

MEMORANDUM OF AGREEMENT

BETWEEN

---

(the "Operator")

incorporated in the State of \_\_\_\_\_,

AND

THE FEDERAL AVIATION ADMINISTRATION

TO CONDUCT COMMUNICATIONS REGARDING AVIATION INSURANCE  
BY ELECTRONIC MEANS

PREAMBLE

Aviation Insurance

*WHEREAS*, the Secretary of Transportation (the "Secretary") has delegated functions relating to insurance under Chapter 443 of title 49, U.S. Code, ("Chapter 443"), to the Administrator (the "Administrator") of the Federal Aviation Administration (the "FAA");

*WHEREAS*, the United States Government is the Insurer when the Secretary, acting through the Administrator, issues aviation insurance under Chapter 443;

*WHEREAS*, Operator is an air operator certificated by the FAA and has been designated as eligible to obtain Chapter 443 non-premium aviation insurance by:

- (i) the Secretary of Defense, who will have entered into an agreement with the Secretary of Transportation to indemnify the Secretary for all losses covered by such insurance, or
- (ii) the head of a department, agency, or instrumentality of the U.S. Government designated by the President, who will have entered into an agreement with the Secretary of Transportation to indemnify the Secretary for all losses covered by such insurance;

*WHEREAS*, § 44305(b) of Chapter 443 authorizes and permits the Secretary to issue Chapter 443 aviation insurance without premium at the request of the Secretary of Defense or of the head of a department, agency, or instrumentality designated by the President, when the Secretary of Defense or the designated head agrees to indemnify the Secretary against all losses covered by the insurance;

*WHEREAS*, as both the commercial aviation industry and the FAA require close coordination in insurance contracting procedures to ensure that the appropriate aviation insurance coverage is in effect during air operations, this Memorandum of Agreement (the "MOA") sets forth conditions regarding Operator and FAA conducting communications relating to Chapter 443 aviation insurance by electronic means, in order to assure such close coordination;

*WHEREAS*, the Secretary of Defense and the Secretary of Transportation executed an Agreement of Indemnity, which agreement covers non-premium Chapter 443 aviation insurance for Department of Defense airlift contracts with persons designated by the Secretary of Defense;

*WHEREAS*, § 44305(b) provides that, if the President countersigns such Agreement of Indemnity, the agreement constitutes, for purposes of § 44302(c), a determination that continuing the aircraft operations to which the agreement applies is necessary to carry out the foreign policy of the United States, and the President countersigned the agreement on September 4, 2013; and

*WHEREAS*, the date set forth in § 44310(b) of Chapter 443 limits the availability of effective Chapter 443 non-premium aviation insurance coverage,

### TERMS OF AGREEMENT

NOW, THEREFORE, it is mutually understood and agreed between Operator and FAA, as follows:

1. FAA enters into this MOA in reliance on the representations that Operator makes in this MOA, as well as the representations that Operator presents and certifies in its application to FAA for chapter 443 insurance. Operator represents that, as of the time of entering into this MOA, Operator does not have commercial war risk insurance coverage of any kind, whether for property coverage (including but not limited to physical loss of or damage to aircraft), liability coverage, or other commercial war risk insurance coverage, for operations that would be covered by Chapter 443 insurance. Operator agrees to inform the FAA immediately if it acquires any such commercial war risk insurance coverage.
2. Executing and adhering to this MOA is a permanent and material condition of Operator's participating in the Chapter 443 non-premium aviation insurance programs whether or not Chapter 443 aviation insurance coverage is actually available to Operator at any specific time for the air operations for which Operator might seek aviation insurance coverage under the Chapter 443 premium or non-premium aviation insurance programs.
3. This MOA's effectiveness is a material precondition to the issuance of, and to the continued effectiveness of coverage (if any), under any Chapter 443 aviation insurance policy. This MOA shall remain in effect, notwithstanding the termination of coverage under, or the expiration or cancellation of, any Chapter 443 aviation insurance policy or policies issued to Operator, until Operator or FAA terminates this MOA, as provided in paragraph 20, below.
4. In this MOA, "communicate", "communicated", and "communication" refer, as the context requires, to information transmitted, or to be transmitted, from FAA to Operator, or from Operator to FAA. These terms include adding, deleting, or modifying information residing on an electronic data system or systems that FAA maintains.
5. In this MOA, "electronic means" means information that:
  - (a) is maintained on an electronic data system or systems, is accessible via the internet, and may, as FAA may permit or perform, be added to, modified, or deleted via the internet; or

(b) is communicated by electronic mail ("e-mail").

6. Operator and FAA shall conduct and communicate aviation insurance transactions by electronic means, except where FAA otherwise requires hard copy (paper) documentation.

7. FAA maintains the following electronic data systems, which are intended to be accessible to Operator via the internet:

(a) the Aviation Insurance Data Management System (AIDMS), which is a repository of information and records relating to Chapter 443 insurance coverage and is used to execute aviation insurance transactions; and

(b) the Claims Management System (the "CLAMS"), which is a repository of information relating to insurance claims.

8. This MOA refers collectively to AIDMS, CLAMS, and any other electronic data system that FAA maintains or may maintain for aviation insurance purposes, as the "electronic data system" or "electronic data systems", as the context requires.

9. The FAA Aviation Insurance Program Office will advise Operator of the manner of using AIDMS and CLAMS. Operator agrees to adhere to the directions issued or to be issued by that Office.

10. FAA may create additional electronic data systems for aviation insurance program purposes. FAA will advise Operator of the manner of using the additional electronic data systems, but the creation, maintenance, and/or use of such additional electronic data systems will not necessarily require modifying this MOA. Operator agrees to adhere to the directions that FAA may issue for using the additional electronic data systems, whether electronic or in writing.

11. FAA will provide to Operator exclusive, encrypted, limited access to FAA's aviation insurance electronic data systems.

12. Operator shall:

(a) designate to FAA those persons that Operator authorizes to bind Operator by their signatures, and provide to FAA original specimens of those signatures by hard copy;

(b) designate to FAA representatives of Operator's organization that Operator authorizes to access FAA aviation insurance electronic data systems on behalf of Operator;

(c) promptly notify the FAA of a change in signatory user and request deactivation;

(d) deactivate all non-signatory users of FAA electronic data systems whom Operator no longer authorizes to access such systems on behalf of Operator;

(e) not permit any person to access any FAA electronic data system under the access credentials of another person; and

- (f) recertify all current FAA electronic data systems users for continued access at least every 13 months, or the FAA will terminate their access.

13. Operator shall be responsible at all times for the currentness, completeness, and correctness of all information that Operator enters into, uploads into, or posts on an FAA aviation insurance electronic data system, and FAA will rely on that currentness, completeness, and correctness.

14. Entering or uploading information into, or posting information on, AIDMS, or deleting or modifying information previously entered or uploaded into or posted on AIDMS, or any other FAA aviation insurance electronic data system, constitutes legal notice thereof to Operator (to the extent that FAA grants or granted access to such information to Operator) and to FAA, respectively.

15. Operator shall be responsible for maintaining current knowledge of all information entered into, uploaded into, or posted on AIDMS, as well as on any other FAA electronic data system to which FAA grants Operator access. FAA may, from time to time, transmit information to Operator via e-mail as a courtesy, but such transmission does not relieve Operator of Operator's constant obligation under this MOA to maintain current knowledge of all information entered into, uploaded into, or posted on AIDMS, as well as all information entered into, uploaded into, or posted on any other FAA aviation insurance electronic data system to which FAA has granted Operator access.

16. Knowledge of all information that is available to any person that Operator authorizes to access AIDMS or any other FAA aviation insurance electronic data system shall be imputed to Operator.

17. FAA will treat the information that Operator provides under this MOA as confidential business or financial information and will not disclose such information to any third party, except as required by law and except that the FAA may grant "read-only" access to: (i) any officer or employee of any department, agency, or instrumentality of the United States Government that supports programs under Chapter 443; (ii) any department, agency, or instrumentality of the United States Government that agrees to indemnify the Secretary against all losses that the Secretary may incur under Chapter 443 non-premium insurance, under 49 U.S.C. § 44305(b). If FAA is subject to a Freedom of Information Act (FOIA) request for this information, Operator agrees to supply adequate information concerning its claim of confidentiality to support FAA's asserting an exemption from disclosure in response to the FOIA request. If the operator does not provide adequate information concerning its claim of confidentiality to support FAA's asserting an exemption from disclosure in response to the FOIA request with the required time frame (including any extensions granted by the FAA), then the FAA may release the information under FOIA.

18. FAA and Operator may append this MOA by mutual consent in writing at any time.

19. FAA or Operator may terminate this MOA at any time, upon five (5) days' prior written notice.

20. Terms, conditions, exclusions, and limitations governing specific Chapter 443 aviation insurance policies will be set forth in the policy or policies that the Secretary may issue to Operator (as they may be amended from time to time), and shall be in addition to (i) the provisions of Chapter 443 and of 14 C.F.R. Part 198, as they may be amended from time to

time, as well as (ii) the provisions of this MOA, as it may be amended from time to time. In case of conflict between the terms, conditions, exclusions, and limitations of a Chapter 443 policy and this MOA, the policy shall control.

21. Under this MOA, an action by the Administrator as the Secretary's delegee (which may be referred to as an action by FAA or as an action by the Aviation Insurance Program Office) is an action on behalf of the United States Government, as Insurer.

For the UNITED STATES OF AMERICA, as Insurer:

Signature \_\_\_\_\_ Date \_\_\_\_\_

Wayne Heibeck, Deputy Manager  
Preparedness and Response Division  
Office of National Security Programs and Incident Response  
representing the Administrator,  
acting for the Secretary of Transportation

For Operator:

\_\_\_\_\_  
*(Operator's name)*

By an officer of Operator empowered to bind Operator to this MOA, as this MOA applies to:

Signature \_\_\_\_\_ Date \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_(City)\_\_\_\_\_(State)\_\_\_\_\_(Zip)

Telephone Number \_\_\_\_\_

E-mail \_\_\_\_\_