

# Public Charter Operator Agreement

## I. GENERAL

This Public Charter Operator Agreement (the "Agreement") sets forth the terms and conditions under which XO Global LLC ("XO"), whose principal place of business located at 500 E. Broward Blvd., 19th Floor, Fort Lauderdale, FL, 33394 in return for payment of the amount indicated as the total charter price, agrees to provide to each participant (the "Passenger") participation in a charter flight (the "Charter Flight"). The US Department of Transportation requires Passenger to accept and sign the terms of the Agreement at the time of payment. The price of your trip, dates of the outbound and return flights, origin and destination cities, and other conditions, are as specified in the applicable itinerary and/or your accepted reservation, and are incorporated herein by reference. Unless otherwise specified, the price includes only air transportation.

## II. PASSENGER RULES OF CONDUCT

XO requires all passengers to strictly adhere to the following rules of conduct in order to ensure a safe, friendly and respectful experience on flights arranged by XO and at events organized or sponsored by XO. These rules are not intended to restrict the rights of anyone, but rather to ensure that all passengers, as well as XO and aircraft operator personnel, can expect to be safe and treated with dignity and respect at all times. If Passenger engages in conduct that XO considers improper, offensive or likely to risk endangering the safety of other passengers or XO or aircraft operator personnel, then Passenger may be reprimanded and/or denied transportation. All determinations will be made in the sole discretion of the operator of the Charter Flight ("Operator") and XO's management.

In addition, if the conduct of Passenger endangers the aircraft or any other passenger or property while on board; obstructs or hinders the crew in the performance of their duties; fails to comply with any instruction of the crew, including, but not limited to, smoking in any form (including electronic cigarettes, vaporizers and similar devices) or use of drugs or alcohol; involves the use of any offensive, threatening, abusive or insulting words towards the crew, other passengers or XO personnel; or involves behavior which causes discomfort, inconvenience, damage or injury to the crew, other passengers or XO personnel, then the crew

may take such measures as it deems necessary to prevent continuation of such conduct, including restraint. Passenger may be disembarked and refused onward carriage at any point and may be prosecuted for offenses committed on board the aircraft.

The following rules of conduct will be strictly enforced.

1. In accordance with FAA rules and regulations, Passenger is prohibited from consuming any alcoholic beverages on board any flight that are not provided in the minibar located on the aircraft or served by a cabin server. Passenger shall not bring alcohol on board the aircraft for consumption during a flight.
2. XO has zero tolerance for transportation or use of narcotics and other controlled substances, such as drugs and drug paraphernalia, regardless of whether certain substances may be considered legal in any states.
3. The crew reserves the right to deny boarding if Passenger appears intoxicated. If Passenger is denied boarding because he or she is intoxicated, Passenger will not be entitled to a refund or alternative transportation.
4. Passenger can transport not more than \$50,000 (or foreign equivalent) cash on any Charter Flight. Passenger will be denied boarding if he or she is possession of more than \$50,000 (or foreign equivalent) cash.
5. Passenger must be respectful of other passengers and of XO and Operator personnel.
6. XO has zero tolerance for any type of harassment or offensive behavior, including, but not limited to:
  - any kind of verbal or physical abuse, including abuse of XO employees and representatives;
  - any form of discrimination;
  - the use of profane language, gestures, insults or similar behavior;
  - unwanted solicitation;
  - loud or boisterous behavior; or
  - creating strife, conflict or divisiveness within the XO community.
7. Passenger must observe proper etiquette on flights arranged by XO.
8. Passenger must maintain appropriate hygiene on flights. If someone's hygiene is offensive to a reasonable passenger, then it would violate XO's rules of conduct.
9. While XO does not have a specific dress code on flights, Passenger must wear appropriate attire. Shoes must be worn at all times. Sexually suggestive and offensive clothing is prohibited.

10. Passenger must not cause damage to any aircraft or to amenities on any aircraft.
11. Passenger shall respect the privacy rights of other passengers. No photos or videos may be taken of another passenger or shared on social media without the prior consent of such passenger.
12. Passenger has no authority to instruct aircraft crew in their job performance and duties.
13. Passenger must strictly adhere to all policies, procedures, rules and regulations of the aircraft operators.
14. Passenger understands and agrees that to determine whether Passenger's or guests' traveling with Passenger condition could involve a hazard or risk to himself, herself or others, XO or Operator shall have the right to require Passenger and each of their guests to complete a Health Declaration Form. In the event over the previous twenty one (21) days prior to the Charter Flight, Passenger or their guests have visited any of the countries, states or regions that have a Level 3 Travel Health Notices issued by the Center for Disease Control and Prevention ("CDC") or travel to which is restricted subject to a Presidential Proclamation, upon XO or Operator's request, Passenger on behalf of himself or herself and their guests agrees to provide a written verification executed by a licensed physician or a legitimate medical facility confirming that (i) Passenger has been tested for COVID-19 with a CDC-approved test that produced a negative result, or (ii) does not meet CDC criteria for administering a COVID-19 test and does not exhibit any COVID-19 symptoms ("Written Verification"). A Health Declaration Form or Written Verification for each Passenger on the Charter Flight, must be submitted with all fields completed no later than twenty four (24) hours prior to the scheduled departure time, or (ii) if a Charter Flight is booked within twenty four (24) hours prior to the scheduled departure time, not less than two (2) hours after the booking.

XO, in collaboration with crew members, will strictly enforce these rules of conduct. If Passenger violates any of the rules outlined above or other terms and conditions of this Agreement, Operator shall have a right to deny boarding to or refuse continues transportation of Passenger, in which case, cancellation fees listed below will apply. Passenger is responsible for the conduct of Passenger's guests. XO shall not be responsible for alternative transportation if a Passenger or Passenger's guest is denied boarding or continuous transportation due to the violation of any of the rules above.

### **III. CHARTER PRICE**

The quoted charter price includes charter air transportation for the Charter Flight and all applicable taxes. Fares are subject to availability at the time of booking and are subject to change until booking is completed. Passenger is responsible for all incidental expenses incurred during or after the Charter Flight.

## **IV. CANCELLATIONS, CHANGES OF DATES AND REFUNDS**

Please note that the following cancellation penalties will apply to purchases of seats on an existing shuttle, 100% confirmed crowdfunded flight, unless otherwise specified in a valid written agreement between Passenger and XO:

1. a cancellation fee of one-hundred percent (100%) of the subtotal price (i.e., no refund) for cancellations within twenty-four (24) hours of the flight departure;
2. a cancellation fee of fifty percent (50%) of the subtotal price for cancellations made between 24 hours and 7 days prior to the flight departure;
3. a cancellation fee of twenty-five percent (25%) of the subtotal price for cancellations made more than 7 days prior to the flight departure; and
4. a cancellation fee of one hundred percent (100%) of the subtotal price (i.e., no refund) for no shows, failures to arrive at least 30 minutes prior to boarding in possession of valid government issued identification or violation of any terms and conditions of this agreement that result in denial of boarding, including failure to timely submit a completed Health Declaration Form or, if subsequently requested by XO, a Written Verification or abide by any requirements contained in the Declaration Form (collectively, "Cancellation Fees").

The above Cancellation Fees do not apply to Rebate Seats or seats on Shared Charters, which are 100% non-refundable. In order to request a waiver of the Cancellation Fees due to positive testing for COVID-19, a Passenger must submit a completed Health Declaration Form or Written Verification, as applicable, at least 72 hours prior to departure of the Charter Flight. Any waivers of the Cancellation Fees are subject to XO's sole and complete discretion.

Passenger agrees and acknowledges that even if the flight that they booked was complimentary or booked using credits or other non-monetary currency, they will be liable to pay the Cancellation Fee. The Cancellation Fee will not apply if Passenger's seat on a cancelled flight is occupied by a substitute passenger. Passenger authorizes XO to charge the Cancellation Fee to Passenger's payment method on file or retain the Cancellation Fee from the ticket price. In the event Passenger's payment method on file is declined, Passenger shall provide an alternative payment method immediately.

XO reserves the right to change or withdraw a Charter Flight at its discretion, subject to the provisions in this Agreement regarding major changes or cancellations. Any refunds will be made within 14 days after such cancellation.

## **V. FORCE MAJEURE CANCELLATION BY XO OR OPERATOR.**

Neither XO nor Operator is liable for the delay or failure to provide an Aircraft or perform the Charter Flight when such delay or failure is caused by Force Majeure. "Force Majeure" means an act of God, strike or lockout or other labor dispute, act of a public enemy, war (declared or undeclared), terrorism, public health concern, positive diagnosis of a communicable virus including but not limited to COVID-19, blockade, revolution, civil commotion, fire, any weather-related event affecting safety of flight, flood, earthquake, explosion, governmental restraint, embargo, mechanicals, inability to obtain or delay in obtaining equipment, parts, or transport, inability to obtain or delay in obtaining governmental approvals, permits, licenses, or allocations, and any other cause outside of the complete control of XO or Operator, as applicable, whether or not of the kind specifically listed above. In addition, Passenger understands and agrees that when, in the sole discretion of an Operator or the pilots of an Charter Flight, safety may be compromised, XO, the Operator or the Operator crew may cancel a Charter Flight, refuse to commence a Charter Flight, or take other necessary action without breaching its duties or obligations to Passenger or be liable for any loss, injury, damage, or delay.

## **VI. TRANSPORTATION OF PETS AND SERVICE ANIMALS**

Passengers are not allowed to transport pets on Charter Flights. Only service animals will be permitted on board Charter Flights. Passenger shall notify XO as soon as possible, but not less than 48 hours prior to the flight departure time if they or their invitees will be bringing a service animal onboard a Charter Flight. Unauthorized transportation of pets will result in a \$1,000 fine and cleaning fees that will be charged to Passenger's payment method on file. If Passenger violates the pet policy outlined in this paragraph, Passenger agrees to pay the fine and the cleaning fees.

## **VII. BAGGAGE AND CONSENT TO SEARCH OF BAGGAGE AND PERSON**

Passenger may transport luggage in accordance with the size and weight restrictions indicated on Passenger's boarding instructions for the Charter Flight. Such baggage will be stored in the luggage compartment. Operator reserves the right to refuse to accept luggage that does not comply with the size and weight limitations described above.

Operator will refuse to accept the following articles for transportation: (a) firearms and ammunition; (b) any flammable material or liquid in stowed baggage or otherwise; (c) live animals, except service animals as defined by the Americans with Disabilities Act; and (d) any article designated as hazardous material ("hazmat") or listed in the ICAO Technical Instruction for the Safe Transport of Dangerous Goods by Air (collectively, the "Prohibited Items"). If, notwithstanding this provision, Passenger boards the aircraft with a Prohibited Item, Operator

may be required to return an aircraft to the passenger loading area and remove the Prohibited Item(s) and Passenger. In such an event, neither XO nor Operator shall be responsible for the transportation of the Prohibited Item(s), associated fines, additional cost or delays incurred.

For your safety and the safety of the flight, all luggage, including carry-on luggage and personal items, and passengers will be subject to search. In addition, by reserving this Charter Flight, you agree that you are responsible to verify your documentation and provide the necessary information to conduct a criminal and other background searches. If you fail to do so, XO and Operator reserve the right to deny you boarding. By reserving this Charter Flight, you consent to the requirements of this Section VII.

## **VIII. LIABILITY**

XO assumes no liability for any items left by Passenger in the passenger compartment of the aircraft. Neither XO nor Operator are liable under any circumstances for loss or damage to any items inadequately packaged or overstuffed or loss or damage of any items packed in the baggage. Neither XO nor Operator shall be responsible for any damage to the luggage and specifically are not liable for superficial damage to luggage arising from normal wear and tear from ordinary handling, including scratches, scuffs, punctures, stains and marks.

Passenger agrees to indemnify and reimburse XO for any and all costs and expenses incurred as a result of damage and excess wear and tear to the aircraft interior and/or exterior determined to be caused by Passenger. If Passenger incurs any such charges, Passenger's payment method on file with XO shall be charged upon completion of the flight.

## **IX. CHECK-IN AND IDENTIFICATION**

Passenger must arrive at least thirty (30) minutes prior to the scheduled departure time and check-in no less than twenty (20) minutes prior to the scheduled departure. Neither XO nor Operator shall be responsible or liable for the transportation of passengers who fail to report to the designated boarding point at the airport of departure at least twenty (20) minutes prior to the time scheduled for departure. YOU MUST PRESENT ORIGINAL VALID GOVERNMENT-ISSUED PHOTO IDENTIFICATION TO CLEAR THE SECURITY CHECKPOINT AND BEFORE BOARDING; SUCH IDENTITY DOCUMENT SHOULD MATCH YOUR NAME AS IT APPEARS ON THE PASSENGER RESERVATION LIST. FAILURE TO PROVIDE THIS TYPE OF IDENTIFICATION COULD LEAD TO DELAY IN BOARDING OR TO DENIAL OF BOARDING, SO PLEASE BE SURE TO HAVE SUCH IDENTIFICATION (SUCH AS A DRIVER'S LICENSE) READY WHEN YOU CHECK-IN. Any passenger that exhibits disruptive behavior will not be allowed to board or will be removed from the aircraft.

## **X. AIR TRANSPORTATION**

This Charter Flight is a XO Global LLC Public Charter operated by Air Hamburg ("Operator"). XO reserves the right to substitute scheduled air service when necessary at no additional cost and at comparable times, and does not guarantee aircraft type or capacity. XO will make every diligent and reasonable effort to notify Passenger in the event of a schedule change. No refunds or compensation will be given for changes in aircraft type or for substitution of service to a scheduled air carrier.

## **XI. MAJOR CHANGES**

If XO makes major changes prior to departure, Passenger shall have the right to cancel the reservation on the Charter Flight and receive a full refund. The following are major changes: (1) a change in the origin or destination city of a Charter Flight; (2) a change in the departure or return date of a Charter Flight of greater than 48 hours; or (3) a Charter Flight price increase of more than 10% occurring ten or more days before departure of the Charter Flight. In no event may XO increase the Charter Flight price less than ten days prior to departure of the Charter Flight. If a major change must be made in a Charter Flight, XO will exercise all reasonable commercial diligence to notify Passenger within seven days after first being notified of such major change, but in any event at least ten days before schedule departure of the Charter Flight. If a major change occurs less than ten days before the scheduled departure of a Charter Flight, XO will notify the Passenger as soon as possible. Within seven days after receiving notification of a major change, but in no event later than departure, Passenger may cancel their reservation with XO and will receive a full refund within 14 days after such cancellation. If a major change occurs after departure of the Charter Flight which Passenger is unwilling to accept, XO will refund to Passenger, within 14 days after the scheduled return date of the Charter Flight, that portion of the price for such Charter Flight that applies to the services not accepted. XO has no right to cancel a Charter Flight less than ten (10) days before the scheduled departure date, except for circumstances that make it physically impossible to perform the Charter Flight or causes beyond its control. If that occurs, XO will notify Passenger as soon as possible, but not later than the scheduled departure date. If the Charter Flight is cancelled less than (10) days before departure, a refund will be made to the Passenger within fourteen (14) days of such notification.

## **XII. SECURITY AGREEMENT**

Passenger's payments are protected in part by the Public Charter Operator's Surety Trust Agreement ("Trust Agreement") held by Level One Bank ("Securer") with its principal place of business located at 32991 Hamilton Court, Farmington Hill, Michigan 48334. Unless Passenger files a qualified claim with XO, or if XO is not available, with the Securer, within 60 days after the completion of the Charter Flight (or in the case of cancellation, the intended date of Passenger's Charter Flight arrival), the Securer will be released from all liability to Passenger under the Trust Agreement. If there is no return flight in Passenger's itinerary,

completion means the date or intended date of departure of the last flight in Passenger's itinerary.

## **XIII. INSURANCE**

It is the sole responsibility of Operator to maintain aviation liability insurance coverage, and it is the sole responsibility of the independent provider of goods or services to maintain liability insurance coverage. Passenger understands and agrees that XO is not liable for any claims arising out of or in connection with the services of Operator, any of its partners and affiliates, or any third-party provider of goods or services. Trip cancellation, health, and accident insurance is available for purchase by all passengers. Details of this insurance will be sent to you upon request.

XO maintains non-owned aircraft liability insurance in an amount of \$300,000,000, personal injury coverage of \$25,000,000 per occurrence and in the aggregate, and \$250,000 in coverage for each passenger's personal effects.

## **XIV. LIMITATION OF LIABILITY AND MISCELLANEOUS**

Passenger understands and agrees that XO is not liable for any injury, damage, loss, expense, special or consequential damages, or any other irregularity caused by the defect of any Aircraft or conveyance, or the negligence of any Operator or other company or person engaged providing or carrying out the arrangements for Passenger's Charter Flight or by accident, delay, flight schedule, change, cancellation, sickness, weather, strikes, war, quarantine or any similar cause. In any case, XO's liability shall be limited to the amount paid by Passenger to XO.

PASSENGER AGREES TO ACCEPT THE PROCEEDS OF THE INSURANCE MAINTAINED BY OPERATOR AS THEIR SOLE RECOURSE AGAINST AIR CARRIER FOR ANY LOSS OR DAMAGE (INCLUDING, WITHOUT LIMITATION, INJURY, DEATH OR PROPERTY DAMAGE) TO ANY PASSENGER; PROVIDED HOWEVER, THAT THE FOREGOING LIMITATION SHALL NOT APPLY IN THE EVENT OF AIR CARRIER'S PROVEN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

IN ALL CASES AND UNDER ALL CIRCUMSTANCES, NEITHER OPERATOR OR XO SHALL IN ANY EVENT BE LIABLE TO PASSENGER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OF ANY KIND OR NATURE INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, DATA, USE, VALUE, REVENUE, BUSINESS OPPORTUNITIES, PERSONAL INJURY OR PROPERTY DAMAGE AND THE LIKE, UNDER ANY CIRCUMSTANCES OR FOR ANY REASON, INCLUDING, WITHOUT LIMITATION, ANY DELAY OR FAILURE TO FURNISH ANY AIRCRAFT CAUSED OR OCCASIONED BY THE PERFORMANCE OR NON-PERFORMANCE OF ANY OBLIGATIONS OF AIR CARRIER (REGARDLESS OF THE FORM OF ACTION, WHETHER BASED IN CONTRACT OR TORT OR ANY OTHER LEGAL OR EQUITABLE THEORY), EVEN IF ANY SUCH PARTY KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITIES OF SUCH DAMAGES.



XO SHALL NOT BE LIABLE FOR ANY DAMAGES, LIABILITY OR LOSSES ARISING OUT OF: (i) PASSENGER'S USE OF OR RELIANCE ON THE SERVICES OR PASSENGER'S INABILITY TO ACCESS OR USE THE SERVICES; OR (ii) ANY TRANSACTION OR RELATIONSHIP BETWEEN PASSENGER AND ANY THIRD PARTY PROVIDER, EVEN IF PASSENGER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE SERVICES MAY BE USED BY YOU TO REQUEST AND SCHEDULE GOODS OR LOGISTICS SERVICES WITH THIRD PARTY PROVIDERS, BUT YOU AGREE THAT XO HAS NO RESPONSIBILITY OR LIABILITY TO PASSENGER RELATED TO ANY GOODS OR LOGISTICS SERVICES PROVIDED TO PASSENGER BY THIRD PARTY PROVIDERS OTHER THAN AS EXPRESSLY SET FORTH IN THIS AGREEMENT.

The limitations and disclaimers in this section do not purpose to limit any liability or alter any rights of the Passenger, as a consumer, that cannot be excluded under applicable law.

The rights and remedies made available under this Agreement are in addition to any of the rights and remedies available under Florida law. The acceptance by Passenger of a refund, or alternative travel arrangements, as provided in this Agreement shall constitute a full and final settlement and release of all other claims or remedies against XO. By executing this Agreement, Passenger specifically acknowledges and consents to all conditions set forth herein. This Agreement contains the entire agreement between the parties and completely supersedes any prior agreements or representations of XO, verbal or in writing. This Agreement can be amended only in writing in a document signed by both parties. Any oral representation or modifications shall have no force or effect. Florida law shall govern this Agreement. Any claim against XO must be presented in writing within sixty (60) days of the date of the return leg of a Charter Flight, and XO shall have no obligations or liabilities for any claims presented after such sixty (60) day period. XO Global LLC is registered with the State of Florida as a Seller of Travel. Registration No. ST42114.

## **XV. GOVERNING LAW AND DISPUTE RESOLUTION**

This Agreement and all the rights of the parties hereunder shall be governed by, construed and enforced in accordance with the laws of the State of Florida without reference to the conflict of law principles of any jurisdiction. Any claim or dispute between the parties and/or against any officer, director, agent, employee, successor, or assign of the other, whether related to this Agreement, the Charter Flight or the relationship or rights or obligations contemplated herein, including the validity of this clause, shall be resolved exclusively by binding arbitration by the American Arbitration Association by a sole arbitrator under the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes then in effect, which are deemed to be incorporated herein by reference. The place of arbitration shall be Broward County, Florida. The existence and content of the arbitration proceedings and any rulings or award shall be kept confidential except: (i) to the extent that disclosure may be required of a party to fulfill a legal duty, protect or pursue a legal right, or enforce or challenge an award in bona fide legal proceedings before a state court or other judicial authority, or (ii) with the

written consent of all parties. Notwithstanding anything to the contrary, either party may disclose matters relating to the arbitration or the arbitration proceedings where necessary for the preparation or presentation of a claim or defense in such arbitration.

Arbitration shall proceed solely on an individual basis without the right for any claims to be arbitrated on a class action basis or on bases involving claims brought in a purported representative capacity on behalf of others. The arbitrator's authority to resolve and make written awards is limited to claims between Passenger and XO alone. Claims may not be joined or consolidated unless agreed to in writing by all parties. No arbitration award or decision will have any preclusive effect as to issues or claims in any dispute with anyone who is not a named party to the arbitration. Notwithstanding any other provision in these terms and conditions and without waiving either party's right of appeal, if any portion of this "class action waiver and other restrictions" provision is deemed invalid or unenforceable, then the remaining portions of the arbitration provision shall remain in full force and effect.

## **XVI. NOTICES**

All communication should be sent to XO Global LLC, ATTN: CLIENT SERVICES, 500 E. Broward Blvd., Suite 1900, Ft. Lauderdale, FL 33394, or by email to [Clientservices@flyxo.com](mailto:Clientservices@flyxo.com). Notices to XO are effective upon actual receipt by XO.

## **XVII. PRIVACY OF PASSENGER DATA**

XO collects and utilizes Passenger information according to the [XO Privacy Policy](#) that is incorporated in full by this reference and available at <https://docs.flyxo.com/legal/general/privacy-policy.html>. XO may use Passenger's information to check the credit of Passenger in connection with its invoice collection efforts or to check the credit of Passenger and perform criminal and other background searches of Passenger in connection with evaluating whether to accept Passenger's business. For more information about XO's use of your data, please contact [GDPR@flyxo.com](mailto:GDPR@flyxo.com).

## **XVIII. ELECTRONIC SIGNATURE**

By purchasing a flight or confirming an invoice or flight itinerary through the XO mobile application, the XO software, and XO's website or through an aviation specialist and selecting the "I Accept" button, Passenger accepts and agrees to this Agreement electronically. Passenger agrees that their electronic signature is the legal equivalent of their manual signature and that they will be legally bound by this Agreement.