

## APPENDIX “A”

### PROPOSED AMENDED RULES TO PORTER’S INTERNATIONAL TARIFF “PROPOSED RULES”

#### **PROPOSED RULE 1.1 – Definitions of “Credit Shell” and “Event of Force Majeure”**

**Credit Shell** means a record with a payment but no flight used to hold a credit or credits for future flights, which (a) shall be valid for one year from the original ticket issuance date, towards the provision of a fare relating to a future flight, (b) may be applied toward the base fare, airlines surcharges, change fees, and government taxes and fees, (c) can be used one time only, whereby if the total cost of the transaction to which the Credit Shell is applied is less than the value of the Credit Shell, the residual value left from its use is forfeited, (d) may be used exclusively toward bookings in the name of the owner of the Credit Shell, provided however that a Credit Shell may be transferred to another traveler one time only, and the Credit Shell’s original expiration date shall continue to apply after any such transfer;

**Event of Force Majeure:** Deleted.

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#### **PROPOSED RULE 3.4 – Carrier Cancellation, Change and Refund Terms**

Refer to **Rule 15 Carrier Cancellation, Change and Refund Terms** for applicable terms and conditions.

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#### **PROPOSED RULE 15 – CARRIER CANCELLATION, CHANGE, AND REFUND TERMS**

- (a) If the passenger’s journey is interrupted due to overbooking, a flight cancellation or an advancement of a flight’s scheduled departure by more than the minimum period for the passenger to check in pursuant to Rule 21 of this Tariff (each a “Schedule Irregularity”), the Carrier will offer the passenger the choice of accepting one or more of the following remedial choices:
  - i. alternative transportation, within a reasonable time and without additional charge, to the passenger’s intended destination;

- ii. return transportation to the passenger's point of origin within a reasonable time and without additional charge;
  - iii. a refund of the fare and charges paid by the passenger for each unused segment, and for segments already flown if (a) they no longer serve the purpose for which the passenger undertook such travel, and (b) the Schedule Irregularity was within the control of the Carrier;
  - iv. a Credit Shell in the amount described in sub-section (iii) above; and
  - v. a monetary payment to the passenger for any amounts to which the passenger may be entitled pursuant to Rule 18 of this Tariff.
- (b) In defining the remedy or remedies appropriate in each case arising under Rule 15(b) above, the Carrier:
- i. will consider, to the extent they are known to the Carrier, the transportation needs of the passenger and/or other relevant circumstances of the passenger affected by the Schedule Irregularity;
  - ii. will not limit itself to considering its own services or the services of carriers with which it has interline or code-sharing agreements; and
  - iii. will make a good faith effort to fairly recognize, and appropriately mitigate, the impact of the Schedule Irregularity upon the passenger.
- (c) The provisions of this Rule are not intended to make the Carrier responsible in all cases for acts of nature or for the acts of third parties that are not deemed servants and/or agents of the Carrier under applicable law or international conventions, and all the rights set forth herein are subject to the following exception, namely, that the Carrier shall not be liable for damage occasioned by a Schedule Irregularity if the Carrier, and its employees and agents, took all reasonable steps that could reasonably be required to avoid the damage or if it was impossible to take such measures.
- (d) The rights of a passenger against the Carrier in the event of overbooking and cancellation is, in most cases of international carriage, governed by the Montreal Convention. Article 19 of that Convention provides that an air carrier is liable for damage caused by delay in the carriage of passengers and goods unless it proves that it took all reasonable measures to avoid the damage or that it was impossible for it to take such measures. There are some exceptional cases of international carriage in which the rights of passengers are not governed by an international convention. In such cases, only a court of competent jurisdiction can determine which system of laws must be consulted to determine what those rights are.
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## **PROPOSED RULE 18 – RESPONSIBILITY FOR SCHEDULES AND OPERATIONS**

- (a) The Carrier will endeavor to transport the passenger and baggage with reasonable dispatch, but times shown in timetables or elsewhere are not guaranteed.
- (b) The agreed stopping places are those places shown in the carrier's timetable as scheduled stopping places on the route. The Carrier may, without notice, substitute alternative carriers or aircraft and, if necessary, may alter or omit stopping places shown in the timetable.
- (c) Passengers have a right to information on flight times and schedule changes. In the event of a delay or schedule change, the carrier will make reasonable efforts to inform the passengers of delays and schedule changes, and, to the extent possible, the reasons for them, including that the Carrier will make best efforts to inform passengers of advancements of scheduled flight departures.
- (d) If a delay occurs after passengers have boarded the aircraft, the Carrier will offer drinks and snacks if it is safe, practical and timely to do so. If the delay exceeds 90 minutes and circumstances permit, the Carrier will offer passengers the option of disembarking from the aircraft until it is time to depart.

### **18.1 Passenger Expenses Resulting from Delays and Flight Advancements**

For the purposes of this Sub-Rule 18.1, “Flight Advancement” shall mean an advancement of the scheduled flight departure by more than the minimum period for the passenger to check in pursuant to Rule 21 of this Tariff.

Passengers will be entitled to reimbursement from the Carrier for reasonable expenses incurred as a result of a delay or a Flight Advancement, subject to the following conditions:

- i. The Carrier shall not be liable for any damages, costs, losses or expenses occasioned by delays or a Flight Advancements if it, and its employees and agents, took all measures that could reasonably be required to avoid the damage or if it was impossible for the Carrier and its employees or agents to take such measures;
- ii. Any passenger seeking reimbursement for expenses resulting from delays or a Flight Advancements must provide the Carrier with (a) written notice of his or her claim, (b) particulars of the expenses for which reimbursement is sought and (c) receipts or other documents establishing to the reasonable satisfaction of the Carrier that the expenses were incurred; and
  - iii. The Carrier may refuse or decline any claim, in whole or in part, if:
    - A. the passenger has failed or declined to provide proof or particulars establishing, to the reasonable satisfaction of the Carrier, that the expenses claimed were incurred by the passenger and resulted from a

delay or Flight Advancement for which compensation is available under this Rule 18; or

- B. the expenses for which reimbursement is claimed, or any portion thereof, are not reasonable or did not result from the delay or Flight Advancement, as determined by the Carrier, acting reasonably.

In any case, the Carrier may, in its sole discretion, issue meal, hotel and/or ground transportation vouchers to passengers affected by a delay or a Flight Advancement.

## 18.2 Baggage Delays

- (a) The carrier cannot guarantee that the passenger's baggage will be carried on the flight if sufficient space is not available as determined by the Carrier.
- (b) Notwithstanding the foregoing, passengers whose baggage does not arrive on the same flight as the passenger will be entitled to reimbursement from the Carrier for reasonable expenses incurred as a result of the baggage delay, subject to the following conditions:
  - i. The Carrier shall not be liable for any damages, costs, losses or expenses occasioned by delays in the delivery of baggage if the Carrier, and its employees and agents, took all measures that could reasonably be required to avoid the damage or if it was impossible for the Carrier and its employees or agents to take such measures;
  - ii. The passenger must have complied with the check-in requirements set out in Rule 21 of this tariff;
  - iii. In order to assist the Carrier in commencing the tracing of the baggage in question, the passenger is encouraged to report the delayed baggage to the Carrier as soon as reasonably practicable following the completion of the flight;
  - iv. The passenger must provide the Carrier with (a) written notice of any claim for reimbursement within 21 days of the date on which the baggage was placed at the passenger's disposal, or in the case of loss within 21 days of the date on which the baggage should have been placed at the passenger's disposal; (b) particulars of the expenses for which reimbursement is sought; and (c) receipts or other documents establishing to the reasonable satisfaction of the Carrier that the expenses were incurred;
  - v. The liability of the Carrier in the case of lost or delayed baggage shall not exceed 1,131 Special Drawing Rights (the "basic carrier liability" which is the approximate Canadian dollar equivalent of CAD\$1,800) for each passenger, unless the passenger has declared a higher value and paid the supplementary sum in accordance with Rule 11(c) of this tariff, in which case the Carrier's liability

will be limited to the lesser of the value of the delayed baggage or the declared value, up to a maximum of CAD\$3,000.

- (c) After a 21 day delay, the Carrier will provide a settlement in accordance with the following rules:
  - i. if no value is declared per Rule 11(c), the settlement will be for the value of the delayed baggage or 1131 SDR (the “basic carrier liability” which is the approximate Canadian dollar equivalent of CAD\$1,800), whichever is the lesser, and
  - ii. if value is declared per Rule 11(c), the settlement will be for the value of the delayed baggage or the declared sum (per Rule 11(c)) up to a maximum of \$3,000, whichever is the lesser.
  - iii. In connection with any settlement under this subsection (c), the passenger shall be required to furnish proof of the value of the delayed baggage which establishes such value to the satisfaction of the Carrier, acting reasonably.
- (d) The Carrier may refuse or decline any claim relating to delayed baggage, in whole or in part, if:
  - i. the conditions set out in subsection 18.2(b) above have not been met;
  - ii. the passenger has failed or declined to provide proof or particulars establishing, to the reasonable satisfaction of the Carrier, that the expenses claimed were incurred by the passenger and resulted from a delay for which compensation is available under this Rule 18; or
  - iii. the expenses for which reimbursement is claimed, or any portion thereof, are not reasonable or did not result from the delay, as determined by the Carrier, acting reasonably.

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## **PROPOSED RULE 20 – DENIED BOARDING COMPENSATION**

### **General**

If a passenger has been involuntarily denied a reserved seat in case of an oversold flight on Porter Airlines, the Carrier will provide the passenger with:

- (a) a remedy or remedies in accordance with Rule 15 above; and
- (b) denied boarding compensation as set forth in this Rule 20 below.

## **Volunteers and Boarding Priorities**

If a flight is oversold (more passengers hold confirmed reservations than there are seats available), no one may be denied boarding against his/her will until the Carrier's personnel first ask for volunteers who will give up their reservations willingly, in exchange for such compensation as the Carrier may choose to offer. If there are not enough volunteers, other passengers may be denied boarding involuntarily, in accordance with the Carrier's boarding priority.

In determining boarding priority, the Carrier will consider the following factors:

- whether a passenger is traveling due to death or illness of a member of the passenger's family, or,
- age of a passenger, or
- whether a passenger is an unaccompanied minor, or
- whether a passenger is a person with a disability, or
- the fare class purchased and/or fare paid by a passenger

## **Compensation for Involuntary Denied Boarding**

If you are denied boarding involuntarily on a flight, you are entitled to a payment of "denied boarding compensation" from Carrier unless:

- you have not fully complied with the Carrier's ticketing, check-in and reconfirmation requirements, or you are not acceptable for transportation under the Carrier's usual rules and practices; or
- you are denied boarding because the flight is cancelled; or
- you are denied boarding because a smaller capacity aircraft was substituted for safety or operational reasons, and the events prompting such substitution were beyond the Carrier's control and the Carrier took all reasonable measures to avoid the substitution or it was impossible for the Carrier to take such measures; or
- you are offered accommodations in a section of the aircraft other than specified in your ticket, at no extra charge, (a passenger seated in a section for which a lower fare is charged must be given an appropriate refund); or
- Carrier is able to place you on another flight or flights that are planned to reach your final destination within one hour of the scheduled arrival of your original flight.

## **Amount of Denied Boarding Compensation**

Passengers with a reserved seat on Porter Airlines who are denied boarding involuntarily from an oversold flight are entitled to:

- (a) No compensation if the Carrier offers alternate transportation that is planned to arrive at the passenger's destination or first stopover not later than one hour after the planned arrival time of the passenger's original flight;
- (b) No less than 200% of the fare to the passenger's destination or first stopover, with a maximum of \$650 USD, if the Carrier offers alternate transportation that is planned to arrive at the passenger's destination or first stopover more than one hour but less than four hours after the planned arrival time of the passenger's original flight; and
- (c) No less than 400% of the fare to the passenger's destination or first stopover, with a maximum of \$1,300 USD, if the Carrier does not offer alternate transportation that is planned to arrive at the airport of the passenger's destination or first stopover less than four hours after the planned arrival time of the passenger's original flight.

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| 0 to 1 hour arrival delay  | No compensation.  |
| 1 to 4 hour arrival delay  | At least 200% of one-way fare (but no more than \$650 USD).   |
| Over 4 hours arrival delay | At least 400% of one-way fare (but no more than \$1,300 USD). |

For the purpose of calculating compensation under this Rule 20, the “fare” is the one-way fare for the flight including any surcharge and air transportation tax, minus any applicable discounts. All flights, including connecting flights, to the passenger’s destination or first 4-hour stopover are used to compute the compensation.

**Method of Payment**

Except as provided below, the Carrier must give each passenger who qualifies for denied boarding compensation a payment by cheque or draft for the amount specified above, on the day and place the involuntary denied boarding occurs. However, if the Carrier arranges alternate transportation for the passenger’s convenience that departs before the payment can be made, the payment will be sent to the passenger within 24 hours. The Carrier may offer free or discounted transportation vouchers in place of cash or cheque payment, provided:

- (a) the value of such voucher(s) is no less than 300% of the value of the cash compensation to which the passenger would otherwise have been entitled;
- (b) the Carrier has disclosed to the passenger all material restrictions applicable to the use of such vouchers;
- (c) the passenger agrees in writing to accept vouchers in lieu of cash or cheque payment; and
- (d) The passenger may in any event refuse to accept such vouchers and insist on the cash/cheque payment, including that any passenger who accepts vouchers in lieu of cash or cheque payment at the time of involuntary denied boarding may, within 30 days, elect to exchange such vouchers for the cash or cheque payment she would have been entitled to receive had the passenger not accepted vouchers, provided that the vouchers have not been redeemed by the passenger in whole or in part.

