

**AIRCRAFT CHARTER AGREEMENT  
CONTRACT SUMMARY**

UNITED AIRLINES, INC.  
CHARTER DEPARTMENT  
1600 SMITH ST. HQSSK  
HOUSTON, TX 77002

This Agreement is made between United Airlines, Inc. ("United") and the Charterer designated below. Both parties mutually agree that, subject to the provisions below, the Terms and Conditions hereof, and any Endorsements attached hereto, Charterer shall purchase from United charter air transportation as described herein:

1 CONTRACT #19031/TAMU PO AB0446860  
2 CHARTER TYPE Single Entity  
3 AIRCRAFT TYPE See Flight Schedule

9 CHARTER SCHEDULE  
SEE ENDORSEMENT ONE  
10 CHARTER PRICE  
SEE ENDORSEMENT ONE

Charter payment shall be paid to United by check and should reference the Contract Number. See Item 1.

4 DATE OF ISSUE 08 May 2019  
5 CHARTERER ADDRESS Texas A&M University  
Soccer  
3153 TAMU  
College Station, TX 77843

United Airlines, Inc. - Charters  
Attn: Lydia Murphy – Non Trans Billing  
609 Main St, 12th Floor HSCAC  
Houston, TX 77002

6 PASSENGER SEATS AVAILABLE See Flight Schedule  
7 PAYLOAD See Flight Schedule  
(PASSENGER, BAGGAGE, CARGO)

TRANSFER INSTRUCTIONS  
JP Morgan Chase Bank - New York, N.Y.  
A.B.A. # 021000021  
Account: 51-67795  
Beneficiary: United Airlines Special Account  
Reference: Charter Contract # (see item 1)

8 CATERING Standard NCAA Catering  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11 MANIFEST Due 48 hours prior to operation  
12 MANIFEST CONTENTS Last name, first name, equipment

13 THIS CONTRACT IS VOID IF NOT RETURNED WITHIN TWO WEEKS FROM DATE OF ISSUE

TEXAS A&M UNIVERSITY

UNITED AIRLINES, INC.

BY \_\_\_\_\_  
ROBERT C. BOUNDS  
DIRECTOR, PROCUREMENT SERVICES

BY \_\_\_\_\_  
MICHAEL O'BRIEN  
DIRECTOR, CHARTERS

DATE 17 MAY 2019

DATE 6/18/19

**AIRCRAFT CHARTER AGREEMENT  
TERMS AND CONDITIONS**

**1. TERM.**

A. The term of this Aircraft Charter Agreement (together with the preceding "**Contract Summary**," this "**Agreement**") shall commence upon the execution hereof and continue until completion of the last Charter Flight (as defined in Section 2.A) as set forth in the flight schedule (the "**Flight Schedule**") included in the Contract Summary.

B. Upon the effective date of the expiration or other termination of this Agreement for any reason, all amounts due from Charterer to United hereunder shall be paid to United.

C. In no event shall any expiration or termination of this Agreement affect the rights and obligations of the respective parties hereto arising prior to such expiration or termination whether asserted before or after such expiration or termination.

**2. OPERATION.**

A. United agrees to make available to Charterer and Charterer agrees to charter from United, an aircraft to conduct the flights described and in accordance with the Flight Schedule (each, a "**Charter Flight**"). United will provide all flight crews required to operate the aircraft for the Charter Flights.

B. Charterer understands and agrees that all Charter Flights will be operated subject to the terms and conditions of this Agreement, applicable laws and regulations and the rules and regulations issued by the Federal Aviation Administration ("**FAA**") and the U.S. Department of Transportation ("**DOT**") that may be applicable to the operation of the Charter Flights, including but not limited to applicable flight time/duty time restrictions, airport limitations and, with respect to Public Charters (as defined in Section 6.B), the Charter Regulations (as defined in Section 6.A). Charterer further understands and agrees that United, together with or independent of the pilot-in-command, shall have absolute discretion in all matters concerning the preparation of the aircraft for flight and the flight itself, including but not limited to the load carried and its distribution, the decision whether or not a flight shall be undertaken, passenger boarding times, the route to be flown and all matters relating to the operation of the aircraft. Charterer specifically agrees that United, together with or independent of the pilot-in-command, shall have final and complete authority to cancel any flight for any reason or condition which in its sole judgment could compromise the safety of flight and may take any other action which in the sole judgment of the airline or the pilot-in-command is necessitated by consideration of safety. The time of boarding and departure for all Charter Flights shall be determined by United and is subject to aircraft routing, gate space, weather conditions and other operational factors. In the event that United or its flight crew, in their sole discretion, determine that they are unable or it is unsafe to operate a particular Charter Flight, United will use commercially reasonable efforts to secure substitute transportation for the same day, or, if none is reasonably available, as soon as practicable. No action of United or any of its flight crew taken under this Section 2.B shall create or support any liability for loss, injury, damage or delay to Charterer or any person.

C. In the event the action or inaction of Charterer or Charterer's agents, passengers or contractors causes a Charter Flight to be delayed, United shall have the sole and absolute discretion to determine when the aircraft shall depart, and Charterer agrees, to the extent permitted by the Constitution and laws of the State of Texas, to indemnify and hold United harmless from and against any loss, cost, damage or expense paid or incurred by Charterer as a result of such delay.

D. United and/or the pilot-in-command, in their sole discretion, shall have the right to refuse boarding to any person: (i) who appears to be intoxicated or under the influence of any illicit or controlled substance or any drug; (ii) who refuses to be subject to any reasonable checks of his person or baggage deemed by United, or government or airport authorities, as in the best interests of security; (iii) who is unwilling or unable to comply with the document requirements as described in Section 13.C hereof, (iv) whose condition could involve hazard or risk to himself or others; or (v) when such action is necessary to comply with any governmental regulation or governmental request for emergency transportation in connection with the national defense, and to the extent permitted by the Constitution and laws of the State of Texas, United shall incur no liability for exercising such right nor be required to refund any charges paid by the Charterer or such passenger in connection with the refusal.

E. United expressly reserves the right to substitute aircraft for any Charter Flight, provided such substitute aircraft can accommodate all passengers that would have been flown on the aircraft for which the substitution is being made. United, in its sole discretion, may also subcontract the performance of any Charter Flight to another U.S. certificated air carrier, provided that any subcontract arrangement does not result in an increase in the Charter Price (as defined in Section 4.B).

F. United retains the right to restrict the number of available seats on any Charter Flight to fulfill the requirements of its labor contracts and/or to provide seating for United personnel whose travel on the flight is directly related to the charter operation. Charterer understands that the number of seats available to the Charterer (net of the requirements in this Section 2.F) is set forth in the Flight Schedule included in the Contract Summary. Charterer further agrees that the Charter Price is based on the total number of seats installed in the aircraft and will not be adjusted should United exercise its right to restrict seats under this Section 2.F

**3. GOVERNMENT APPROVALS AND ACCESS TO FACILITIES.**

United's obligations to operate any Charter Flight shall be contingent upon access to departure and landing slots, ticket counters and other facilities acceptable to United, the timely issuance of such approvals, clearances, permits and operating authority as may be required to be issued or granted by any government or governmental agency for the operation of the Charter Flights, and the ability to obtain fuel at commercially reasonable terms. In the event that access to such departure and landing slots, ticket counters and other facilities is not available, that any government or governmental agency shall fail or refuse to issue or grant such approvals, clearances, permits, operating authority sufficiently in advance of scheduled departure to make required flight arrangements or shall, after issuance, revoke or rescind the same, or that United is unable to secure fuel at commercially reasonable terms, United may elect to cancel the affected Charter Flight(s) without liability for loss, injury, damage or delay to Charterer or any person, or terminate this Agreement.

**4. CHARTER PRICE.**

A. United shall be responsible for, and bear all costs of providing the Charter Flights described and provided for in this Agreement, including required aircraft, crews, equipment and facilities, personnel, ground costs, deicing, fuel and ferrying.

B. Charterer shall pay to United the amount (the "**Charter Price**") for each Charter Flight as indicated on the payment schedule (the "**Payment Schedule**") included in the Contract Summary in accordance with Section 5 hereof. Except as specified in Section 4.C, the Charter Price includes all airport departure and arrival charges and taxes or governmental fees, including, but not limited to U.S. international arrival and departure taxes, INS user fees, APHS passenger user fees, customs user fees, September 11<sup>th</sup> security fees, and passenger facility charges that may be owed in connection with the Charter Flights (collectively, "**Travel Taxes**") based on the passenger count indicated in the Payment Schedule.

C. With respect to Public Charters or any other Charter Flights for which Travel Taxes are not included on the Payment Schedule, which may include but not be limited to local departure taxes, Charterer shall be solely responsible for, and to the extent permitted by the Constitution and laws of the State of Texas, indemnify, defend and hold United harmless against any claim, damage, loss or expense relating to the collection and payment of all Travel Taxes.

D. Any material deviation from the Flight Schedule or terms thereof through the action or inaction or at the request of Charterer may involve a change in the Charter Price, the amount of such change to be determined solely by United. Charterer acknowledges it shall also be responsible for re-crewing charges should any such action, inaction or request made by the Charterer cause United to replace any member of the flight crew for any Charter Flight. Re-crewing charges will be determined solely by using United's then-current crew pay rates.

E. United and Charterer acknowledge and agree that, unless the parties have otherwise expressly agreed in writing, the Charter Price is not subject to a fuel surcharge. United and Charterer further acknowledge and agree that the pricing included in this Agreement is "all-in" and is not subject to reconciliation.

## **5. PAYMENT.**

A. All amounts due from Charterer to United under this Agreement shall be denominated in U.S. currency and paid in immediately available funds via wire transfer as indicated on the Contract Summary. Any forms of payment other than wire transfer must be approved in advance by United in writing.

B. Charterer agrees to pay the full amount of the Charter Price to United or its authorized agent in accordance with the Payment Schedule. United shall advise Charterer as soon as practicable of any Travel Taxes levied against United which are the responsibility of the Charterer and which are not specifically included in the Charter Price. Charterer shall pay to United the full amount of any such Travel Taxes within five (5) business days of receipt of an invoice therefor.

C. Upon execution of this Agreement, Charterer shall pay to United the deposit amount indicated in the Payment Schedule as a "**Security Deposit.**" Charterer agrees that in the event Charterer fails to make any payment required pursuant to the terms of this Agreement, United shall have the right thereafter, without further notice or action, to apply the Security Deposit to any and all unpaid obligations of Charterer hereunder and to terminate this Agreement.

## **6. COMPLIANCE WITH CHARTER REGULATIONS.**

A. United and Charterer, and their respective agents, passengers and contractors shall be deemed to have notice of, and shall comply in all applicable respects with, Title 14 of the Code of Federal Regulations ("**CFR**") Parts 208, 212, 380 and 399 and any policy statements issued in connection therewith, and all other applicable laws, rules, and regulations promulgated by DOT (collectively the "**Charter Regulations**"). To the extent applicable, the Charter Regulations shall govern the relations between the parties notwithstanding any provision of this Agreement. Charterer acknowledges it has in its possession a copy of and is familiar with the Charter Regulations in effect the date hereof.

B. With respect to Charter Flights conducted as part of a public charter program under Part 380 of the Charter Regulations ("**Public Charters**"), United and Charterer shall cooperate and coordinate with each other in preparing the public charter prospectus(es) required thereby and any other documentation or information as may be required by the Charter Regulations. Charterer shall bear sole responsibility for submitting such prospectus(es) and documentation to, and obtaining approval thereof from, DOT and shall cause any travel agent, tour operator, or other principal or agent involved with the Charter Flights to provide any information or certification required by DOT in connection therewith.

C. In the event that Charterer or any passenger or prospective passenger on any Charter Flight has failed or fails to observe such Charter Regulations, United shall have the power and right at its sole option, to cancel the Charter Flight(s) or to refuse to board any of the passengers or prospective passengers for such Charter Flight without any liability or penalty against United of any kind. To the extent permitted by the Constitution and laws of the State of Texas, Charterer agrees to indemnify and hold United harmless from and against any loss, cost or expense paid or incurred by United as a result of the failure of Charterer or Charterer's agents, passengers or contractors to comply with the Charter Regulations.

## **7. BAGGAGE LIMITATIONS.**

A. United shall issue and deliver to each passenger for each item of baggage accepted by United at check-in for transportation on the Charter Flight, its standard applicable form of baggage check.

B. The maximum payload of the aircraft is set forth on the Contract Summary. United will determine, in its sole discretion, the amount of baggage each passenger may carry based upon the maximum payload, the number of passengers on each flight, and the size and weight of the baggage. Charterer agrees that the amount of baggage depends upon the space and weight limitations of the aircraft and that United shall not be liable or responsible for baggage that cannot be transported because of these limitations.

C. United will accept for transportation as baggage such personal property as is necessary or appropriate for the wear, use, or convenience of the passenger for the purposes of the Charter Flight, subject to the following conditions: (i) United may refuse to accept baggage for transportation on any flight other than the one on which the passenger is to be transported; (ii) United may refuse to transport or may remove at any point any baggage which the passenger refuses to allow United or any governmental agency to examine; and (iii) checked baggage is limited to suitcases that do not exceed 62" and 55" respectively in overall length, width and height per passenger. Acceptability of carry-on luggage for storage in the cabin is dependent on the weight and size of the item. Carry-on property that cannot be stored under the seat (8" x 13" x 22") will be taken and stored as checked baggage at the passenger's risk.

D. United will have the right to refuse to accept the following articles for transportation unless advance written arrangements have been made: (i) any articles which cause annoyance to passengers or which cannot be carried in the baggage or cargo compartments of the aircraft; (ii) liquids, unless appropriately packaged in an original factory-sealed carton, cardboard mailing tube, or container or case designed for shipping such items or packed with protective internal material; (iii) any article listed in the Official Air Transport Restricted Articles Tariff and revisions thereto or reissues thereof, issued by the Airline Tariff Publishing Company, unless in conformity with the above named tariff; (iv) perishable or fragile items (including electronic, musical, ornamental, artistic, photographic, recreational, sporting and mechanical items); (v) items made of or bottled in glass; items of paper, (vi) any other articles not suitable, or not suitably packed, for transportation in the aircraft; (vii) any animals, other than (subject to compliance with applicable laws) documented service animals; (viii) any firearms or ammunition; and (ix) hazardous materials.

E. Additional requirements and United's liability for lost, stolen, misplaced or damaged baggage is limited as set forth in United's Contract of Carriage, a copy of which is available at: <https://www.united.com/web/en-US/content/contract.aspx> and incorporated herein, which Contract of Carriage may be updated from time to time or at any time.

## **8. LIMITATIONS OF LIABILITY AND INDEMNIFICATION.**

A. Except as otherwise provided herein and to the extent permitted by the Constitution and laws of the State of Texas, each party will indemnify and hold harmless the other party and its directors, officers, employees, agents and subcontractors from and against all liabilities, damages, losses, claims, suits, judgments, costs, and expenses directly incurred by the other party as the result of any claims by third parties that arise out of or in connection with any products or services received from or supplied by the indemnifying party in connection with this Agreement. The indemnified party has no right under this Section 8 to seek indemnification for claims that arise out of such party's gross negligence or willful misconduct.

B. To the extent permitted by the Constitution and laws of the State of Texas, Charterer shall indemnify and hold harmless United from all liability, damage, expense, or loss caused by or arising out of any act or omission of the Charterer or its passengers which results in a breach or violation of any applicable rules or regulations approved or issued by United or any governmental agency.

C. Charterer shall be responsible for all damage to the aircraft used for the Charter Flight and other property of United caused by Charterer or its passengers in connection with the Charter Flight, excepting reasonable wear and tear.

D. This Agreement shall be subject to 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, October 12, 1929, as amended by the Protocol signed at the Hague, September 28, 1955, and in accordance with the terms of the Montreal Agreement, dated May 16, 1966, and/or the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Montreal, Canada, May 28, 1999, as applicable, unless the carriage provided for herein is not "International Carriage" as defined by such conventions. United reserves all defenses available under such conventions and, with respect to third parties, United reserves all rights of recourse against any other persons, including, without limitation, rights of contribution and indemnity.

E. Neither party is relieved of any liability or other obligations assumed pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.

F. TO THE EXTENT PERMITTED BY THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, IN NO EVENT SHALL UNITED BE LIABLE TO CHARTERER OR TO ANY OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

## **9. CANCELLATION CHARGES.**

A. In the event that (i) any Charter Flight(s) are cancelled at the request of Charterer or by United under Section 6.C of this Agreement or (ii) this Agreement is terminated as set forth in Section 10.E of this Agreement, Charterer agrees to pay United, as liquidated damages (but not as a penalty), a cancellation charge with respect to each cancelled Charter Flight to be computed as follows. When the cancellation occurs (i) more than sixty (60) days before the Charter Flight is to commence from the point of origin as set forth in the Flight Schedule, the cancellation charge for such Charter Flight shall be twenty-five percent (25%) of the Charter Price (less applicable Travel Taxes) therefor; (ii) at least seven (7) days but not more than sixty (60) days before such Charter Flight is to commence from the point of origin as set forth in the Flight Schedule, the cancellation charge shall be fifty percent (50%) of the Charter Price (less applicable Travel Taxes) therefor; or (iii) less than seven (7) days before such Charter Flight is to commence from the point of origin as set forth in the Flight Schedule, the cancellation charge shall be one-hundred percent (100%) of the Charter Price (less applicable Travel Taxes) therefor; provided, however, that such cancellation shall not relieve Charterer of its obligation to pay United for any services already provided (or for additional costs incurred by United as a result of such cancellation) in relation to such Charter Flight(s) under the terms of this Agreement.

B. The cancellation charges set forth in Section 9 of this Agreement shall immediately become due and payable at the time of such cancellation in accordance with Section 5 hereof, unless full payment for the affected Charter Flights has already been received by United in which case the balance (if any) of the payment less the applicable cancellation fees shall be refunded to Charterer within ten (10) business days.

C. The cancellation charges shall not apply: (i) if the cancellation results from Force Majeure (as defined in Section 15); or (ii) in the event that United cancels a Charter Flight pursuant to Sections 2.B or 3 hereof, in which case United shall refund the Charter Price excepting only that portion thereof attributable to the transportation already performed and such transportation as may be necessary to return charter passengers to their origination airport. As it relates to Public Charters, United will assume expenses incurred for all charter passengers as a result of an improper cancellation, delay or interruption of a Charter Flight to the extent required under the Charter Regulations.

## **10. TERMINATION.**

A. Except as otherwise provided in this Section 10, either party may, in addition to the exercise of any rights that it may have at law, in equity, and/or under this Agreement, terminate this Agreement upon written notice if the other party fails to perform any of its obligations hereunder and such failure continues unremedied for a period of five (5) days following the receipt by the non-performing party of the written notice of such non-performance.

B. If this Agreement is terminated by United as provided in Section 5.C, such termination shall be effective upon Charterer's receipt of notice thereof.

C. Either party may terminate this Agreement, upon ten (10) days written notice, without further liability to any other party in the event Force Majeure causes the continued performance under this Agreement to be impossible or impracticable.

D. Either party may terminate this Agreement without cause upon sixty (60) days written notice to the other party.

E. If this Agreement is terminated by (i) United pursuant to Section 5.C or 10.A of this Agreement or (ii) Charterer pursuant to Section 10.D of this Agreement, Charterer will, in addition to amounts for services that have already been provided, be responsible to pay to United the cancellation charges set forth in Section 9 with respect to each Charter Flight remaining on the Schedule as of the date the termination occurs.

## **11. ADVERTISING AND MARKETING.**

A. Except as otherwise provided in Section 11.B or, as it relates to Public Charters, as expressly permitted by the Charter Regulations, Charterer shall not engage in any form of advertising, marketing or solicitation with respect to the Charter Flights, or otherwise hold out, directly or indirectly, the sale or resale of air transportation in relation thereto.

B. With respect to Public Charters, Charterer shall be solely responsible for marketing and selling the Charter Flights and agrees that it will not use United's name in any advertisements or other solicitation materials prepared in connection with the Charter Flights herein contracted for without first obtaining from United its specific prior written approval, except that Charterer shall comply with Title 49 of the United States Code ("U.S.C.") § 41712, any policy statements issued in connection therewith, and the Charter Regulations, and shall identify United as the direct air carrier in any such advertisements or other solicitation materials.

C. Charterer further acknowledges that it shall be solely responsible to charter passengers for furnishing any services (other than air transportation) relating to the Charter Flights, including but not limited to any arrangements for hotel accommodations, tours and/or land travel set forth

in the prospectuses or any solicitation material distributed in connection with Public Charters. In the event that a travel company or other entity provides any such services, such company or other entity shall act solely as a representative of Charterer and not of United.

D. Charterer understands and agrees that it may not use or reference United's loyalty and recognition program, Mileage Plus, with respect to its Charter Flights or with respect to any advertisement of Public Charters. Charterer acknowledges that unless expressly provided for elsewhere in this Agreement, no Mileage Plus miles (or equivalent currency) or any other benefits in the Mileage Plus Program will be earned by, or accrue to, or apply to Charterer or any of its passengers on any Charter Flight under this Agreement.

**12. UNUSED SPACE.**

United will not use any unused space on any of the Charter Flights for the transportation of cargo or for the transportation of United personnel on company business, unless the travel is related to the charter operation, or unless the Charterer otherwise consents to United's use of such unused space. United, at its option, may permit the use of any unused space on any positioning flight for the transportation of passengers or cargo.

**13. MANIFEST AND DOCUMENT REQUIREMENTS.**

A. Charterer shall furnish United with a pre-departure passenger and, if applicable, cargo/equipment manifest in accordance with the Contract Summary. Such manifest(s) shall be provided to United using the form specified by United no later than the due date provided on the Contract Summary with respect to each Charter Flight.

B. With respect to Public Charters, Charterer shall issue and deliver to passengers a document outlining flight information with respect to each Charter Flight, which shall be approved in advance by United in writing. PRIOR TO EVERY CHARTER FLIGHT, CHARTERER MUST ALSO PROVIDE EACH PASSENGER WITH WRITTEN NOTICE OF UNITED'S RULES, CONTRACT OF CARRIAGE AND LIMITATIONS OF LIABILITY, THE FORM OF SUCH NOTICE TO BE APPROVED IN ADVANCE BY UNITED IN WRITING. TO THE EXTENT PERMITTED BY THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, CHARTERER SHALL INDEMNIFY UNITED FOR ALL, CLAIMS, COSTS, LIABILITIES, DAMAGES AND LOSSES RESULTING FROM A FAILURE TO PROVIDE SUCH NOTICE.

C. In addition to its other responsibilities under this Agreement, Charterer shall ensure that passengers on the Charter Flights comply with government travel requirements, including Department of Homeland Security and other U.S. passenger identification requirements. Charterer shall be responsible for obtaining all necessary travel documents and for complying with the laws of any country from, through, or to which it desires transportation and, unless applicable laws provide otherwise, shall, to the extent permitted by the Constitution and laws of the State of Texas, indemnify United for any loss, damage or expense suffered or incurred by United by reason of Charterer's failure to do so. To the extent permitted by the Constitution and laws of the State of Texas, United shall not be liable for any aid or information given by its agents, servants or employees to Charterer or any charter passenger in connection with obtaining such documents or complying with such laws, whether given orally or in writing, or otherwise, or for the consequences to Charterer or passengers resulting from their failure to obtain such documents or to comply with such laws.

**14. INSURANCE.**

United shall obtain and maintain, for the duration of this Agreement the minimum insurance coverage set forth below. All coverage shall be underwritten by companies authorized to do business in the State of Texas or of recognized responsibility within the Aviation industry.

**Coverage**

**Limit**

**A. Worker's Compensation**

Statutory Benefits (Coverage A)  
Employers Liability (Coverage B)

Statutory  
\$1,000,000 Each Accident  
\$1,000,000 Disease/Employee  
\$1,000,000 Disease/Policy Limit

**B. All-Risks Aviation Liability** including premises liability, operation of licensed vehicles and mobile equipment on airport premises, war risk and other perils, products and completed operations, personal injury, and contractual liability in an amount not less than \$100,000,000 combined single limit per occurrence, except for war risk and other perils and products liability which are subject to an annual aggregate, which insurance may be provided by a combination of primary and umbrella coverages, covering all liability arising out of any bodily injury (including death of any person) and any damage to (including destruction of) property;

**Endorsements**

Liability coverage required herein will be endorsed to name Charterer, and its employees, agents, students, and representatives additional insureds ("Additional Insured") (will not apply to Workers' Compensation and Employer's Liability) to the extent of the contractual obligations assumed by United under this Agreement, provide that United's insurance will be primary without right of contribution by Additional Insureds insurance, provide cross liability and severability of interest clauses. In addition, United shall cause Charterer to receive thirty (30) days prior written notice of cancellation or adverse material change of any such policy of insurance. Evidence of insurance verifying the existence and actual limits of all insurance after the execution and delivery of this Agreement and prior to the performance of any services by United under this Agreement. Additional evidence of insurance will be provided verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

United is responsible to pay any deductible or self-insured retention for any loss.

Certificates of Insurance as required by this Agreement will be mailed, faxed, or emailed to the following Charterer contact:

Name:	Texas A&M University, Department of Contract Administration ATTN: Executive Director
Address:	1182 TAMU College Station, TX 77843-1182
Facsimile Number:	(979) 862-7130
Email Address:	<a href="mailto:contracts@tamu.edu">contracts@tamu.edu</a>

#### 15. FORCE MAJEURE.

A. The term "**Force Majeure**" as hereby employed shall mean any event commencing following the date hereof which is not reasonably within the control of the parties hereto and which would prevent a party from fulfilling its obligation under this Charter Agreement, including, but not limited to, the following: laws, regulations, requirements, rules, acts, demands, orders, interpositions or interferences of any government or governmental authority, acts of God, sanction (financial or otherwise), seizure under legal process, hijacking, riots, terrorism, civil commotions, strikes or labor stoppage, fire, fog, smog, flood, weather, inability to obtain fuel at commercially reasonable prices, quarantines, military emergency, war, civil commotion strikes, labor disputes, rebellion, insurrections, hostilities or hazards or dangers incident thereto, damage or accident to or failure, mechanical difficulties or breakdown of the aircraft or any part thereof or any machinery or apparatus in connection therewith, failure or refusal by any governmental authority to issue approvals, clearances, permits, operating, layover or traffic rights, for which timely application was made, or the rescission, suspension or revocation thereof.

B. If United or Charterer is rendered unable, wholly or in part, by Force Majeure to carry out its obligations under this Agreement, other than with respect to the payment of money, the party that is unable to perform (the "**Canceling Party**") shall be entitled to cancel, with such notice to the other party as is reasonable under the circumstances, the Charter Flights affected by Force Majeure without being subject to or responsible for any penalties or damages for such cancellation. Furthermore, the obligations of Canceling Party (other than with respect to the payment of money), insofar as they are affected by Force Majeure, shall be suspended during the continuance of the Force Majeure. Either United or Charterer may terminate this Agreement, upon ten (10) days written notice, without further liability to any other party in the event Force Majeure causes the continued performance of this Agreement to be impossible or impracticable.

#### 16. MISCELLANEOUS.

A. Confidentiality. Neither party may disclose to a non-governmental third party, other than such party's legal, tax or accounting advisors, any part of this Agreement, any information pertaining to the specific contents of this Agreement or any proprietary information received from the other party pursuant to this Agreement without the consent of such disclosing party, unless such information shall have already become publicly known without breach of this provision or unless required to do so pursuant to applicable law, regulation, government letter, order or subpoena. If required to do so pursuant to applicable law, regulation, governmental letter, order or subpoena, the parties will consult in good faith as to how to proceed with the aim of taking all appropriate action to limit the scope of the governmental order or subpoena and/or obtain confidential treatment for any material required to be disclosed to non-governmental third parties. The parties shall agree upon the timing and content of any press release relating to this Agreement or the Charter Flights and no such public disclosure or press release shall be made or issued that has not been mutually agreed in writing by the parties hereto.

B. Notices. All notices and requests hereunder shall be in writing and delivered in person, by facsimile, by e-mail or reputable courier for overnight delivery, and shall be sent to the address set forth on the Contract Summary (or to such other address as may be designated in writing). Such notice or other communication shall be deemed to have been given or made and shall be deemed to have been received in the case of a reputable overnight courier, one (1) business day after being sent; in the case of a facsimile or e-mail, the same day as transmitted if received during the normal business hours of the recipient or the next business day if received after the normal business hours of the recipient as reflected by an electronic confirmation or receipt; and in the case of personal delivery, upon actual delivery or the intended recipient's refusal to accept delivery. No objection may be made to the manner of delivery of any notice actually received by a party or authorized agent of a party.

C. Severability. The provisions of this Agreement shall be deemed independent and severable and the invalidity, partial invalidity or unenforceability of any one provision or portion of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

D. Entire Agreement. This Agreement shall constitute the entire understanding between the parties with respect to the subject matter hereof and supercedes all prior communications and agreements of the parties applicable to the Charter Flight(s) and all other services provided for in this Agreement.

E. Amendment. This Agreement or any provision of this Agreement may not be amended, modified or waived except by a written agreement signed by both parties hereto.

F. Assignment. Charterer may not assign this Agreement or subcontract all or any portion of the aircraft capacity chartered hereunder, or permit the aircraft to be used except for the Charter Flights without the express written consent of United.

G. Choice of Law. THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED ACCORDING TO THE LAWS OF THE STATE OF TEXAS. CHARTERER AGREES TO INSTITUTE ALL LEGAL PROCEEDINGS INVOLVING THIS AGREEMENT IN THE FEDERAL OR STATE COURTS LOCATED IN THE STATE OF TEXAS. Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against Charterer shall be in Brazos County, Texas. In the event of a breach of this Agreement, the non-breaching party shall be entitled to receive reasonable costs from the other party to the extent it is determined to be in breach.

H. Independent Contractors. The parties hereto are independent contractors and nothing herein contained shall be construed as establishing a joint venture, partnership or relationship of principal and agent between the parties.

I. No Third Party Beneficiaries. This Agreement and all transactions contemplated hereby are made for the sole and exclusive benefit of United and Charterer and are not intended to benefit any third party. No third party may claim any right or benefit or seek to enforce any term, provision or obligation under this Agreement.

J. No Waiver. A waiver, whether oral or in writing, expressed or implied, by either party or any failure by the party in the observance and performance of any of the items, conditions, obligations and responsibilities or duties set forth in this Agreement shall not constitute or be construed as a waiver of any subsequent or other failure or be deemed a continuing waiver or waiver of any other breach or default.

K. Validity. The illegality or non-validity of any paragraph, clause or provision contained or referred to in this Agreement shall not affect or invalidate any other paragraph or provision hereof.

L. Headings. Titles are inserted in this Agreement for the purposes of reference and convenience and in no way define, limit or describe the scope or intent of this Agreement and are not to be deemed a part hereof.

M. Inspection Rights. Charterer's books and records relating to the conduct of the Charter Flights provided hereunder, including without limitation, those relating to the eligibility of passengers and receipts of payment, shall be open to inspection and copying by an official of United or its authorized representative, at any reasonable time upon demand by United.

N. Liquor. Due to various domestic and foreign laws governing alcohol, (i) only liquor boarded by United can be consumed by charter passengers onboard the aircraft; (ii) unused liquor may not be removed from the aircraft by the Charterer or the Charterer's passengers.

#### 17. STATE CONTRACTING REQUIREMENTS.

- A. Delinquent Child Support Obligations. Under Section 231.006, *Texas Family Code*, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.
- B. Franchise Tax Certification. If United is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then United certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that United is exempt from the payment of franchise (margin) taxes.
- C. Prohibited Bids and Agreements. Under Section 2155.004, *Texas Government Code*, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
- D. Loss of Funding. Performance by Charterer under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, Charterer will issue written notice to United and Charterer may terminate this Agreement without further duty or obligation hereunder. United acknowledges that appropriation of funds is beyond the control of Charterer.
- E. State Auditor's Office. United understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas Education Code*. United agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. United will include this provision in all contracts with permitted subcontractors.
- F. Non-Waiver. United expressly acknowledges that Charterer is an agency of the State of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by Charterer of its right to claim such exemptions, privileges, and immunities as may be provided by law.
- G. Dispute Resolution. The dispute resolution process provided in Chapter 2260, *Texas Government Code*, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by Charterer and United to attempt to resolve any claim for breach of contract made by United that cannot be resolved in the ordinary course of business. United shall submit written notice of a claim of breach of contract under this Chapter to the University Contracts Officer of Charterer, who shall examine United's claim and any counterclaim and negotiate with United in an effort to resolve the claim.
- H. Conflict of Interest. By executing and/or accepting this Agreement, United and each person signing on behalf of United certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no member of The Texas A&M University System ("TAMUS") or TAMUS Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by Charterer or TAMUS, has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof.
- I. Public Information. United acknowledges that Charterer is obligated to strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law. Upon Charterer's written request, United will provide specified public information exchanged or created under this Agreement that is not otherwise excepted from disclosure under Chapter 552, *Texas Government Code*, to Charterer in a non-proprietary format acceptable to Charterer. As used in this provision, "public information" has the meaning assigned Section 552.002, *Texas Government Code*, but only includes information to which Charterer has a right of access. United acknowledges that Charterer may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), *Texas Government Code*.
- J. United Certification regarding Boycotting Israel. Pursuant to Chapter 2270, *Texas Government Code*, United certifies United (1) does not currently boycott Israel; and (2) will not boycott Israel during the term of this Agreement. United acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- K. United Certification regarding Business with Certain Countries and Organizations. Pursuant to Subchapter F, Chapter 2252, *Texas Government Code*, United certifies United is not engaged in business with Iran, Sudan, or a foreign terrorist organization. United acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

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