

AGENCY TERMS AND CONDITIONS

These Terms and Conditions (the “Terms and Conditions”) dated as of _____, 20____ (the “Commencement Date”) shall govern the relationship between Porter Airlines Inc. (“PAI”) and Porter Airlines (Canada) Limited (“PACL”) (collectively, or individually as the context dictates, the “Airline”) and _____, (the “Agency”, using IATA number _____).

1. INTERPRETATION.

1.1 For the purposes of these Terms and Conditions the following terms shall have the following meanings:

- (a) “APPR” means the *Air Passenger Protection Regulations*, SOR/2019-150, promulgated by the Canadian Transportation Agency under the *Canada Transportation Act*, as they may hereafter be amended;
- (b) “ARC” means Airlines Reporting Corporation;
- (c) “ARC Agency Agreement” refers to the Agency Reporting Agreement (ARA) between the Agency and ARC, substantially in the form published by ARC from time to time at www.arccorp.com;
- (d) “ARC Settlement Plan” means the system through which the Agency reports and settles ARC Traffic Documents and other transactions on behalf the Airline;
- (e) “ARC Traffic Documents” means all industry standard electronic forms and documents that ARC may provide to the Agency, in trust, for which the Agency is responsible. This term does not include the Airline’s own traffic documents;
- (f) “BSP” means the IATA Billing and Settlement Plan (also known as the “Bank Settlement Plan”) applicable to the Agency;
- (g) “BSP Passenger Sales Agency Agreement” means the Passenger Sales Agency Agreement between the Agency and IATA, substantially in the form set out in IATA Resolution 824;
- (h) “Base Commission” has the meaning set forth in Section 3 hereof;
- (i) “Base Airfare” means the quoted airfare price on the Airline’s website, call centre or other advertising medium, as booked by a traveller through the Agency, Global Distribution System (“GDS”) or other sales medium, excluding all applicable fees, surcharges and taxes imposed by the Airline or a governmental authority, or by any other body having authority to impose any other fees, charges, or taxes related to air travel, including but not limited to transportation taxes, airport taxes, security taxes, federal inspection fees, passenger facility

fees, change fees, passenger facility charges, insurance charges, NAV charges, departure taxes, goods and services taxes, sales taxes or any similar taxes;

- (j) “Codeshare” means an arrangement between two airlines, where one airline (Marketing Carrier) sells transportation services under its own code and license on a flight operated by the other airline (Operating Carrier), provided that “Codeshare” shall not include flights for which PACL is the marketing carrier and PAI is the operating carrier for the purposes of these terms and conditions.
- (k) “Corporate Airfare Agreement” means an agreement between the Airline and a corporate client thereof pursuant to which such client receives a discount off of Base Airfares.
- (l) “Default Action” means a default action under the IATA Sales Agency Rules incorporated in the Agency's IATA Sales Agency Agreement or a contravention of the Travel Industry Act of Ontario or similar legislation in other provinces, including the terms of the registration of the Agency under such provincial legislation “IATA” means the International Air Transport Association;
- (m) “E-Ticket Sales” means sales of electronic tickets under either the ARC Settlement Plan or BSP, as applicable;
- (n) “Group Sales” means sales of the same itinerary to ten or more passengers;
- (o) “IATA” means the International Air Transport Association;
- (p) “Net Booked Revenue” means the amount calculated by the Airline in respect of the sale of its Segments booked by the Agency (i.e. the aggregate of booked Segments operated by both PACL and PAI), excluding:
 - i. cancelled itineraries; and
 - ii. all transportation taxes, airport taxes, security taxes, federal inspection fees, passenger facility fees, change fees, passenger facility charges, insurance charges, NAV charges, departure taxes, goods and services taxes, sales taxes or any similar taxes, levies, charges, or duties applicable that are imposed by a governmental authority, or any other body having authority to impose any other taxes, fees or charges related to air travel;
- (q) “Net Flown Revenue” means the amount calculated by the Airline in respect of the sale of its flown Segments booked by the Agency (i.e. the aggregate of booked Segments operated by both PACL and PAI), excluding:
 - i. cancelled itineraries; and

- ii. all transportation taxes, airport taxes, security taxes, federal inspection fees, passenger facility fees, change fees, passenger facility charges, insurance charges, NAV charges, departure taxes, goods and services taxes, sales taxes or any similar taxes, levies, charges, or duties applicable that are imposed by a governmental authority, or any other body having authority to impose any other taxes, fees or charges related to air travel;
- (r) “Passive Segment” means any segment entered in the GDS that does not result in a ticket purchase via the GDS and is used for administrative or fictitious purposes;
- (s) “Personal Information” has the meaning ascribed thereto in the Airline’s Privacy Policy, and includes any personally identifiable information collected by the Airline or disclosed to the Airline by the Agency or its employees and agents in the performance of this Agreement;
- (t) “Porter Pass” means prepaid vouchers sold by the Airline in packages and branded “Porter Pass”, each redeemable for travel on a Segment;
- (u) “Segment” means a one-way flight segment serviced by the Airline (i.e. by either of PACL or PAI);
- (v) “Term” has the meaning set forth in Section 2.1 hereof; and
- (w) “Ticketless Sales” means all sales of the Airline’s flights made by the Agency hereunder (including flights operated by both PACL and PAI) which are not “E-Ticket Sales”; and
- (x) “TIDS” means Travel Industry Designator Service.

1.2 The headings in these Terms and Conditions are inserted for convenience of reference and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of these Terms and Conditions or any provision hereof.

2. TERM.

- 2.1 Subject to any earlier termination as provided for herein, these Terms and Conditions are effective from the Commencement Date through the immediately ensuing December 31st, and shall thereafter automatically renew for a period of one (1) year, and thereafter, from year to year, unless either party notifies the other of its intention not to renew with at least thirty (30) days prior written notice (the “Term”).
- 2.2 To be entitled to commission payments hereunder, the Agency must have a valid IATA, ARC or TIDS identification number and be registered and activated with the Airline in accordance with its applicable procedures then in effect. Agencies registered with TIDS and which do not have a valid IATA identification number are entitled to commission

payments on Net Booked Revenue from Ticketless Sales only, subject to the provisions of these Terms and Conditions.

3. BASE COMMISSION.

3.1 Subject to Section 3.2 below, the Airline agrees to pay the Agency Base Commissions on Net Booked Revenue on bookings made through the following channels for the indicated fare categories at the following rates, having regard to whether the Agency is a Canada or U.S. Point of Sale, as may be reasonably determined by the Airline:

Canada Point of Sale: Porter Airlines-only itineraries

The following commissions shall be payable on itineraries including only Porter Airlines-operated flight segments

Product Type	Fare Experience	Fare Family		Rate
		Name	8 th character of farebasis	
Airline Website (Ticketless), or GDS (E-ticketed via BSP)	PorterClassic	Basic	“L”	0%
		Standard	“S”	0%
		Flexible	“F”	4%
		Freedom	“E”	4%
	PorterReserve	Navigate	“V”	4%
		Ultimate	“U”	4%
Airline Call Centre	Any			0%
Porter Pass	Any			5%

Canada Point of Sale: Porter Airlines itineraries incl. Air Transat domestic segments

The following commissions shall be payable on itineraries including (a) only Porter Airlines-operated flight segments, or (b) including Air Transat-operated segments which originate and terminate in Canada:

Product Type	Fare Experience	Fare Family		Rate
		Name	8 th character of farebasis	
GDS (E-ticketed via BSP)	PorterClassic	Basic	“L”	0%
		Standard	“S”	0%
		Flexible	“F”	4%
		Freedom	“E”	4%
	PorterReserve	Navigate	“V”	4%
		Ultimate	“U”	4%
Airline Call Centre	Any			0%
Porter Pass	Any			5%

*For clarity no commissions shall be payable on bookings via the Porter Travel Agency Portal

Canada Point of Sale: Itineraries incl. Air Transat transatlantic segments

Itineraries including one or more Air Transat-operated segments which originate or terminate in Europe or Africa, provided that the itinerary does not include any segments originating or terminating in the United States.

Product Type	Fare Experience	Fare Family		Rate
		Name	FB Code	
GDS (E-ticketed via BSP)	PorterClassic	Basic	"BSC"	0%
		Standard	"STD"	4%
		Flexible	"FLE"	5%
		Freedom	"FRE"	5%
	PorterReserve	Navigate	"NAV"	5%
		Ultimate	"ULT"	5%
Airline Call Centre	Any		0%	
Porter Pass	Any		0%	

*For clarity no commissions shall be payable on bookings via the Porter Travel Agency Portal

All other countries, including U.S. Point of Sale

Product Type	Fare Family	Rate
Airline Website (Ticketless)	Any	0%
GDS (Ticketless or E-ticketed via ARC)	Any	0%
Airline Call Centre	Any	0%
Porter Pass	Any	0%

The Airline shall calculate the Base Commission payment by multiplying the applicable Base Commission rate set forth above by the amount of Net Booked Revenue booked through the Agency in each month for each of the categories on which commission is payable as indicated in the chart above.

- 3.2 Irrespective of the method of booking, unless otherwise agreed by the parties, no commissions shall be payable by the Airline on bookings of (a) group sales; (b) charter sales; (c) sales discounted pursuant to a Corporate Airfare Agreement; (d) sales of tickets on the Airline made by or through any other airline pursuant to an Interline Agreement between such airline and the Airline, or (e) sales of tickets made on the Airline inclusive of a Codeshare segment save and except to the extent Section 3.1 above provides for commissions on sales of certain itineraries including segments operated by Air Transat.
- 3.3 The Airline’s systems and records will be the sole data source for the final determination of Net Booked Revenue, unless otherwise determined by the Airline.
- 3.4 At its sole discretion, the Airline may change the rates of the Base Commission set out above upon five (5) days prior written notice to the Agency.

- 3.5 All bookings of Ticketless Sales by the Agency shall be made by a valid credit card using a type of credit card approved by the Airline at its sole discretion.
- 3.6 All bookings of E-Ticket Sales shall be booked and settled:
- 3.6.1 where the Agency is licensed in the United States, in accordance with the ARC Settlement Plan, the ARC Agency Agreement(s) between the Agency and ARC and all other terms and conditions applicable to the principal-agent relationship in transactions involving ARC Traffic Documents and applicable government laws and regulations; and
- 3.6.2 where the Agency is licensed in Canada, in accordance with the BSP, including the BSP Passenger Sales Agency Agreement between the Agency and IATA, any applicable Passenger Sales Agency Rules and BSP Procedures, the local standards applicable to Canada as are provided for under the Passenger Sales Agency Rules, applicable IATA Resolutions and applicable government laws and regulations.
- 3.7 The Base Commission is subject to subsequent adjustment by the Airline for returns of airfare tickets, cancellations and such other events for which adjustments may be required. Such adjustments may be applied by the Airline from time to time, at its sole discretion. The Airline will not pay commission on 'change fees' applied when making changes to reservations.
- 3.8 Any entitlement by the Agency to the payment of Base Commissions shall be forfeited should the Agency or any other travel agency in the Agency's control fail to keep these Terms and Conditions confidential in accordance with Section 11 hereof, or attempt to artificially increase its performance, sales revenue or Net Booking figures with the Airline, as may be reasonably determined by the Airline.
- 3.9 All commissionable bookings must have an IATA or TIDS number at time of booking. The Airline reserves the right to hold commissions on bookings missing IATA or TIDS numbers, as applicable.
- 3.10 All rights to Base Commission will expire 12 months after the last Segment booked and/or ticketed or the date that a ticket credit was issued, as applicable.
- 3.11 The Agency shall not use the terms and conditions set out herein for any purpose other than the purpose for which this Agreement is intended.

4. PAYMENT OF BASE COMMISSION.

- 4.1 Subject to Section 4.8 below, the Airline shall pay the Base Commission on Ticketless Sales to the Agency quarterly, in arrears, thirty (30) days after the end of each month of

the Term. In the event that the amount of such Base Commission shall be less than \$50.00 at the end of a quarter, the Base Commission shall be accrued to the Agency, but will not be paid until such time as the amount accrued at the end of a quarter less any amounts set off as owing to the Airline (per section 4.3) totals \$50.00 or more.

- 4.2 Base Commissions on E-Ticket Sales will be claimed at time of booking by ARC or BSP and settled in accordance with Section 3.6 above, save and except for PD marketed connecting itineraries including segments operated by both PD and TS, on which base commission will be paid at months end via FTS
- 4.3 In the event of an overpayment of the Base Commission to the Agency, as determined by the Airline, the Agency shall be responsible for remitting the amount of such overpayment back to the Airline within fifteen (15) days of being notified in writing by the Airline of such overpayment.
- 4.4 Except as otherwise provided in the ARC Settlement Plan or the BSP, the Airline shall be entitled to set-off any amounts owing by the Agency to the Airline against any amounts owing by the Airline to the Agency under these Terms and Conditions.
- 4.5 Subject to Section 4.8 below, every payment of Base Commissions on Ticketless Sales due to the Agency shall be made by way of electronic funds transfer to the account designated by the Agency on the "Agency Registration" page of the Airline's website or otherwise furnished to the Airline in writing, unless the parties agree to an alternative method of payment. The Airline may change the form of Base Commission payment upon five (5) days prior written notice to the Agency.
- 4.6 Subject to Section 3.7 above, any reductions in Net Booked Revenue due to passenger name record cancellations or other similar adjustments for which payment of Base Commissions has already been made will be set off against future Base Commission payments owing by the Airline to the Agency during the Term and any renewal thereof.
- 4.7 The Agency shall not book Passive Segments through the Sabre GDS, but may book Passive Segments through any other GDS.
- 4.8 The Airline will endeavour to implement payment of Base Commissions on Ticketless Sales to the Agency by electronic funds transfer quarterly in arrears within thirty (30) days of the end of each calendar quarter following its receipt of the necessary account information from the Agency. The above-stated minimum accrued commission threshold of \$50.00 shall apply to such payments.

5. COVENANTS OF AGENCY.

- 5.1 The Agency warrants that the information provided by the Agency on the “Agency Registration” page of the Airline’s website is true and correct as of the date hereof. The Agency shall promptly notify the Airline in writing of any changes, modifications, additions or deletions that are made to this information over the Term.
- 5.2 The Agency shall ensure its agents are educated on the services, schedules and ticketing instructions of the Airline.
- 5.3 The Agency agrees to comply with all communications of the Airline, including but not limited to directions, instructions, notices, standards, methods, procedures and guidelines from time to time prescribed by the Airline, including but not limited to those dealing with marketing, advertising and pricing. More particularly, the Agency agrees, without limitation:
- (a) **Not to advertise or otherwise cause or allow to be advertised** the Airline’s services on any media, including but not limited to print, web and radio, at rates lower than those published by the Airline, including but not limited to rates displayed in the Airline’s system;
 - (b) **Not to bid on the Airline’s content** through metasearch engines Kayak and Skyscanner, and any other meta search/fare aggregator engines as the Airline may hereafter direct in writing;
 - (c) **Not to sell or otherwise cause or allow to be sold** the Airline’s services at rates lower than those published by the Airline, including but not limited to rates displayed in the Airline’s system; and
 - (d) **Not to offer or issue or otherwise cause or allow to be offered or issued** any discount, added value or rebate on any Airline service without the Airline’s written consent. For further clarity and without restricting the generality of the foregoing any discount, added value or rebate offers to consumers on Airline must be approved in writing by the Airline prior to being issued.
- 5.4 The Agency agrees not to advertise or solicit on the internet or otherwise endeavour to secure online internet bookings or to make online internet bookings on the Airline using the Airline’s name or trademarks, including that the Agency shall not purchase search terms or other online advertising which is targeted using or containing the name “Porter” or any other trademark of the Airline. The Agency agrees not to discount or undercut the Airline’s fares advertised on the Airline’s website.
- 5.5 The Agency agrees not to join and be a member of more than one travel association or group at the same time. The Agency shall promptly notify the Airline in writing of any changes in its membership in travel associations or groups.
- 5.6 In the event the Airline reasonably determines that an Agency has breached any of the covenants set forth in this Section 5, the Airline may, at its sole discretion, take one or more of the following steps:

- (a) Upon an Agency's first breach:
 - i.deliver written notice to the Agency via email advising of the contravention and requiring that the Agency correct the breach by 24 hours from the transmission of the notice or 5 pm Eastern time the following day, whichever is later, and/or
 - ii.impose a penalty, payable by the Agency to the Airline, in the amount of \$500;

- (b) Upon an Agency's failure to remedy a first breach of which written notice has been sent under Section 5(a) within the time periods denoted therein, or alternatively upon the Agency's second breach within one year of a first breach,

- i.deliver written notice to the Agency via email advising of the ongoing contravention and requiring that the Agency correct the breach by 24 hours from the transmission of the notice or 5 pm Eastern time the following day, whichever is earlier, and/or
 - ii.impose a penalty, payable by the Agency to the Airline, in the amount of \$2,000;

- (c) Upon an Agency's failure to remedy a breach of which written notice has been sent under Section 5(b) within the time periods denoted therein, or alternatively upon the Agency's third breach within one year of a first breach,

- i.impose a penalty, payable by the Agency to the Airline, the amount of \$5,000, and/or
 - ii.de-activate the Agency's ticketing authority through BSP for a period of 48 hours, or such longer period as the Airline may deem appropriate having regard to the circumstances, including without limitation whether and when the Agency remedies the relevant contravention(s).

5.7 Any penalties imposed upon the Agency pursuant to Section 5.6 above shall be collected by the Airline, at its option, via (a) issuance of an Agency Debit Memo, (b) setoff against any payments due or which thereafter become due by the Airline to the Agency hereunder, or (c) via issuance and delivery of an invoice to the Agency.

5.8 Without limiting Section 15 hereof, the Agency covenants and agrees to comply with all applicable requirements of the APPR relating to the offering, promotion, sale and issuance of travel on the Airline or otherwise applicable to the Agency, and to comply with all reasonable instructions of the Airline pertaining to the interpretation and application thereof as it relates to the subject matter of these Terms and Conditions, including without limitation that:

- (a) Consistent with Section 5 of the APPR, the Agency shall ensure the following information appears on all digital platforms it uses to sell travel on the Airline, and on all documents issued to passengers by the Agency on which the passengers' itinerary appears:

- i. the Airline's terms and conditions of carriage applicable to the matters set out in Section 5(1), or a hyperlink to a webpage containing that information;
 - ii. the Airline's information on the treatment of passengers described in Section 5(3), or a hyperlink to a webpage containing that information;
 - iii. the notice prescribed in Section 5(5) of the APPR; and
- (b) The Agency will, in making the information set out above available, comply with Section 5(6) of the APPR concerning the provision of information in accessible formats.

5.9 Consistent with Section 13 of the APPR, the Agency shall, upon being notified by the Airline of a flight delay or cancellation relating to an itinerary purchased from the Agency pursuant to these Terms and Conditions, forthwith notify affected passengers and shall provide to the passenger the information set out in Section 13(1) to the extent provided by the Airline to the Agency.

5.10 The Agency and Airline shall cooperate with one another on a reasonable basis in investigating any claims, complaints or other matters arising under the APPR and relating to travel purchased hereunder.

5.11 The Agency will indemnify and hold harmless the Airline for any amounts it pays or may become obligated to pay arising from the Agency's failure to comply with Sections 5.8-5.10 of these Terms and Conditions.

5.12 The Agency acknowledges and agrees that, to the extent the Airline furnishes the Agency with any vouchers for use by the Agency's personnel for business purposes relating to the subject matter of these Terms and Conditions, the Agency acknowledges and agrees that (a) such vouchers are offered subject to the condition that any users thereof waive any claims for compensation or other remedies they may have against the Airline under the APPR; and (b) if such waivers are deemed ineffective or unenforceable or if any claim are otherwise asserted by passengers travelling pursuant to any voucher issued by the Airline to the Agency, the Agency will indemnify and hold harmless the Airline for any amounts it pays or may become obligated to pay such passengers for claims arising under the APPR.

6. COVENANTS OF THE AIRLINE.

6.1 Where possible and commercially reasonable and at the sole discretion of the Airline, the Airline may provide the following support services to the Agency:

- (a) assistance with joint marketing initiatives;
- (b) participation in joint sales calls with the Agency's corporate sales team;

- (c) assistance with education of the Agency's counselors and employees about the Airline's products, services and scheduling information; and
- (d) meetings with the Agency's sales team in respect of marketing matters, including but not limited to, performance measurements, the identification of distressed inventory or markets and the Airline's short term scheduling plans.

7. TICKETS.

- 7.1 All purchases and usage of the Airline's tickets are subject to the Airline's "Conditions of Carriage" policies and any ticket purchasing rules, as may be amended from time to time at the sole discretion of the Airline, and which are available on the Airline's website (www.flyporter.com).

8. VACATION PACKAGES.

- 8.1 All package products, Tours, Hotels, Cars, Insurance and Ancillary services are excluded from this Agreement.

9. GROUP BOOKINGS.

- 9.1 All net airfare group bookings shall be booked through the "Group Sales" section of the Airline's website and shall be Ticketless Sales as defined herein.

10. TERMINATION.

- 10.1 Either party may terminate these Terms and Conditions:
 - (a) by providing the other party with at least thirty (30) days prior written notice. The effective date of the termination shall be thirty (30) days from the date of receipt of such notice by the other party, unless otherwise specified in the notice;
 - (b) immediately upon providing written notice to the other party if the other party makes an assignment in bankruptcy under the Bankruptcy and Insolvency Act (the "Act") or a petition is filed against the other party under the Act or the other party is declared or adjudicated bankrupt or an application is made in respect of the other party under the Companies' Creditors Arrangement Act or a liquidator, trustee in bankruptcy, custodian, receiver, receiver and manager, monitor administrator or any other person or entity with similar powers is appointed over the other party's property or the other party commits any act of bankruptcy or proceedings are instituted to adjudge the other party bankrupt, or the other party admits in writing an inability to pay debts generally as they become due or becomes an "insolvent person" as that term is defined in the Act; or

- (c) immediately upon providing written notice to the other party if the other party defaults on any undisputed amount due under these Terms and Conditions.
- 10.2 In addition to the termination rights available to it under Section 7.1, the Airline may terminate these Terms and Conditions immediately upon providing written notice to the other party if:
- (a) a Default Action is taken against the Agency and is not remedied within thirty (30) days resulting in the revocation of the Agency's IATA accreditation; or
 - (b) a Default Action is taken against the Agency by the Agency Registrar of the Province of Ontario, or a similar organization, resulting in the revocation or non-renewal of the provincial operating permit for the Agency.
- 10.3 If, as a result of actions of the Competition Bureau of Canada or any other domestic or foreign authority, or as a result of legal proceedings, it is held, or the Airline deems, that the terms and conditions hereunder, or any part thereof, is not to be continued, the Airline shall have the right to terminate its agreement to these Terms and Conditions immediately upon providing written notice to the Agency.

11. CONFIDENTIALITY.

- 11.1 These Terms and Conditions and the discussions, negotiations, correspondence and any other communication made with respect to it ("Confidential Information") are strictly confidential. Without limiting the foregoing, Confidential Information shall include all of information or material which: (i) is marked by the party disclosing such information (the "Disclosing Party") as "Private," "Confidential," "Proprietary Information" or such similar designation; (ii) is owned by the Disclosing Party or in which the Disclosing Party has a definable legal interest; (iii) involves sensitive business/personal information of the Disclosing Party or its Representatives (as defined below) that should have a limited audience; (iv) indicates the Disclosing Party's sensitive operational/strategic direction, the disclosure of which could be detrimental to the Disclosing Party's interests; (v) is important to the technical and financial aspects of a product or business unit of the Disclosing Party or to the Disclosing Party generally; (vi) is intended only for the Disclosing Party's internal use unless it is classified otherwise; or (vii) gives the Disclosing Party some competitive business advantage or the opportunity of obtaining a competitive business advantage, the disclosure of which could be detrimental to the Disclosing Party's interests. Notwithstanding the foregoing, Confidential Information does not include information that (a) has become available to the public; (b) is already known by the party Receiving Party at the time that the Confidential Information is received from the Disclosing Party; or (c) is independently developed by the Receiving Party without breach of this Agreement.
- 11.2 Each party shall treat Confidential Information with at least the same degree of care that it uses to protect its own confidential and proprietary information of a similar nature but no less than a reasonable degree of care.

- 11.3 Except as required by law, regulation or court order, the party receiving Confidential Information (the “Receiving Party”) shall not disclose, duplicate, copy, transmit or otherwise disseminate in any manner whatsoever Confidential Information, except to the Receiving Party’s officers, directors and employees (collectively, “Representatives”) or authorized agents who need to know such information to give effect to the purposes of these Terms and Conditions. All such persons receiving Confidential Information shall (a) if they are not representatives of the Receiving Party, be subject to a written confidentiality agreement consistent with these Terms and Conditions; (b) be required to know such Confidential Information for the Receiving Party’s performance in connection with these Terms and Conditions; and (c) be informed of the confidential nature of the Confidential Information.
- 11.4 The Receiving Party shall cause its Representatives to adhere to these Terms and Conditions, and the Receiving Party shall be liable to the Disclosing Party in the event that any of its Representatives breach these obligations. The Receiving Party will promptly report to the Disclosing Party any breach in security that may materially affect the Disclosing Party and will specify the corrective action to be taken. Neither party will commingle that other’s Confidential Information with the information of any other person or entity.
- 11.5 Each party acknowledges that it would not have an adequate remedy at law and would be irreparably harmed if any of the provisions of this Article were not performed in accordance with their specific terms or were otherwise breached. Accordingly, each party agrees that it shall be entitled to injunctive relief (or similar remedy) to prevent breaches of this Article and to specifically enforce its provisions in addition to any other remedy available at law or in equity.
- 11.6 Notwithstanding the terms of this section, each party agrees that all Confidential Information provided pursuant to these Terms and Conditions may be disclosed by the Airline to Porter Escapes Inc. for the purpose of marketing and promotion initiatives by Porter Escapes Inc.

12. DATA COLLECTION AND PRIVACY

- 12.1 The Agency acknowledges that the Airlines will collect and requires certain Personal Information in order to perform the Airline’s obligations hereunder. In respect to any Personal Information provided to the Airline by the Agency, the Agency represents and warrants that it has (or it shall have obtained) the right, and has obtained (or it shall have obtained) all necessary consents, to disclose such Personal Information to the Airline for the purposes described in this Section. Each of the Agency's employees and agents who disclose Personal Information to the Airline may be required to expressly agree to the Airline Privacy Policy when purchasing travel and related services from the Airline. The Airline shall only collect, use and disclose Personal Information to the extent required in

order to person its obligations hereunder and otherwise in accordance with the Airline Privacy Policy. The Agency acknowledges having reviewed the Airline Privacy Policy and hereby agrees to the terms thereof.

13. ASSIGNMENT.

- 13.1 The Agency shall not assign these Terms and Conditions or any right or obligation hereunder, including the assignment of any right to proceeds, without the prior written consent of the Airline.

14. NOTICE

- 14.1 Any notice pursuant to these Terms and Conditions may be given in writing by certified or registered mail, email or by facsimile at the following addresses:

- (a) If to the Airline, at:
Porter Airlines
250 Yonge Street, 28th Floor
Toronto, Ontario
Canada
M5B 2L7
Fax: (416)-203-8150
Email: agency.services@flyporter.com
Attention: Distribution Department
- (b) If to the Agency: At the coordinates provided by the Agency in the “Contact Details” field on the “Agency Registration” page of the Airline’s website.

- 14.2 In the event of transmittal by facsimile, the date of receipt will be deemed to be the date printed on the facsimile transmittal confirmation form, if prior to 4:00 pm (recipient’s time) and if later, the following business day. In the event of transmittal by certified or registered mail, the notice shall be deemed received within five (5) days of mailing.

15. COMPLIANCE WITH LAWS

- 15.1 The parties agree to comply with all local, provincial and federal statutes, laws, regulations, rules, orders, guidelines and licensing applicable to any activities carried out pursuant to this Agreement, including without limitation any and all legislation applicable to travel agencies and travel agents and all obligations thereunder.
- 15.2 Without limiting the foregoing, as of July 15, 2019, the Agency shall comply with the requirements set out in Addendum No. 1 to these Terms and Conditions, which is incorporated hereinto.

16. AMENDMENT OF TERMS AND CONDITIONS

- 16.1 Effective as of January 1, 2017, these Terms and Conditions shall be deemed to amend, revise and replace the prior Terms and Conditions governing the relationship between the Airline and the Agency, unless within thirty (30) days of receipt of these Terms and Conditions the Agency terminates the relationship with the Airline by written notice to the Airline.
- 16.2 The Airline may amend these Terms and Conditions from time to time upon five (5) days prior written notice to the Agency and such amended Terms and Conditions are deemed to be incorporated into these Terms and Conditions and made part hereof and the Airline and the Agency agrees to comply with them as they may be so amended.
- 16.3 The Airline shall post the Terms and Conditions on its website, as amended from time to time.

17. LIMITATION OF LIABILITY.

- 17.1 Neither party to this Agreement shall be liable to the other party for any direct or indirect loss or damage of any kind or nature whatsoever (including incidental, exemplary, special or consequential damages and including any loss or profits, revenue, or other economic loss) arising out of or in connection with the Agreement, even where such party has been advised of the possibility of such damaged. Each party hereby releases and waives any claims against the other party regarding such damages.

18. MISCELLANEOUS.

- 18.1 Each party shall be responsible for its own sales, business and any related taxes.
- 18.2 No party is obligated by these Terms and Conditions to, and shall not, take any action required, permitted or otherwise contemplated by these Terms and Conditions except in accordance with applicable laws. Airline understands and agrees that the Agency will perform its obligations and services under these Terms and Conditions only to the extent that those obligations and services (i) do not cause the Agency to breach any contract or agreement to which it is a party, or (ii) are not prohibited by law, rule or regulation.
- 18.3 The failure of any party to enforce any term of these Terms and Conditions shall not constitute a waiver of any contractual or statutory rights arising hereunder. Should any provision of these Terms and Conditions be declared void or unenforceable by a court of competent jurisdiction, the remainder of these Terms and Conditions shall remain in effect as if that provision was not part of these Terms and Conditions.
- 18.4 These Terms and Conditions may be executed in one or more counterparts, each of which when so executed and delivered will be deemed to be an original, but all counterparts together will constitute one and the same agreement. These Terms and Conditions may be

executed and delivered by facsimile, which when so executed and delivered will constitute a binding agreement.

- 18.5 All amounts referred to herein, unless otherwise specifically indicated, are stated in Canadian currency if booked in Canada and US currency if booked in the US.
- 18.6 Nothing contained herein shall be deemed in any way or for any purpose to constitute either party, a partner or agent or legal representative of the other party in the conduct of any business or otherwise or a member of a joint venture or joint enterprise with the other party, or to authorize either party to bind the other party or to create any fiduciary relationship between the parties.
- 18.7 These Terms and Conditions shall be governed by and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to the United Nations Convention on the International Sale of Goods, and without giving effect to provisions related to choice of laws or conflicts of laws. The parties agree to attorn to the courts of the Province of Ontario. The parties further agree that the Airline shall have the right to elect to submit any dispute arising out of or in connection with these terms and conditions to binding arbitration before one arbitrator conducted pursuant to the National Arbitration Rules of the ADR Institute of Canada, Inc. The arbitration shall be held in the City of Toronto with all proceedings conducted in English.
- 18.8 The parties shall not take any action required, permitted or otherwise contemplated by these Terms and Conditions except in accordance with applicable laws. The Airline understands and agrees that the Agency will perform its obligations and services under these Terms and Conditions only to the extent that those obligations and services (i) do not cause the Agency to breach any contract or agreement to which it is a party, or (ii) are not prohibited by law, rule or regulation.
- 18.9 The Airline shall not be responsible for any delays or failures in performance caused by circumstances beyond the Airline's control, including (without limitation) strikes, lockouts or other labour disputes, acts of God, material shortages, mechanical difficulties, riots, acts of war or other hostilities, governmental regulations or activities, fire, earthquakes or other natural disasters.

The remainder of this page has intentionally been left blank.

The undersigned hereby acknowledges and confirms acceptance of the foregoing Terms and Conditions as evidenced by the signature(s) below.

[AGENCY]

Per: _____

Name:

Title:

Per: _____

Name:

Title:

I/we have the authority to bind the corporation and, if signing on behalf of a travel group, I/we have authority to sign these terms and conditions on behalf of each travel agency that is a member of this travel group.

Accepted and agreed to this ____ day of _____, 20____.

PORTER AIRLINES INC.

Per: _____

Name: Edmond Eldebs

Title: Senior Vice President,
Chief Commercial Officer

I/we have the authority to bind the corporation.

PORTER AIRLINES (CANADA) LIMITED

Per: _____

Name: Edmond Eldebs

Title: Senior Vice President,
Chief Commercial Officer

I/we have the authority to bind the corporation.

ADDENDUM NO. 1 TO AGENCY TERMS AND CONDITIONS

1. In connection with its exercise of its rights and performance of its obligations under the Agreement, the Agency shall include:
 - a. on all digital platforms it uses to sell travel on the Airline:
 - i. descriptive text hyperlinking to a page on flyporter.com containing certain information as prescribed by Section 5 of the *Air Passenger Protection Regulations*, SOR/2019-150, such as:

“Travel Disruptions: Know Your Rights and Responsibilities:
<https://www.flyporter.com/en-ca/travel-information/travel-disruptions>”

and
 - ii. the Notice (as defined below); and
 - b. on all Agency documents issued to the passenger on which the passenger’s itinerary appears:
 - i. descriptive text together with a URL on flyporter.com containing to certain information as prescribed by Section 5 of the *Air Passenger Protection Regulations*, SOR/2019-150, such as:

“Visit Porter’s Travel Disruptions page (<https://www.flyporter.com/en-ca/travel-information/travel-disruptions>) for more information on what they’ll do to help and what you’ll need to do in case your flight is cancelled or significantly delayed or if your baggage is lost or damaged.”

and
 - ii. the Notice (as defined below).
2. The following notice (the “Notice”) must be made available on all digital platforms that the carrier uses to sell travel on the Airline and on all documents on which the passenger’s itinerary appears:

“If you are denied boarding or your baggage is lost or damaged, you may be entitled to certain standards of treatment and compensation under the Air Passenger Protection Regulations. For more information about your passenger rights please contact your air carrier or visit the Canadian Transportation

Agency's website (<https://otc-cta.gc.ca/eng/home>)

Si l'embarquement vous est refusé ou si vos bagages sont perdus ou endommagés, vous pourriez avoir droit au titre du Règlement sur la protection des passagers aériens, à certains avantages au titre des normes de traitement applicables et à une indemnité. Pour de plus amples renseignements sur vos droits, veuillez communiquer avec votre transporteur aérien ou visiter le site Web de l'Office des transports du Canada (<https://otc-cta.gc.ca/fra>)”

3. If the information referred to in section 1(a) or 2 above, or the notice set out in section 2 above is provided in a digital format, the Agency shall take such steps as are commercially reasonable to ensure that format is compatible with adaptive technologies intended to assist persons with disabilities and if that information or notice is provided in a paper format, the Agency shall take such steps as are commercially reasonable to ensure that it is provide it in large print, Braille or a digital format.