

## AIRCRAFT CHARTER AGREEMENT

### BETWEEN:-

**Advance Aviation Co Ltd** ("AA") being a company incorporated in Thailand and having its registered office at 499 Moo 3 Benchachinda Building, 14A, Vibhavadee Rungsit Road, Lardyao, Chatuchak, Bangkok 10900 THAILAND; and

The client whose name appears on Quotation/Invoice which this Agreement is attached hereto ("Charterer")

1. All services provided by AA are subject to the AA Terms and Conditions, which are available from AA or on its website. The Charterer expressly agrees that the AA Terms and Conditions, **including those which limit or exclude AA's liability** are incorporated into this Agreement.

### CHARTER OF AIRCRAFT AND CREW

2. AA agrees to charter the Aircraft and Charterer agrees to pay the Charter Fee and take the Aircraft on charter as set out on the attached Quotation/Invoice (**the Charter Flight**). The Charterer agrees that the Quotation/Invoice forms part of this Agreement.
3. AA agrees to provide the Aircraft to Charterer for the Charter Flights equipped, fuelled and with a competent crew who will be and remain the servants or agents of AA.
4. Subject to clause 6, 7, 8, 14, 15, and 16, AA will use all reasonable endeavours to ensure that each Charter Flight is completed as specified in this Agreement. Any timing indicated in respect of a Charter Flight are approximate and form no part of AA's obligations under this Agreement. AA may in its sole discretion deviate from those timings. No servant or agent of AA is authorised to bind AA by any statements or representations in respect of the dates or times of any Charter Flight.
5. The Captain of the Aircraft will have full operational control of the Aircraft at all times.
6. In performing the Charter Flights, AA can, in its absolute discretion
  - a. refuse to carry any passenger, baggage or cargo in order to comply with any applicable laws and regulations; or if such carriage would endanger the safety or health to other person; or passenger is mental or physical unfit to travel including the impairment from alcohol or drugs, or behave in a disruptive, unruly or dangerous way;
  - b. decide the loads to be carried on the aircraft and how such loads will be distributed;
  - c. decide whether and when a Charter Flight may be undertaken and when and where the Aircraft will land; and
  - d. put additional crew(s), engineer, staff on board when space is availablewhere such action is necessary for the safe commencement, operation and completion of the Charter Flights.
7. AA's decisions on the above issues and on any issue affecting the operation of the Aircraft and performance of the Charter Flights will be final and binding and Charterer agrees to accept all the decisions of the Captain and/or AA.
8. AA will be entitled to utilize any unused part of the space available on the Aircraft for any purpose it deems appropriate (including but not limited to) for its own personnel and/or cargo.

### PREVENTION AND DELAY

9. Should performance of the Charter Flight prevented or delayed by:
  - a. any act or omission of the Charterer;
  - b. anyone acting on the Charterer's behalf, including, but not limited to, any passenger; or
  - c. any passenger(s) and/or baggage arriving later than the time specified on Flight Itinerary (to be provided before the Departure Date) prior to the Departure Time;AA, in its absolute discretion, may:
  - d. depart at the Departure Time; or
  - e. delay the Departure Time.
10. Where AA delays the Departure Time in accordance with Paragraph 9.d above, any and all costs associated with such delay, including, without limitation, any fees or charges levied by the airport/helipad owner of departure, will be for the account of the Charterer. Delay of a total mission time, which is caused by longer waiting time, is allowed up to 15 minutes without penalty. Delay penalty of 2,625 THB/15 minutes will be applied when the delay exceeds the allowable time. Fraction of 15 minutes will be rounded up to 15 minutes. We would make our best effort to accommodate your delay which is subject to aircraft availability. Please ask for maximum delay time prior to your mission.

## **DIVERSIONS/INABILITY TO PERFORM FLIGHT(S)**

11. Should the Aircraft be diverted or unable to perform any (part or whole mission sector(s)) for any reason, including, without limitation, for weather, mechanical or other safety issues, from the Destination to another, such airport, aerodrome or destination will be deemed to be the Destination for the purposes for completion of that Charter Flight, AA may, at its absolute discretion, provide transportation from the substitute to the original Destination. The costs associated with this additional transportation will be for the account of the Charterer.
12. AA may at any time in its sole discretion substitute for the Aircraft one or more aircraft, without limitation as to number, type or configuration and whether or not operated by AA, in which event that aircraft or those aircraft will be deemed an Aircraft for all purposes of this Agreement.

## **CHARTER FEE**

13. The Charterer accepts and acknowledges that AA will not process its booking until AA has received written acceptance of the Quotation from the Charterer and that until payment is made in accordance with paragraphs 16, 17 and/or 18, any aircraft contemplated or proposed for the Charter Flights remains subject to availability.

## **INVOICE**

14. Upon receipt of the Invoice, the Charterer will promptly credit AA's Account with 25% of the Charter Fee and in no event no later than 2 Business Days from the date of the Invoice.

## **BALANCE**

15. The Charterer will credit AA's Account with the balance of the Charter Fee no later than 3 business days prior to the designated departure date of the Charter Flights.
16. For flights to be operated within 72 hours of the designated departure time of the Charter Flights, the full amount is due and payable at the time of booking.

## **CHARGES**

17. The Charter Fee does not include any additional Charges such as Delay Penalty or in the event that there is any damage to the aircraft or cabin interior due to negligence of the Charterer other than normal wear and tear. These will be for the account of the Charterer. Charterer will on demand reimburse AA such costs, charges or expenses. The certificate of an officer of AA as to the amount of those costs, charges or expenses will be conclusive.

## **LICENCES AND PERMITS**

18. AA will apply for and use all reasonable endeavours to procure the grant to it of all airport slots, licences, permits, consents and approvals required by the laws of the Thailand or of any country over, to or from which the Aircraft is to be flown on any Charter Flight and which relate to the operation of the Aircraft on that Charter Flight. All the terms of this Agreement are conditional upon the timely grant of all such licences, consents and approvals. Charterer will give AA all information and assistance necessary for AA to obtain such licences, consents and approvals.
19. For international flight, the Charterer agrees to ensure that all passengers will hold all necessary passports, visas, health and other certificates necessary to secure transit through any intermediate points and entry into the country of destination of the Charter Flight. Charterer further acknowledges that it is the sole responsibility of the Charterer and/or the passengers to ensure that they have the necessary documentation, including but not limited to passports, visas or other permits.
20. Charterer agrees that it will comply and ensure that all passengers and persons interested in the cargo will comply with all the terms of any of the licences, consents or approvals referred to in Clause 19 and not to do any act which might prejudice the position of AA under those licences, consents or approvals, including but not limited to the carriage of Dangerous Goods. If AA has reasonable grounds to believe that Charterer or its passengers or persons interested in cargo is violating or will violate any law or any of those licences, consents or approvals AA may refuse carriage to that passenger or of that cargo.

## **INDEMNITY**

21. The Charterer will not make any claim against AA and will hold harmless and indemnify AA (subject to the other terms of this Agreement) against any and all claims, proceedings, liabilities, costs, losses, expenses, damages, settlements, penalties or fines (of whatsoever kind and nature and whensoever made suffered or incurred, whether prior to, during or after the termination of this Agreement, in which case this indemnity will survive the termination of this Agreement) (each an "**Indemnifiable Loss**") arising directly or indirectly out of or in connection with or are attributable to any possession, use or operation of the Aircraft or the carriage of cargo and/or passengers during the term of this Agreement or any breach by Charterer of any of the terms of this Agreement in relation to:
  - a. injury to or death of any employees of the Charterer, AA or third party, or their respective servants, agents or subcontractors (including any Subcontractor); or
  - b. damage to or loss of property owned by AA in the possession of, or operated for and on behalf of AA by, the Charterer,
  - c. to the extent that such Indemnifiable Loss is caused by an act or omission to act by the Charterer, except where such Indemnifiable Loss is caused by AA's (or its employees', servants', agents' or subcontractors' (including a Subcontractor's)) wilful misconduct.

## LIABILITY

22. The Charterer **expressly acknowledges and agrees** that except as otherwise provided by law, AA's liability is limited as follows:
- AA's liability will be reduced by any negligence on the part of the Charterer, its servants, agents, representatives;
  - AA will only be liable for damage to or loss of baggage where the Charterer can show that AA was negligent and that the baggage was in its care, custody and control at the time;
  - AA will not be liable for failure to carry any baggage on a Charter Flight, irrespective of whether there has been any charge (including but not limited to any excess baggage charge) made in respect of any particular piece of baggage;
  - Except where the Charterer can show that AA acted with intent to cause damage to or loss of the baggage or recklessly and with knowledge that damage to or loss of the baggage could result, AA's accepts no liability for loss of or damage to baggage;
  - AA will not be liable for the direct or indirect consequences of its compliance with applicable laws, rules and regulations or the failure of the Charterer to comply with these laws, rules and regulations;
  - AA will not be liable for any actions, claims, proceedings, costs, losses or damages brought, incurred or suffered by or in respect of Charterer or any passenger carried or to be carried on any Charter Flight or any person interested in cargo carried or to be carried on any Charter Flight arising out of delay of any Charter Flight;
  - AA will not be liable for any damage caused by the property of the Charterer, including but not limited to baggage and other items carried on board. Liability for any such damage remains with the Charterer;
  - AA will not be liable for damage to or loss of items carried on board, including but not limited to fragile or perishable items, specie, cash, gold, precious stones, negotiable instruments, securities, personal electronic devices, art, business and personal documents and records, title deeds, samples, passports and identity documents;
  - In relation to passengers carried pursuant to this agreement, AA will not be liable for any illness, disability or death resulting from the physical condition or any exacerbation or aggravation of such condition/s;
  - Except where expressly stated by AA, any exclusion or limitation of liability allowed by law or international agreement or convention is not waived by AA.
  - The obligations and liabilities of AA are in lieu of and expressly exclude any other liability to the Charterer or to any other person for direct, indirect, incidental or consequential damages (including, without limitation, loss of revenue, loss of profits or loss of contracts) regardless of whether any claim for such damages will be based upon or in negligence or any other tort, in contract, statute, or otherwise at law and any other such claim is freely waived by the Charterer.
23. The Charterer **expressly acknowledges and agrees** that the provisions of this Agreement, and specifically those dealing with liability, apply to any passengers carried pursuant to this Agreement, its servants, agents and employees.

## FORCE MAJEURE

24. "Force Majeure Event" means any event which is beyond the direct control of a Party and, to the extent which the fulfilment of any obligations under this Agreement is prevented, frustrated or impeded as a consequence of any such event or by any statutes, rules, regulations, orders or requisitions issued by any Governmental Agency following such event, including but not limited to the withdrawal, failure to grant or failure to grant in a timely manner any permit, authorisation or approval required for any Charter Flights.
25. If a Force Majeure Event occurs and its effects continue for a period of 30 Business Days, either Party may deliver a notice to the other Party terminating this Agreement at any time after the date falling 30 Business Days after the occurrence of that Force Majeure Event.

## CANCELLATION/ RESCHEDULING POLICY

Notice given before the first departure day specified in Charter Quotation including positioning leg	Cancellation Fee as a total Percentage of the Quotation
Upon Signing Charter Quote Agreement up to 72 hours	25 %
Between 3 hours and 72 hours	50%
Less than 3 hours and No Show	100%

26. For the purposes of calculation of the cancellation fee, a No Show is defined as where the Charterer or the passenger/s do not arrive airport of departure within three (3) hours of the scheduled departure time and fails to provide notice.
27. Reschedule is accepted without charge 24 hours prior to scheduled mission time. A fee of 17,500 THB will be applied if request for the reschedule is received between 3 hours and 24 hours prior to the scheduled mission time. Rescheduled itinerary must be within 30 days from the original mission date. Amendable itinerary can only be confirmed subject to aircraft availability. No reschedule will be accepted shorter than 3 hours prior to the scheduled mission time and it will be treated as cancellation.

28. In the event that the mission is rescheduled due to Force Majeure Event, or prohibited by weather conditions, or due to late incoming flight of Charterer, there will be no penalty (Cancellation/Rescheduling Fee) applied. If the rescheduled itinerary becomes impossible or impractical, a refund (net of Bank fees) will be returned to the Charterer.

#### **LAW**

29. The courts of Thailand have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a “**Dispute**”).
30. The Parties agree that the courts of Thailand are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

#### **MISCELLANEOUS**

31. No amendment or variation of the terms of this Agreement will be effective unless it is made or confirmed in writing by AA and the Charterer.
32. The Charterer will not without the prior written consent of AA assign, sub-contract or otherwise dispose of the benefit or burden of this Agreement nor any claim or right (whether to damages or otherwise) arising out of or in connection with this Agreement.
33. If any part any provision of this Agreement will be invalid or unenforceable, then the remainder of that provision and all other provisions of this Agreement will remain valid and enforceable.
34. This Agreement represents the entire agreement between the parties in relation to the subject matter of this Agreement and supersedes any previous agreement between the Charterer and AA in relation to that subject matter. The Charterer irrevocably and unconditionally waives any right it may have to rescind this Agreement or to claim damages for any misrepresentation in connection with this Agreement unless that misrepresentation was made fraudulently.
35. No failure or delay to exercise any right, power or remedy under this Agreement or partial exercise on the part of AA of a right, power or remedy will be or be construed as a waiver of it. The rights and remedies in this Agreement are cumulative and are not exclusive of any rights or remedies provided by law or in equity.
36. In this Agreement singular words include the plural and vice versa.