

FlyEliteJets Limited - Standard Supplier Terms & Conditions for the Charter of Aircraft to FlyEliteJets

1 Introduction

1.1 In these conditions (**these Conditions**), the following definitions shall apply:

Additional Services	means the additional services specified in the Purchase Order;
Agreement	means this contract between the Operator and the Charterer for the provision of Services in accordance with these Conditions, which shall consist of these Conditions, and any Purchase Order;
Aircraft	means the aircraft of the type and capacity set out in the Purchase Order and operated by the Operator in connection with any Flight;
Business Day	means a day (other than a Saturday, Sunday or public holiday in England) on which banks in London are open for business;
Charterer	means to FlyEliteJets Limited a company incorporated in England and Wales (company number 11749816) whose registered office is at 85 Great Portland Street, London, England, W1W 7LT;
Charter Price	means the price for Services as set out in the Purchase Order payable by the Charterer in accordance with clause 5;
Commencement Date	means the date that the Agreement comes into effect in accordance with clause 2.1.
Flight	means any flight of the Aircraft between any two destinations as defined in the Purchase Order;
Flight Accommodation	means the passenger seating (and, if specified, the baggage capacity) available on each the Aircraft, as specified in the Purchase Order;
Operator	refers to the other party to this Agreement providing Services to the Charterer as specified in the Purchase Order;
Purchase Order	means the purchase order, or any form of written request, sent by the Charterer to the Operator for the request for Services, or the Charterers written acceptance of the Operators quotation of Services by the Charterer, as the case may be.
Restricted Client	means the client of the Charterer for whom the Charterer is procuring the Services and any person who is a passenger on the Flight.
Services	means the services to be provided by the Operator to the Charterer which shall consist of the charter of Aircraft for the Flight, or series of Flights, as specified in the Purchase Order.

1.2 In these Conditions, In these Conditions the following rules of interpretation shall apply:

- 1.2.1 any reference to the plural includes the singular and vice versa;
- 1.2.2 any reference to one gender includes all genders;
- 1.2.3 any reference to a person includes natural persons, corporate bodies, partnerships, firms, unincorporated bodies, governments and other public authorities and all legal persons whatsoever;
- 1.2.4 headings are given for convenience only and shall not affect interpretation;
- 1.2.5 any reference to a clause, sub-clause or schedule is a reference to a clause, sub-clause or schedule in or to this Agreement and these Conditions;
- 1.2.6 any reference to a particular statute, regulation, treaty or convention includes all orders, regulations and subordinate legislation from time to time made under, or with respect to, such statute, regulation, treaty or convention, and as from time to time modified or re-enacted (whether before or after the date of the Agreement), and any reference to a particular section of a statute, regulation, treaty or convention includes any section of a later statute, regulation, treaty or convention which modifies, replaces or re-enacts that section;
- 1.2.7 any reference to either party includes their respective permitted successors and assigns;
- 1.2.8 any reference to any document (including these Conditions) or any provision of a document includes such document and provision as from time to time varied or supplemented in accordance with its terms or by agreement between the parties.

2 **Basis of Agreement**

2.1 These Conditions shall:

- (a) apply to and be incorporated in the Agreement for Services between the Operator and the Charterer; and
- (b) apply to the Agreement to the exclusion of any other terms and conditions that the Operator seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.2 The Purchase Order constitutes an offer by the Charterer to purchase the Services specified in it on the terms of this Agreement; accordingly, (i) the execution and return of the acknowledgment copy of the Purchase Order by the Operator; (ii) the Charterers written acceptance of the Operators quotation which forms the Purchase Order; or (iii) the Operator's commencement or execution of the Services pursuant to the Purchase Order, shall be deemed acceptance for the supply of Services by the Operator in accordance with the terms of these Conditions, and an Agreement shall be deemed to have come into force ("**Commencement Date**"). The Operator's standard terms and conditions (if any) attached to, enclosed with, or referred to in, the Purchase Order shall not apply to the Agreement.

3. **Services**

3.1 The Operator shall supply the Services to the Charterer in accordance with the terms of the Agreement in all respects.

- 3.2 The Operator shall make timely performance of the Services, and shall meet all performance dates of the Services as specified in the Purchase Order. Subject to clause 3.8 and 3.9, time shall be of the essence in relation to any performance dates.
- 3.3 The Operator shall make available to the Charterer the Aircraft on charter with crew for each of the Flights and perform the Flights in accordance with the terms of the Agreement, in consideration for which the Charterer agrees to pay the Operator the Charter Price.
- 3.3 Prior to the commencement of each Flight, the Operator shall ensure that the Aircraft is properly prepared and equipped, in line with the Flight Accommodation, fuelled and airworthy and presented to the high standard expected by the Charterer, and with the appropriate personnel, who are suitably trained and experienced, to enable the Flight to take place with a full complement of Restricted Client and in accordance with all applicable laws and regulations.
- 3.4 The Operator will perform its obligations under this Agreement with the highest level of care, skill and diligence and in accordance with best practice in the aviation industry.
- 3.5 The crew shall not necessarily speak any language other than English.
- 3.6 In the event the Aircraft is unable to perform the Flight in accordance with the Purchase Order, the Operator shall procure that an equivalent aircraft is made available to perform the Flight in accordance with the dates, times and location as specified in the Purchase Order.
- 3.7 The Operator shall obtain and at all times maintain all licences and consents which may be required for the provision of the Services, and comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply from time to time to the provision of the Services.
- 3.8 The captain of the Aircraft shall, for the purpose of the safe performance of the Flights, have absolute discretion in all matters concerning the preparation of the Aircraft for flight, the load carried and its distribution, the decision whether or not a Flight shall be undertaken for safety reasons (provided that this right shall only be exercised if there is substantial risk to the health and safety of the Restricted Client of the Flight), the route to be flown between the two destinations of the Flight, take-off and landing times (subject to clause 3.9), areas of take-off and landing at the location specified in the Purchase Order, and all other matters relating to the operation of the Aircraft. The Operator shall remain fully liable under this Agreement for the acts and omissions of the captain of the Aircraft.
- 3.9 The Operator shall perform and complete the Services in accordance with the Purchase Order, including the estimated time for departure, and shall only depart from it if it is reasonably necessary or advisable in its, or the captain's opinion, would be in the interests of safety or legality. In such case the Operator shall provide the charterer with as much notice as is possible of the deviation in accordance with this clause, and any additional flying hours and expenses shall be borne by the Operator.
- 3.10 During the term of the Agreement and for a period of 6 years thereafter, the Operator shall maintain in force, with a reputable insurance company, professional indemnity insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Agreement and shall, on the Charterer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

4 Charterers Remedies

- 4.1 If the Operator fails to perform the Services in accordance with clause 3, the Charterer shall, without limiting or

affecting other rights or remedies available to it under this Agreement, have one or more of the following rights:

- (i) to terminate the Agreement with immediate effect by giving written notice to the Operator;
- (ii) to refuse to accept any subsequent performance of the Services which the Operator attempts to make;
- (iii) to recover from the Operator any costs incurred by the Charterer in obtaining substitute services from a third party;
- (iv) to require a refund from the Operator of sums paid in advance for Services that the Operator has not provided; and
- (v) to claim damages for any additional costs, loss or expenses incurred by the Charterer which are in any way attributable to the Operators failure to meet such dates, times or location as specified in the Purchase Order.

4.2 If the Operator negligently or willingly fails to perform its obligation to make the Aircraft (or a suitable alternative) available on charter with crew and to perform the Flight in accordance with the Programme and the terms of this Agreement the Operator, in addition to the rights afforded under clause 4.1, the Operator shall pay to the Charterer the sum of the Charter Price as liquidated damages.

4.3 These Conditions shall extend to any substituted or remedial services provided by the Operator.

4.4 The Charterer's rights and remedies under this Agreement are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

5 Charter Price and payment

5.1 In consideration for the Services, the Charterer shall make payment of the Charter Price to the Operator at the time or times and in the amounts specified in and in accordance with the provisions of the Purchase Order.

5.2 The Operator shall also arrange on behalf of the Charterer for the provision in relation to the Flight of such Additional Services (if any) as are specified in the Purchase Order at the rates specified in the Purchase Order.

5.3 If any passenger of the Charterer is refused entry at any destination airport, the Charterer shall indemnify and keep indemnified the Operator, its respective employees, servants and agents from and against any and all cost or expense whatsoever incurred by any of them in respect of such refusal (including but not limited to charges, fees, penalties or other expenses) or in respect of any arrangements made by the Operator to return such passenger to the country from which such passenger was originally carried.

5.4 Where any charges or duties included in the Charter Price relate to the estimated number of Restricted Client that are to be carried on any particular Flight (e.g. airport passenger duty), a reconciliation shall be undertaken by the Operator after the Flight, and either the Operator shall rebate to the Charterer any excess charge that was included in the Charter Price or the Charterer shall pay to the Operator any underpayment of the charges, whichever shall be applicable.

5.5 The Operator shall invoice the Charterer for the Charter Price and the cost of any Additional Services, and shall include all such supporting information required by the Charterer to verify the accuracy of the invoice, including the relevant Purchase Order number.

5.6 The Charterer shall pay all undisputed invoiced amounts within 30 days of the date of a correctly rendered invoice, unless otherwise specified in the Purchase Order, to a bank account nominated in writing by the Operator.

5.7 All amounts payable by the Charterer under the Agreement are exclusive of amounts in respect of value added tax chargeable for the time being or any similar sales tax ("VAT"). Where any taxable supply for VAT purposes is made

under the Agreement by the Operator to the Charterer, the Charterer shall, on receipt of a valid VAT invoice from the Operator, pay to the Operator such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

- 5.8 The Charterer may at any time, without notice to the Operator, set off any liability of the Operator to the Charterer against any liability of the Charterer to the Operator, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Agreement. If the liabilities to be set off are expressed in different currencies, the Charterer may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Charterer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Agreement or otherwise.

6 Charterers rights

- 6.1 The Charterer shall be entitled to sell to third parties any part of the Flight Accommodation.
- 6.2 The Operator shall not be obliged to agree to any request by the Charterer for the variation of the Purchase Order or the details of any Flight but shall act in good faith to accommodate the Charterer's request. The Charterer shall have the right to cancel any Flight by giving to the Operator advance written notice of such cancellation and paying the Operator the following cancellation charges:
- (i) if the Flight is cancelled 24 hours or more before the estimated time of departure then 0% of the Charter Price; or
 - (ii) if the Flight is cancelled less than 24 hours before the estimated time of departure then 25% of the Charter Price.
- 6.3 In the event of any variation from or addition to the Purchase Order at the request of the Charterer the Charterer shall pay for additional flying hours where appropriate at the price agreed between the Operator and Charterer at that time.
- 6.4 The Charterer shall not be entitled to pledge the Aircraft or the credit of the Operator for any purpose or (in so far as within its powers) allow to arise or subsist any liens or rights of detention over the Aircraft.

7 Charterer Obligations

- 7.1 The Charterer shall, prior to each Flight, provide to the Operator a full list of Restricted Client that are to be carried, together with such other information relating to the Restricted Client as the Operator may reasonably require for the purposes of complying with applicable laws and regulations.
- 7.2 Unless agreed otherwise, the Charterer shall be responsible for ensuring that each of the Restricted Client is in possession of all necessary passports, visas, medical certificates or any other required immigration or emigration documents and for accomplishing the immigration and customs clearance of Restricted Client, baggage, cargo and mail.
- 7.3 The Charterer shall be solely responsible for ensuring that all Restricted Client and their baggage shall be available at the departure airport for each relevant Flight not later than the time specified in the Purchase Order (as may be varied by the Operator in the light of any circumstances affecting a particular Flight, provided the Operator has notified the Charterer in writing of such variation and received an acknowledgment in writing from the Charterer) or, if no time is so specified, in sufficient time prior to the scheduled departure time for check-in and security formalities to be completed.

7.4 The Charterer shall comply and shall procure that all Restricted Client carried under the Agreement shall comply with all applicable customs, police, public health, immigration and other lawful regulations of any state to, from or over which the Aircraft is to be flown on any Flight.

8 Force Majeure

8.1 In the event of non-performance, partial performance or delay resulting wholly or partly from any cause or reason whatsoever beyond the reasonable control of the Operator, the Operator shall use all reasonable endeavours to perform or continue the Services (and may at its discretion but without obligation substitute another Aircraft) but otherwise shall have no liability to the Charterer. The Charterer shall be liable to pay such part of the Charter Price that relates to that part of the Services that have been performed (if any), and anything in excess already paid by the Charterer shall be refunded.

10 Indemnity

10.1 Restricted Client who are in receipt of the Services shall not act as agents for the Charterer and shall not have the authority to make any amendments or variations to the Agreement.

10.2 The Operator shall, without prejudice to any other rights or remedies available to the Charterer, indemnify, keep indemnified and hold harmless the Charterer against, all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Charterer arising out of or in connection with a breach of this Agreement by the Operator, or any claim made against the Charterer by a third party arising out of or in connection with the Supply of Services, unless such claim arises as a direct result of the negligence or willful misconduct of the Charterer.

11 Termination

11.1 The Charterer may, without prejudice to any other rights and remedies pursuant to the provisions of the Agreement terminate this Agreement immediately upon notice to the Operator on the occurrence of any of the following events:

- (i) if the Operator is in breach of the terms of this Agreement; or
- (ii) an order is made, or a resolution passed for the winding up of the Operator or an application or petition or notice for an administration order in relation to the Operator is presented or if any encumbrancer shall take possession or a receiver, administrative or otherwise, or manager or trustee be appointed of any or all the undertaking of the Operator; or
- (iii) the Operator convenes a meeting or takes any steps for making or proposes to enter into or make any arrangements or composition for the benefit of its creditors or if any distress or other execution is levied or enforced or sued out upon or against any part of the Operator's property;
- (iv) the Operator ceases to carry on all or a substantial part of its business.

11.2 Termination of the Agreement shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.

11.3 Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination of the Agreement shall remain in full force and effect

12 Confidentiality

12.1 The Operator undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the Charterer, except as permitted by Clause 12.2.

12.2 The Operator may disclose the Charterer's confidential information:

(i) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out its obligations under this Agreement. The Operator shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 12; and

(ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.3 The Operator shall not use the Charterer's confidential information for any purpose other than to perform its obligations under this Agreement.

12.4 Without prejudice to the provisions of clause 12.1 the Operator undertakes that neither it nor its officers, representatives, employees, agents or sub-contractors will take photographs of or make any posts on social media relating to Restricted Clients and that the Operator, its officers, representative, employees, subcontractors shall at all times respect and maintain the privacy of the Restricted Clients.

13 Non-Solicitation

13.1 In order to protect the legitimate business interests of the Charterer, the Operator covenants with the Charterer that it shall not, and shall procure that no member of its group shall not, during the term of this Agreement or for a period of 12 months following termination of this Agreement or completion of the Services (whichever is the earlier), solicit, entice or have any dealings with any Restricted Client.

14 General

14.1 Any notice required to be given under the Agreement shall be in writing and shall be deemed duly given if delivered by hand or by email or post to the address or email address notified by a party to the other. Any such notice shall be deemed to be served at the time when the same is either handed to the party to be served or, if served by email, at the time when such email is properly transmitted to the relevant email address or, if by post, the next working day.

14.2 This Agreement constitutes the entire agreement between the parties in relation to its subject matter and no addition to or variation of it shall have any effect unless in writing and signed, by a person duly authorised, on behalf of each of the Operator and the Charterer.

14.3 Any part of the Agreement found by any court or other competent authority to be unenforceable shall be considered severable so as not in any way to affect the remainder of the Agreement.

14.4 Each party agrees at the request of the other at its own cost to do anything further, or execute or deliver any further document, which is necessary to give effect to the Agreement.

- 14.5 The rights of neither party shall be prejudiced or restricted by any indulgence or forbearance extended by such party or by any delay in exercising or failure to exercise any right and no waiver by either party of any breach shall operate as a waiver of any other or further breach.
- 14.6 Each party agrees to pay its own legal costs in connection with the preparation, negotiation, execution and performance of this Agreement.
- 14.7 The Agreement may be signed in any number of counterparts, all of which, when taken together shall constitute one and the same instrument.
- 14.8 The Operator shall not be entitled to assign, novate, deal or transfer with any of its rights or obligations under the Agreement without the prior written consent of the Charterer, but the Charterer may do so upon written notice to the Operator.
- 14.9 The parties to the Agreement do not intend by the Agreement to confer any rights whatsoever on any other person. Accordingly, the parties hereby expressly exclude the provisions of the Contracts (Rights of Third Parties) Act 1999.
- 14.10 The Agreement and all non-contractual matters associated with, arising out of or connected with it shall be governed by and construed in accordance with English law.
- 14.11 The parties agree that the English courts have exclusive jurisdiction to adjudicate any dispute which arises in connection with the Agreement and all non-contractual matters associated with, arising out of or connected with it.