

## When agreeing to a quotation supplied by Tropicair Ltd. - the Charterer is agreeing to the Terms and Conditions outlined below:

The Charterer agrees to hire the Aircraft described in the Tropicair Quotation, from the Carrier, for the flight or flights described in the Tropicair Quotation and on the terms specified within this document, which the Charterer acknowledges it has read and accepts.

### SPECIAL CONDITIONS

1. **Payment of Charter Price.**
  - (a) The Carrier reserves the right to require full payment of the Charter Price prior to the commencement of the Flight Programme.
  - (b) The Carrier may at its sole discretion accept payment of the Charter Price pursuant to the terms of any credit agreement entered into between the Carrier and the Charterer.
2. **Refund**

If the Carrier is unable to complete the Flight Programme due to any event or circumstance set out in clause 5.6 of the General Terms and Conditions, the Carrier shall not refund any part of the Charter Price but shall endeavour to complete the Flight Programme provided that safety is not compromised.
3. **Cancellation**

If the Charterer fails to board the Aircraft at the scheduled time of departure or cancels the flight, cancellation fees will apply.

If the cancellation occurs;

  - a) Within twenty-four (24) hours of the scheduled time of departure, 50% of the quoted Charter Price shall be charged for the cancelled flight.
  - b) Between seven (7) days and twenty-four (24) hours of the scheduled time of departure, 20% of the quoted Charter Price shall be charged for the cancelled flight.
  - c) Prior to seven (7) days of the scheduled time of departure, a fee of K1,500 will be charged.

If adequate notice is given and an alternative flight schedule can be agreed upon, then the carrier may, at its discretion waive all or part of this cancellation fee.
4. **Quotations**

All quotes are based on availability of aircraft. If the Aircraft is unavailable then the Carrier shall use its best endeavours to provide an alternative or substitute aircraft.
5. **Contact details.**

For the purposes of clause 16 of the General Terms and Conditions, the Carrier's contact details are as follows:

**Tropicair Operations Team**  
p. +675 311 2673  
f. +675 311 2701  
m. +675 7687 5047  
e. [charters@tropicair.com.pg](mailto:charters@tropicair.com.pg) for all charter quotes and enquiries.  
e. [ops@tropicair.com.pg](mailto:ops@tropicair.com.pg) for all operational and scheduling details.

### GENERAL TERMS AND CONDITIONS FOR CHARTER OF AIRCRAFT

1. **INTRODUCTION**

The parties agree that the General Terms and Conditions herein are incorporated in and form part of the Agreement between the Carrier and the Charterer for the charter of the Aircraft.
2. **DEFINITIONS AND INTERPRETATION**
  - 2.1 **Definitions:** The following terms shall have the following meanings, except where the context otherwise requires:

**Act** means the *Civil Aviation Act 2000*.

**aerodrome control service** has the same meaning as that term is defined in the Act.

**aerodrome control service provider** means any person authorised to provide aerodrome control services under the Act.

**Aircraft** means the aircraft described in Schedule 1;

**airport** has the same meaning as that term is defined in the Act.

**air traffic service** has the same meaning as that term is defined in the Act.

**air traffic service provider** means any person authorised to provide air traffic services under the Act.

**Carrier** means Tropicair Ltd.

**Charterer** means the company, firm, person or other body described as the Charterer in the Quotation;

**Charter Price** means the charter price for the Flight Programme as stipulated in Schedule 2;

**Dangerous Goods** means any article or substance capable or posing significant risk to health, safety or property when transported by air and includes without limitation any article or substance deemed to be a dangerous good for the purposes of the Act.

**Destination Airport** means the airport stipulated as the destination of the Aircraft under the Flight Programme.

**Flight Programme** means the flight or series of flights described in Schedule 2 and shall include places of departure, places of destination, any stopping points, any departure and arrival times and any particular agreed features set out in the Special Conditions;

**Force Majeure** means an event or cause beyond the reasonable control of the Carrier, including:
    - (i) act of God, lightning, storm, flood, fire, earthquake or explosion, cyclone, tidal wave, landslide, adverse weather conditions;
    - (ii) strike, lockout or other labour difficulty;
    - (iii) act of public enemy, war (declared or undeclared), sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic;
    - (iv) the effect of any applicable law, regulation, rule, order or directive of any government or other competent authority;
    - (v) embargo, power or water shortage, lack of transportation; and breakage or accident or other damage to machinery.

**Government Agency** means any government or governmental, semi-governmental, administrative, municipal, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

**Goods and Services Tax** has the same meaning as that term is defined in the *Goods and Services Tax Act 2003*.

**Special Conditions** means the Special Conditions set out in Schedule 3.

**Tax or Taxes** means, unless the contrary intention is expressed, any and all taxes, including, without limitation, excise, stamp, Goods and Services Tax, customs, import/export, payroll, personal, property, real property, interest equalisation, business, income, corporation, capital, profits, gains, gross receipts, or other taxes, fees, withholdings, imposts, levies, duties (including airline/airport passenger duties) or other charges of any

nature whatsoever or whensoever, together with any penalties, fines or interest thereon or similar additions thereto, imposed, levied or assessed by any Government Agency or otherwise payable.

**terms and conditions** means the *terms and conditions* between the Carrier and the Charterer for the charter of the Aircraft, into which the Special Conditions and the General Conditions are incorporated;

## 2.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural and conversely and a gender includes all genders.
- (b) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (c) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (d) A reference to a clause or Schedule is a reference to a clause of, or a Schedule to, these *terms and conditions*.
- (e) A reference to an agreement or document (including a reference to this *terms and conditions*) is to the *terms and conditions* or document as amended, varied, supplemented, novated or replaced, except to the extent prohibited by that other *terms and conditions* or document.
- (f) A reference to a party to these *terms and conditions* or another *terms and conditions* or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (g) A reference to "writing" includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form. (h) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (i) The meaning of general words is not limited by specific examples introduced by "including", or "for example", or similar expressions.
- (j) Nothing in these *terms and conditions* is to be interpreted against a party solely on the ground that the party put forward these *terms and conditions* or any part of it.

## 3. THE CARRIER'S RIGHTS AND OBLIGATIONS

3.1 Except as otherwise varied or modified by the Special Conditions, the Carrier shall provide the Aircraft manned, maintained, fully fueled and equipped for the performance of the Flight Programme. The Carrier shall not provide any other services, whether on board the Aircraft or otherwise, except as stated in these *terms and conditions* or as may be mutually agreed by the parties in writing.

3.2 The Carrier reserves the right and shall have absolute discretion:

- (a) to refuse to carry any passenger, baggage, cargo, mail or goods on board the Aircraft;
- (b) to refuse to carry any Dangerous Goods on board the Aircraft;
- (c) to decide what load may be carried and its distribution on board the Aircraft;
- (d) to decide whether, when and how a flight may safely and legally be undertaken and where and when the Aircraft should be landed; and (e) generally as to all matters relating to the operation of the Aircraft.

3.3 The Charter Price is set out in Schedule 2. If the Carrier is required to reduce the total number of seats on the Aircraft by reason of any law, regulation, rule or lawful direction by a Government Agency or other competent authority, the Charter Price shall not be reduced.

3.4 The Carrier reserves the right to substitute the Aircraft for a different aircraft at no additional cost to the Charterer, provided that the substituted aircraft has the same number of seats as the Aircraft.

3.5 The Carrier is not a common carrier and excludes from these *terms and conditions* any obligation of a common carrier.

## 4. THE CHARTERER'S OBLIGATIONS

4.1 The Charterer shall ensure that:

- (a) its passengers are checked-in and prepared to board the Aircraft; and
- (b) all luggage, freight, cargo, mail or goods are packaged and delivered to the Carrier, at least sixty (60) minutes prior to the scheduled departure time stipulated in the Flight Programme or within such other time as the Carrier may direct.

4.2 The Carrier shall not be liable to the Charterer, any passenger or third party with respect to the Charterer's failure to comply with clause 4.1.

4.3 The Charterer shall provide to the Carrier a written manifest of all passengers, freight, cargo, mail or goods (if any) (the "Manifest") at least sixty (60) minutes (or within such other time as the Carrier may direct) prior to the scheduled time of departure stipulated in the Flight Programme. The Carrier reserves the right to refuse entry to the Aircraft by any passenger whose name is not listed on the Manifest.

4.4 The Charterer at its own cost and upon having obtained the prior written consent of the Carrier shall provide any special equipment, materials and accessories necessary to prepare for and fulfil the Flight Programme.

4.5 The Charterer and its passengers shall not be entitled to carry any freight, cargo, mail or goods on the Aircraft other than the freight, cargo, mail or goods listed in the Manifest or permitted to be carried by each passenger as hand luggage on board the Aircraft prior to departure. The Carrier reserves the right to refuse for carriage on board the Aircraft any freight, cargo, mail or goods that is not listed on the Manifest.

4.6 The Charterer shall not be entitled to pledge the Aircraft or the Carrier's credit for any purpose or (insofar as within its powers) allow to arise or subsist any liens or rights of detention over the Aircraft.

4.7 The Charterer, at its own cost, shall obey and comply with all instructions of the Carrier concerning the packaging and delivery of any freight, cargo, mail or goods for carriage on board the Aircraft and the collection of the freight, cargo, mail or goods after the arrival of the Aircraft at its scheduled destination.

4.8 The Charterer shall not do or permit to be done any act or thing which would change the livery or configuration of the Aircraft.

4.9 The Charterer and each passenger shall not be entitled to carry any Dangerous Goods on board the Aircraft.

## 5. NON-PERFORMANCE, DELAY, VARIATIONS AND DIVERSIONS

5.1 The scheduled departure time and arrival time stipulated in the Flight Programme are approximate and are not guaranteed by the Carrier.

5.2 The Carrier assumes no responsibility for arranging or making any connecting flights aboard aircraft operated by other service providers.

5.3 The Carrier may in its sole discretion vary, alter or deviate from the scheduled departure time or arrival time stipulated in the Flight Programme:

- (a) if, in its opinion, it is desirable or necessary to do so; or
- (b) it is required to do so by any aerodrome control service, Government Agency or other competent authority; or (c) if it is necessary to avoid a breach of any applicable law, regulation or rule.

5.4 In the event that the Carrier is unable to re-fuel the Aircraft due to a fuel shortage at the Destination Airport, the Carrier may at its sole discretion elect to use an alternate airport as a fuel source and fifty percent (50%) of any costs incurred by the Carrier (including costs associated with the navigation, landing, or over flying of the Aircraft and any additional fuel charges, except any costs in relation to the first diversion for which the Carrier shall be liable) shall be charged to the account of and paid by the Charterer to the Carrier.

5.5 If the departure of the Aircraft is prevented or delayed by any act or omission of the Charterer, or any person under its control or acting on its behalf (including, without limitation, by reason of the failure of the Charterer to comply with its obligations under clause 4.1), the Carrier may at its sole discretion and without liability:

- (a) depart as scheduled; or
  - (b) delay the scheduled departure time by no more than thirty (30) minutes.
- 5.6 In the event of non-performance, partial performance or delay in the performance of the Flight Programme resulting wholly or partly from any Force Majeure or the occurrence of any event or circumstance whatsoever beyond the Carrier's control, including without limitation: (a) any act or omission of a third party;
- (b) adverse weather conditions;
  - (c) technical breakdown of or accident to the Aircraft or any part of it;
  - (d) unavailability of slots; or any delay in loading or unloading the Aircraft,

the Carrier shall use reasonable endeavours to perform or continue to perform the Flight Programme (and may at its discretion but without obligation substitute the Aircraft for another aircraft) but otherwise shall have no liability to the Charterer. The Charterer shall be liable to pay such part of the Charter Price by reference to the part of the Flight Programme which has been performed by the Carrier (if any) and all costs and expenses whatsoever connected with it, and any monies held by the Carrier in excess of the total fees and charges actually incurred shall be refunded to the Charterer unless otherwise stipulated in the Special Conditions. The Carrier's determination of any portion of any amount refundable under this clause 5.6 shall be conclusive, in the absence of any error.

5.7 In the event of any variation from or addition to the Flight Programme at the request of the Charterer, the Charterer shall pay for additional flying hours where appropriate at the hourly rate applying to the Flight Programme or such other rate determined by the Carrier which is reasonable having regard to the Charter Price and any expenses or losses arising from or connected with the variation from or addition to the Flight Programme, together with all other associated expenses whatsoever (including, without limitation, any transport, accommodation and subsistence expenses incurred by the crew of the Aircraft and any engineering staff employed by the Carrier).

5.8 The Carrier shall use reasonable endeavours to perform and complete the Flight Programme but may depart from it if, in its opinion, it is reasonably necessary or advisable in the interests of safety or if required by law, in which case any additional flying hours and associated expenses shall be payable by the Charterer.

## 6. PRICE AND PAYMENT

6.1 The Charterer shall pay to the Carrier the Charter Price for all flights as set out in the Flight Programme and in accordance with the Special Conditions.

6.2 Unless expressly stated, the Charter Price does not include:

- (a) any Taxes, levies or charges assessed or imposed by any Government Agency on or in connection with the performance of the Flight Programme;
- (b) any Taxes, levies, fees or charges (including without limitation goods and services tax and customs duties) assessed or imposed by any aerodrome control service provider, air traffic service provider, Government Agency or other competent authority on or in connection with the performance of the Flight Programme including, for the avoidance of doubt, airport passenger charges;
- (c) the cost of any licences or authorisations specially required for the performance of the Flight Programme;
- (d) any charges in respect of accommodation, refreshments, meals or any additional costs, expenses, losses or damage incurred in respect of passengers carried or to be carried due to flight delays.

6.3 Time shall be of the essence in respect of any payments due from the Charterer to the Carrier, all additional charges referred to in clause 6.1 shall be paid by the Charterer to the Carrier.

6.4 The Charterer's obligation to pay all sums due shall be absolute and unconditional irrespective of any contingency whatsoever and the Charterer shall not be entitled to any abatement, compensation, reduction of, or set-off against any payment due to the Carrier by reason of any past, present or future claims whatsoever of the Charterer against the Carrier or any other party.

## 7. VARIATIONS TO PRICE

Any price quoted or agreed may be varied by the Carrier on reasonable notice to take account of any subsequent increase beyond the Carrier's reasonable control of the cost to the Carrier of performing the Flight Programme including without limitation fuel and maintenance charges. The Charterer may cancel its order by notice to the Carrier within twenty-four (24) hours of receipt of notification of any such price variation, in which event the Charterer shall pay any costs already incurred by the Carrier in preparation for the performance of the Flight Programme, the Carrier's determination of which shall be conclusive, in the absence of manifest error.

## 8. USE OF ELECTRONIC EQUIPMENT

The use of electronic equipment, which includes, but is not limited to, laptop computers, mobile telephones, electronic games and portable music devices, is prohibited on the Aircraft throughout the Flight Programme. The commander of the Aircraft shall at his absolute discretion determine what constitutes electronic equipment for the purposes of this clause 8 and his decision shall be final.

## 9. LIABILITY AND INDEMNITY

9.1 Neither party shall be liable for any special, indirect or consequential loss or damage of any nature whatsoever, including loss of profit, or anticipated profit, arising from its performance of, or failure to perform, the Flight Programme or any of its obligations under th, whether or not such party was negligent, or has, or should have, knowledge that such damage or loss might he sustained. Nothing in these *terms and conditions* shall restrict the Carrier's liability for death or bodily injury resulting from its negligence, or under the *Civil Aviation (Aircraft Operators' Liability) Act* (Chapter 292).

9.2 Any exclusion or limitation of liability available to either party under these *terms and conditions* or otherwise shall exclude or limit such liability not only in contract, but also in tort, statute or otherwise at law and apply to and be for the benefit of such party and:

- (a) employees, agents, directors, officers, subcontractors and representatives of such party and
- (b) any party whose aircraft is used by the Carrier for carriage and that party's employees, agents, directors, officers, subcontractors and representatives.

9.3 Whether or not such liability is covered by the Carrier's insurance and in addition to any other remedy available to the Carrier, the Charterer will indemnify and keep indemnified, hold harmless and defend the Carrier and its employees, agents, directors, officers, subcontractors and representatives from and against any and all liabilities, loss, damage (excluding any loss or damages to any equipment or aircraft owned, operated, borrowed or leased by the Carrier or its agents, subcontractors or representatives), costs (including in respect of legal and professional advice), claims and expenses arising wholly or partly out of or in connection with any:

- (a) breach by the Charterer of its obligations under the *terms and conditions*;
- (b) any act or omission (whether negligent or not) of the Charterer, its employees, agents, directors, officers, subcontractors' or representatives, or owner or consignee of goods carried at its request; or
- (c) any non-performance, partial performance or delay resulting from any reason other than the wilful misconduct of the Carrier.

9.4 Where the services provided or to be provided by the Carrier to the Charterer under these *terms and conditions* relate to or involve the emergency transport of a medical patient (including the Charterer, as the case may be), the Parties agree that:

- (a) without limitation to Clause 3, the Carrier's obligations shall be limited to the provision of the Aircraft and the performance of the Flight Programme only;
- (b) the Carrier may at its sole discretion and without any liability whatsoever: (i) refer the Charterer to; or
  - (ii) procure the services of, a third party (a **Contractor**) for the purpose of providing to the Charterer medical services in connection with the emergency transport of the medical patient, including without limitation the provision of all items, goods, equipment, personnel (including medical personnel), advice (including professional advice) and any other good or service the Contractor deems necessary. The Carrier does not make and excludes any representation or warranty as to:
    - (iii) the ability or capacity of the Contractor or its directors, officers, employees, agents or representatives to perform any medical service;
    - (iv) the accuracy or correctness of any professional advice provided by the Contractor or its directors, officers, employees, agents or representatives;
    - (v) the quality or standard of medical care of the Contractor or its directors, officers, employees, agents or representatives; or
    - (vi) the quality, fitness for a particular purpose, suitability, operation or use of any item, goods or equipment supplied or used by the Contractor or its directors, officers, employees, agents or representatives in the performance of any medical service.
- (c) Any Contractor:
  - (i) engaged by the Charterer upon referral by the Carrier under clause 9.4(b)(i); or
  - (ii) engaged by the Carrier under clause 9.4(b)(ii), shall be an independent contractor, and shall not be deemed an employee, agent, servant or representative of the Carrier. The entire performance, operation, management and direction of the medical services shall be under the exclusive control, management and direction of the Contractor.
- (d) the Charterer shall be solely responsible for procuring to its satisfaction any advice (including professional advice), certificates, licences, approvals, consents and authorisation for or in connection with the emergency transport of the medical patient, and shall on request produce any such advice, certificate, licence, approval, consent or authority to the Carrier;
- (e) the Carrier shall not be liable with respect to, and the Charterer shall indemnify and hold indemnified the Carrier, its directors, officers, employees, agents, representatives and contractors against, any claim, demand or action (whatsoever) for any liability, cost, expense, fee, charge, duty, tax, impost, damage or loss (whether actual or contingent) incurred or suffered by the medical patient, the Charterer, its directors, officers, employees, agents or representatives or any third party with respect to or caused as a result of:
  - (i) any act or omission (whether negligent or not) of the Carrier, its employees, agents, director, officers, contractors or representatives;
  - (ii) any act or omission (whether negligent or not) of any person (including any medical personnel) responsible for or engaged in the management, supervision, care or treatment of the medical patient;
  - (iii) any loss or damage for any reason whatsoever to any item, goods or equipment with respect to the care or treatment of the medical patient; and
  - (iv) any further injury (including any aggravation of an existing injury or illness) suffered by, or the death of, the medical patient.

## 10. INSURANCE

10.1 The Carrier shall effect and maintain at its own cost and expense during the term of the Flight Programme the following insurances:

- (a) Hull "All Risks" (including War and Allied Perils as excluded by the War, Hijacking and Other Perils exclusion clause (AVN 48B) other than paragraph (b) thereof) and such insurance policy(ies) shall include a waiver of subrogation in favour of the Charterer and its employees, agents, directors, officers, subcontractors or representatives;
- (b) LIABILITIES covering AIRCRAFT THIRD PARTY, PASSENGER, BAGGAGE, CARGO, MAIL and AIRCRAFT GENERAL THIRD PARTY LEGAL LIABILITY, for a Combined Single Limit (Bodily Injury/Property Damage) of not less than US\$15,000,000 any one occurrence but US\$10,000,000 any one occurrence in respect of P2- AMH; P2- BEN and P2- JWM.

10.2 Such insurance arranged by the Carrier under Condition 14.1.(b) above will:

- (a) include the Charterer and its employees, agents, directors, officers, subcontractors and representatives as additional insureds for its respective rights and interests;
- (b) include a severability of interest clause which provides that the insurance, except for the limit of liability, will afford each insured the same protection as if there was a separate policy issued to each insured;
- (c) contain a provision confirming that the policy is primary without right of contribution and the liability of insurers will not be affected by any other insurance of which the Charterer and its agents, subcontractors and representatives have the benefit of so as to reduce the amount payable to the additional insured under such policy(ies); (d) operate in Papua New Guinea and Australia only;
- (e) provide that coverage afforded to the additional insureds under such policy(ies) shall not be invalidated by any act or omission (including misrepresentation and non-disclosure) of the Carrier which results in a breach of any term, condition or warranty of the policy provided that such additional insured has not caused, contributed to or knowingly condoned the said act or omission;
- (f) include acceptance by the insurers of the contractual obligations of the Carrier to the Charterer as set forth in the *terms and conditions* to the extent of the policy coverage;
- (g) provide that not less than thirty (30) days prior written notice (or such lesser period as is or may be customarily available in respect of War and Allied Perils) will be given to the Charterer in respect of cancellation or material alteration which adversely affects the Charterer.

## 11. TERMINATION

11.1 This agreement to carry out the scheduled flight as per the quotation provided by the Carrier may be terminated:

- (a) if either party commits a material breach of these *terms and conditions* and fails to remedy such breach within 10 (ten) days of receipt of written notice from the aggrieved party. Notwithstanding the foregoing, should either party have given written notice to the other as provided for in this clause to remedy any breach on 2 (two) occasions in any period of 12 (twelve) consecutive calendar months, and subsequent thereto, but in the same period, either party commits a further breach of these *terms and conditions*, then there shall be no obligation on the part of the aggrieved party to give notice to the other party to remedy such subsequent breach as provided for in this clause, and the aggrieved party shall be entitled, but not obliged, notwithstanding any previous waiver or anything to the contrary in these *terms and conditions*, to terminate the agreed flight schedule without first giving such notice to the other party; or
- (b) if one of the parties becomes insolvent, makes a general assignment for the benefit of its creditors (other than for the purposes of a solvent restructuring, re-organisation or amalgamation), commits an act of bankruptcy or if a receiver or liquidator of all or substantially all of its property is appointed or applied for; without prejudice to either party's rights in law and to any outstanding liabilities accrued or arising hereunder between the parties hereto; or
- (c) by either party upon one (1) days' notice to the other party.

**12. NOTICES**

All notices and other communications in connection with these *terms and conditions* shall be in writing and either delivered by hand or sent by email or fax to such persons as specified in the Special Conditions.

**13. CONFIDENTIALITY**

All information regarding the activities of one party (or any of its subsidiary undertakings, customers, supplier or clients) made available to or obtained by the other party under or as a result of the flight(s) undertaken by the relevant flight quotation, will at all times be treated by that other party as confidential and will not be published or disclosed by it except with the prior written consent of the first party unless disclosure is required by law, and disclosure will then only be made:

- (a) after prior consultation and agreement with that first party as to the terms of such disclosure; and
- (b) strictly in accordance with any agreement as to terms of disclosure; and
- (c) only to the person or persons and in the manner required by law or as otherwise agreed between the parties.

**14. INCIDENT MANAGEMENT**

If the Aircraft suffers any significant damage or otherwise becomes involved in an incident involving death of or injury to any person or upon the occurrence of any other event which would or might give rise to media interest and/or comments or any governmental investigation (an "Incident"), the Carrier and the Charterer shall co-operate fully with each other and provide each other with any relevant information in relation to the investigation of such Incident and shall not without the consent of the other make any statement to any person other than as required by the relevant Government Agency or other competent authority.

**15. WAIVER**

Neither the Carrier's nor the Charterer's rights shall be prejudiced or restricted by any indulgence or forbearance extended to either party by the other or by any delay in exercising or failure to exercise any right and neither party's waiver of any breach shall operate as a waiver of any other or further breach.

**16. SEVERABILITY**

Any clause or provision of these *terms and conditions* or any part of them considered 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 *terms and conditions*.

**17. JURISDICTION**

This Agreement shall be governed by and construed in accordance with the laws of the Independent State of Papua New Guinea. Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction there in connection with matters concerning these *terms and conditions*. Notwithstanding, the Carrier reserves the right to bring proceedings against the Charterer in any country which has jurisdiction.

**18. ENTIRE TERMS AND CONDITIONS**

These *terms and conditions* constitute the entire *terms and conditions* of the parties with regard to the subject matter of the *terms and conditions*. Neither party has relied upon any representation made to it by the other whether written or oral except as is expressly contained in the *terms and conditions*.

