

## PUBLIC CHARTER OPERATOR'S SURETY TRUST AGREEMENT

This Trust Agreement is entered into between \_\_\_\_\_ (charter operator) incorporated under the laws of \_\_\_\_\_ with its principal place of business being \_\_\_\_\_ (hereinafter called "Operator"), and \_\_\_\_\_ (Bank) with its principal place of business being \_\_\_\_\_ (hereinafter called "Trustee"), for the purpose of creating a trust to become effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, which trust shall continue until terminated as hereinafter provided.

Operator intends to become a Public Charter operator pursuant to the provisions of Part 380 of the Department's Special Regulations and other rules and regulations of the Department relating to insurance or other security for the protection of charter participants, and has elected to file with the Department of Transportation such a Surety Trust Agreement as will insure financial responsibility with respect to all monies received from charter participants for services in connection with a Public Charter to be operated subject to Part 380 of the Department's Special Regulations in accordance with contracts, agreements, or arrangements therefore.

This Surety Trust Agreement is written to assure compliance by Operator with the provisions of Part 380 of the Department's Special Regulations and other rules and regulations of the Department relating to insurance or other security for the protection of charter participants. It shall inure to the benefit of any and all charter participants to whom Operator may be held legally liable for any of the damages herein described.

It is mutually agreed by and between Operator and Trustee that Trustee shall manage the corpus of the trust and carry out the purposes of the trust as hereinafter set forth during the term of the trust for the benefit of charter participants (who are hereinafter referred to as "Beneficiaries.")

Beneficiaries of the trust created by this Agreement shall be limited to those charter participants who meet the following requirements:

1. Those for whom Operator or Operator's agent has received payment toward participation in one or more charters operated by or proposed to be operated by Operator.
2. Who have legal claim or claims for money damages against Operator by reason of Operator's failure faithfully to perform, fulfill, and carry out all contracts, agreements, and arrangements made by Operator while this trust is in effect with respect to the receipt of monies and proper disbursement thereof pursuant to Part 380 of the Department's Special Regulations; and
3. Who have given notice of such claim or claims in accordance with this Trust Agreement, but who have not been paid by Operator.

The Operator shall convey to Trustee legal title to the trust corpus, which has a value of \$ \_\_\_\_\_ by the time of the execution of this Agreement.

Trustee shall assume the responsibilities of Trustee over the said trust corpus and

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**Part 380 Surety Trust Agreement, page 2.**

shall distribute from the trust corpus to any and all Beneficiaries to whom Operator, in its capacity as a Public Charter operator, may be held legally liable by reason of Operator's failure faithfully to perform, fulfill, and carry out all contracts, agreements, and arrangements made by Operator, while this trust is in effect with respect to the receipt of monies and proper disbursement thereof pursuant to Part 380 of the Department's Special Regulations in connection with said charters, such damages as will discharge such liability while this trust is in effect; *Provided, however*, that the liability of the trust to any Beneficiary shall not exceed the charter price (as defined in Part 380 of the Department's Special Regulations) paid by or on behalf of any such Beneficiary; *Provided, further*, that there shall be no obligation of the trust to any Beneficiary if Operator shall pay or cause to be paid to any Beneficiary any sum or sums for which Operator may be held legally liable by reasons of its failure faithfully to perform, fulfill, and carry out all contracts, agreements, and arrangements made by Operator in its capacity as Public Charter Operator while this trust is in effect with respect to the receipt of monies and proper disbursement thereof pursuant to Part 380 of the Department's Special Regulations; *and provided still further*, that the liability of the trust as administered by Trustee shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments, shall amount in the aggregate to \$\_\_\_\_\_. Notwithstanding anything herein to the contrary, in no event shall the obligation of the trust or Trustee hereunder exceed the aggregate amount of \$\_\_\_\_\_.

Trustee agrees to furnish written notice to the Special Authorities Division, X-46, Department of Transportation, forthwith of all suits or claims filed and judgments rendered (of which it has knowledge), and of payments made by Trustee under the terms of this trust.

The trust shall not be liable hereunder for the payment of any damages hereinbefore described which arise as a result of any contracts, agreements, undertakings, or arrangements for the supplying of transportation and other services made by Operator after the termination of this trust as herein provided, but such termination shall not affect the liability of the trust hereunder for the payment of any damages arising as a result of contracts, agreements, or arrangements for the supplying of transportation and other services made by Operator prior to the date that such termination becomes effective.

Liability of the trust shall in all events be limited only to a Beneficiary or Beneficiaries who shall within sixty days after the termination of the particular charter give written notice of claim to Operator or, if it is unavailable, to Trustee, and all liability of the trust with respect to participants in a charter shall automatically terminate sixty days after the termination date of each particular charter covered by this trust except for claims made in the time provided herein. Sixty-one days after the completion of the last charter covered by this Trust Agreement, the trust shall automatically terminate except for claims of any Beneficiary or Beneficiaries previously made in accordance with this Agreement still pending on and after said sixty-first day. To the extent of such claims, the trust shall continue until those claims are discharged, dismissed, dropped, or otherwise terminated. After all remaining claims which are covered by this Trust Agreement pending on and after the said sixty-first day have been discharged, dismissed, dropped, or otherwise terminated; Trustee shall convey forthwith the remainder of the trust corpus, if any, to Operator.

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Either Operator or Trustee may at any time terminate this trust by written notice to: "Special Authorities Division, X-46, Office of International Aviation, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W-86-445, Washington, DC 20590," such termination to become effective thirty days after the actual receipt of said notice by the Department.

In the event of any controversy or claim arising hereunder, Trustee shall not be required to determine same or take any other action with respect thereto, but may await the settlement of such controversy or claim by final appropriate legal proceedings, and in such event shall not be liable for interest or damages of any kind.

Any Successor to Trustee by merger, consolidation, or otherwise, shall succeed to this trusteeship and shall have the powers and obligations set forth in this Agreement.

The trust created under this Agreement shall be operated and administered under the laws of the State of \_\_\_\_\_.

IN WITNESS WHEREOF, Operator and Trustee have executed this instrument on the date(s) shown below.

Operator \_\_\_\_\_ (signature)

Date \_\_\_\_\_

Name \_\_\_\_\_ (typed or printed)

Title \_\_\_\_\_

Trustee \_\_\_\_\_ (signature)

Date \_\_\_\_\_

Name \_\_\_\_\_ (typed or printed)

Title \_\_\_\_\_

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**, effective**

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