



**Airlines for America®**  
We Connect the World

June 13, 2022

Canadian Transportation Agency  
Ottawa, Ontario K1A 0N9  
Via email: [Secretariat.Secretariat@otc-cta.gc.ca](mailto:Secretariat.Secretariat@otc-cta.gc.ca)

**RE: Airlines for America (A4A) Request for Exemption from Section 62 of the Accessible Transportation for Persons with Disabilities Regulations (ATPDR)**

To Whom It May Concern:

A4A, on behalf of its members Alaska Airlines, Inc., American Airlines Group, Inc., Delta Air Lines, Inc., and United Airlines Holdings, Inc. (collectively, “Members”), respectfully requests a conditional exemption to Section 62 of the Canadian Transportation Agency’s (“CTA”) ATPDR.<sup>1</sup> Our Members are committed to passenger accessibility, continually assess potential accessibility barriers, and implement accessibility best practices. To that end, the Members have amended their tariffs to waive the liability limitations set forth in the Warsaw Convention and Montreal Convention (collectively, the “Conventions”) for claims of loss, damage, or delay of mobility aids in international transportation. These amendments are equivalent to the waivers for which the CTA has already issued exemptions to Canadian air carriers.<sup>2</sup> In sum, our Members make their passengers whole and commit to the same conditions set forth in CTA’s Determination No. A-2022-10, including advising passengers of the waiver.<sup>3</sup> Because Section 62 of the ATPDR, which requires that air carriers advise passengers of the right to make special declarations of interest under the Conventions, is incongruent with such liability limitation waivers, a conditional exemption is requested pursuant to Sections 170(4) of the Canada Transportation Act.

As the CTA is aware, the Conventions limit an air carrier’s liability for lost, damaged, or destroyed mobility aids in international transportation.<sup>4</sup> However, in advance of the transportation, a passenger may make a special declaration of interest when the mobility aid is handed over to the air carrier (subject to payment of an air carrier-imposed supplementary fee), making the air carrier liable up to the declared sum in the special declaration of interest.<sup>5</sup> Recognizing the special nature of mobility aids,

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<sup>1</sup> SOR/2019-244 (Registration on June 25, 2019) (hereinafter “ATPDR”).

<sup>2</sup> See CTA, Determination No. A-2022-10, Case No. 20-07165 (Feb. 1, 2022) (providing an exemption to Air Canada and Jazz for tariff waivers of liability limits).

<sup>3</sup> *Id.*

<sup>4</sup> See Article 22(2) of the Warsaw Convention and Article 22(2) of the Montreal Convention.

<sup>5</sup> *Id.*

other responsibilities with respect to mobility aid transportation,<sup>6</sup> and the extraordinary interest in protecting passengers' mobility aids, our Members waive the Conventions' liability limitations for mobility aids. For the CTA's convenience, the text of the waivers contained on our Members' tariffs is provided in **Appendix A**. Accordingly, a passenger does not have to make a special declaration to make a claim regarding a mobility aid that exceeds the Conventions' liability limitations. In effect, an air carrier's waiver to the Convention's liability limits removes barriers.

We respectfully submit that advising the passenger of the right to make a special declaration of interest is not in a passenger's best interest and may, in fact, create barriers instead of removing them. First, a special declaration of interest serves no purpose when an air carrier waives the Conventions' limits because the passenger will be appropriately compensated, including beyond the Conventions' liability limits; thus, a special declaration of interest may pose a barrier unto itself. Second, passengers may become confused by an air carrier advising them of the right to make a special declaration of interest, believing that they must do so and possibly pay additional fees, despite an air carrier waiving the Conventions' limitations. Third, a passenger may inadvertently make a special declaration of interest that is less than the replacement value of the mobility aid and only make a claim up to the special declaration of interest. In sum, we submit that advising a passenger of the right to a special declaration of interest under the Conventions serves no purpose and should not be required when an air carrier waives the liability limitations under the Conventions.

Our Members appreciate the need to keep passengers informed of their rights. To that end, we agree that an exemption be subject to the same conditions as required in CTA's Determination No. A-2022-10.<sup>7</sup> Our Members are aware that the tariffs of Canadian air carriers have been recently updated and approved by the CTA to conform to the determination and, to the extent necessary, will further amend their tariffs to appropriately conform with CTA's approved language, but request 45 days to make such amendments.

We appreciate the opportunity to submit this request and thank you for the consideration. If you have any questions, please contact Graham Keithley at [gkeithley@airlines.org](mailto:gkeithley@airlines.org).

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<sup>6</sup> See *e.g.*, *supra* note 2, ATPDR § 61 (requiring air carriers to provide a temporary replacement mobility aid, provide reimbursement for any expenses incurred, repair of mobility aids, replace mobility aids, or reimburse passengers for the full replacement cost of mobility aids); 14 C.F.R. § 382.35 (prohibiting passenger liability waivers for mobility aids); and 14 C.F.R. § 382.131 (removing liability limitations for mobility aids in domestic U.S. air transportation).

<sup>7</sup> See *e.g.*, United.com, Customer wheelchair equipment (providing information regarding how to make a claim for wheelchair or other assistive devices in the section "Notice regarding lost, damaged or destroyed assistive devices"), *available at* <https://www.united.com/ual/en/us/fly/travel/special-needs/disabilities/customer-wheelchair.html>.

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Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Graham Keithley", with a long horizontal stroke extending to the right.

Graham Keithley  
Vice President and Associate General Counsel  
AIRLINES FOR AMERICA

## Appendix A

### Member Waivers

#### **Alaska Airlines<sup>8</sup>**

Rule 15, Acceptance of Baggage

R. For International Carriage to/From Canada, the following rules apply:

8. Waiver of Liability Limitations for Assistive Devices. Alaska's normal limit of liability will be waived for substantiated claims involving loss, damage, or delay in delivery to wheelchairs or other Assistive Devices, when such items have been accepted into Alaska's care as Checked Baggage or otherwise. Alaska's liability for substantiated claims involving the loss of, damage to, or delay in delivery of wheelchairs or other Assistive Devices, when such items have been accepted as Checked Baggage or otherwise is to be based on the cost of the repair or replacement value of the wheelchair or other Assistive Device.

#### **American Airlines<sup>9</sup>**

Rule 116, (V) Excess value charges (excluding assistive devices)

(4) Normal carrier limit of liability will be waived for substantiated claims involving loss, damage, or delay in delivery to mobility aids such as wheelchairs, walkers, crutches, scooters, and other mobility aid. When such items have been accepted into the care of the carrier as checked baggage or otherwise.

Note: The liability of carrier for substantiated claims involving the loss of, damage to, or delay in delivery of mobility aids when such items have been accepted as checked baggage or otherwise, is to be based on the cost of the repair or replacement value of the mobility aid.

#### **Delta Air Lines<sup>10</sup>**

Rule 191: Liability of Carriers; B) Laws and Provisions Applicable

4) The Carrier is liable for damages sustained in the case of destruction or loss of, damage to, or delay of checked and unchecked baggage, as provided in the following paragraphs:

b) Normal carrier limit of liability will be waived for substantiated claims involving loss, damage, or delay in delivery to mobility aids such as wheelchairs, walkers, crutches, scooters and other mobility aid, when such items have been accepted as checked baggage or otherwise. The liability of carrier for substantiated claims involving the loss of, damage to, or delay in delivery of

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<sup>8</sup> Available at: <https://www.alaskaair.com/content/legal/contract-of-carriage/english-COC>

<sup>9</sup> Available at: <https://www.aa.com/content/images/tariff/american-airlines-general-rules-of-the-international-tariff.pdf>.

<sup>10</sup> Available at: <https://www.delta.com/content/dam/delta-www/pdfs/dl-cgr-master-01-mar-22.pdf>

mobility aids, when such items have been accepted as checked baggage or otherwise, is based on the cost of the repair or replacement value of the mobility aid. For damaged or delayed wheelchairs, walkers, crutches, scooters and other mobility aids if a damaged aid can be repaired, carrier will arrange, at its expense, for the prompt and adequate repair of the aid and for its return to the passenger as soon as reasonably possible. Carrier will use reasonable efforts to obtain a temporary without undue delay while the passenger's mobility aid is being repaired or returned.

## **United Airlines<sup>11</sup>**

Rule 28 Additional Liability Limitations, K. Additional Baggage Liability Limitations and Exclusions:

### 2. Wheelchair and Other Assistive Devices

a. With respect to Domestic Carriage and to/from Canada only, carrier baggage liability limits do not apply to claims for loss, damage or delay concerning wheelchairs or other assistive devices. The notice and claim requirements, however, do apply.

b. In the case of a lost, damaged or destroyed wheelchair or other device, the passenger must file a preliminary notice of claim with the Carrier at the airport immediately upon arrival. If the Passenger is unable to file a report upon arrival, they must contact the United Airlines Assistive Device Desk at 1-866-261-2395 (toll free within the U.S. and Canada) or 281-553-2395 (worldwide) or email [AssistedDevice@united.com](mailto:AssistedDevice@united.com) within 24 hours of arrival for Domestic Carriage and within seven calendar days of arrival for carriage to/from Canada.

c. The Passenger must complete a written claim form from UA within the time limitations defined in Rule 28 K) 2) b) above or under Rule 28 E), if applicable, and provide documentary proof of loss or damage such as the baggage incident report number, the passenger's itinerary, baggage tag, evidence of purchase, model, serial number and type of the wheelchair or other assistive device, and any other information that may be requested by the Carrier to verify the facts alleged and to assess the credibility of the claim. If a wheelchair or other assistive device can be returned to the Passenger in the condition in which it was received by making reasonable repairs, UA may, at the Passenger's request, make the repairs.

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<sup>11</sup> Available at: <https://www.united.com/en/us/fly/contract-of-carriage.html#rule-28>