith. The Carrier shall immediately inform the UN of the occurrence of any of the above events.

12. Modification to Charter Agreement

Pursuant to the Financial Regulations and Rules of the UN, only the Procurement Division in New York possesses the authority to agree on behalf of the UN to any modification of or change in this Charter Agreement, to a waiver of any of its provisions or to any additional contractual relationship of any kind with the Carrier. Accordingly, no modification or change in this Charter Agreement shall be valid and enforceable against the UN unless provided by a written amendment to this Charter Agreement signed by the Carrier and the Chief of the

Procurement Division or officials delegated authority for this purpose.

13. Prohibition against advertising; use of name, emblem or official seal of the UN

The Carrier shall not advertise or otherwise make public that the Carrier is chartering aircraft or providing services to the UN, nor shall the Carrier, in any other manner whatsoever, use the name, emblem or official seal of the UN, or any abbreviation of the name of the UN in connection with its business or otherwise.

14. Confidentiality

- (a) All documents and all other data compiled by or received by the Carrier under this Charter Agreement shall be the property of the United Nations, shall be treated as confidential and shall be delivered only to United Nations authorized officials on completion of work under this Charter Agreement.
- (b) The Carrier may not communicate at any time to any other person, Government or authority external to the UN, any information known to it by reason of its association with the UN which has not been made public except with the prior written authorization of the UN; nor shall the Carrier at any time use such information to private advantage. These obligations do not lapse upon termination of this Agreement.

15. Officials not to benefit

The Carrier warrants that no official of the UN has received or will be offered by the Carrier any direct or indirect benefit arising from this Charter Agreement or the award thereof. The Carrier agrees that breach of this provision is a breach of an essential term of this Charter Agreement.

16. Settlement of Disputes

(a) Amicable Settlement

The Parties shall use their best efforts to amicably settle any dispute, controversy, or claim arising out of the Charter Agreement or the breach, termination, or invalidity thereof. Where the Parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the Conciliation Rules of the United Nations Commission on International Trade Law ("UNCITRAL") then obtaining, or according to such other procedure as may be agreed between the Parties in writing.

(b) Arbitration

Any dispute, controversy, or claim between the Parties arising out of the Charter Agreement or the breach, termination, or invalidity thereof, unless settled amicably under Article 16.1, above, within sixty (60) days after receipt by one Party of the other Party's written request for such amicable settlement, shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The decisions of the arbitral tribunal shall be based on general principles of international commercial law.

For all evidentiary questions, the arbitral tribunal shall be guided by the Supplementary Rules Governing the Presentation and Reception of Evidence in International Commercial Arbitration of the International Bar Association, 28 May 2013 edition. The arbitral tribunal shall be empowered to order the return or destruction of goods or any property, whether tangible or intangible, or of any confidential information provided under the Charter Agreement, order the termination of the Charter Agreement, or order that any other protective measures be taken with respect to the goods, services or any other property, whether tangible or intangible, or of any confidential information provided under the Charter Agreement, as appropriate, all in accordance with the authority of the arbitral tribunal pursuant to Article 26 ("Interim Measures of Protection") and Article 32 ("Form and Effect of the Award") of the UNCITRAL Arbitration Rules. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in the Charter Agreement, the arbitral tribunal shall have no authority to award interest in excess of the London Inter-Bank Offered Rate ("LIBOR") then prevailing, and any such interest shall be simple interest only. The parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim.

17. Privileges and Immunities

Nothing in or relating to this Charter Agreement shall be deemed a waiver, express or implied, of any of the privileges and immunities of the UN, including its subsidiary organs.

18. Force Majeure

- (a) In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Carrier shall give notice and full particulars in writing to the UN, of such occurrence or change if the Carrier is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Charter Agreement. The Carrier shall also notify the UN of any other changes in conditions or the occurrence of any event which interferes or threatens to interfere with its performance of this Charter Agreement. On receipt of the notice required under this Article, the UN shall take such action as, in its sole discretion, it considers to be appropriate or necessary in the circumstances, including the granting to the Carrier of a reasonable extension of time in which to perform its obligations under this Charter Agreement.
- (b) If the Carrier is rendered permanently unable, wholly, or in part, by reason of force majeure to perform its obligations and meet its responsibilities under this Agreement, the UN shall have the right to suspend or terminate this Agreement on the same terms and conditions as are provided for in Article 8, "Termination", except that the period of notice shall be seven (7) days instead of thirty (30) days.
- (c) Force majeure as used in this Article means acts of God, war (whether declared or not), invasion, revolution, insurrection, or other acts of a similar nature or force.
- (d) Notwithstanding anything to the contrary in this Charter Agreement, the Carrier recognizes that the services under this Charter Agreement may be performed under harsh or hostile conditions caused by civil unrest. Consequently, delays or failure to perform caused by events arising out of, or in connection with, such civil unrest shall not, in and of itself, constitute force majeure under this Charter Agreement.

19. Title to Equipment

Title to any equipment and supplies that may be furnished by the UN shall rest with the UN and any such equipment shall be returned to the UN at the conclusion of this Charter Agreement or when no longer needed by the Carrier. Such equipment, when returned to the UN, shall be in the same condition as when delivered to the Carrier, subject to normal wear and tear. The Carrier shall be liable to compensate the UN for equipment damaged or degraded beyond normal wear and tear.