

AIRCRAFT CHARTERING SERVICES



Aircraft Chartering Services Limited

General Terms of Air Charter Agreement

NOTICE – EU COUNCIL REGULATION 889/2002

Where the Carrier is a Community Air Carrier, EU Council Regulation 2027/97 as amended by EU regulation 889/2002 shall govern the liability of such carrier.

Following the United Kingdom's exit from the EU on 31 December 2020, the above regulation was retained by the UK under the European Union (Withdrawal) Act 2018 and accordingly shall apply where the Carrier is a UK Carrier.

NOTICE – EU COUNCIL REGULATION 261/2004

Where the Carrier is a Community Air Carrier, EU Council Regulation 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights may apply to the Flight

Following the United Kingdom's exit from the EU on 31 December 2020, the above EU Council Regulation 261/2004 and provisions therein has been incorporated into UK statute as **The Air Passenger Rights and Air Travel Organiser's Licensing (Amendment) (EU Exit) Regulations 2019** and such will apply accordingly if the Carrier is a UK Carrier.

**NOTICE – WARSAW/MONTREAL CONVENTIONS
LIABILITY FOR BAGGAGE, CARGO, INJURY OR DEATH**

The Flight may be governed by the International Convention for the Unification of Certain Rules Relating to International Carriage by Air as amended (the "Warsaw Convention") as amended and supplemented and/or by the rules and regulations established by the Montreal Convention on the Unification of Certain Rules for International Carriage signed in Montreal on 28th May 1999 ("the Montreal Convention") which rules and limitations shall, to the extent such Warsaw Convention and/or the Montreal Convention is/are applicable, apply to the Flight(s) conducted by the Carrier.

WHEREAS:

- (A) This agreement (the “**General Terms and Conditions**”) sets out the general terms and conditions for the supply of aircraft charter brokerage and related services by Aircraft Chartering Services Limited (hereinafter ACS) to the Charterer.
- (B) The provisions of these General Terms and Conditions will be incorporated into each Charter Contract (as defined herein) in their entirety, unless otherwise stated.
- (C) In the event of any conflict between the terms of any Charter Contract and the General Terms and Conditions, the Charter Contract shall prevail.

1. Definitions

Agreement	means the Agreement between the Charterer and ACS for the provision by ACS of aircraft charter brokerage services comprising these General Terms and Conditions, all Charter Contracts and any annexes and schedules thereto.
Aircraft	means the aircraft (or its suitable substitute) operated in connection with a Flight
Carrier	means any commercial air carrier or aircraft operator selected to provide the Aircraft for the period of the charter
Charter	means the charter of the Aircraft by the Charterer, as arranged by ACS and pursuant to the terms herein
Charter Price	means the price of the Charter as set out in the Charter Contract
Charter Contract	means the charter details substantially in the form of the Schedule hereto
Check-in Time	the time or times stated in the Charter Contract or as otherwise notified to the Charterer by ACS
Data Protection Laws	shall mean, as applicable and binding on the Parties; i. In the United Kingdom a) the Data Protection Act 1998 and any legislation and/or regulation implementing Directive 95/46/EC (the Data Protection Directive) and/or b) the EU general Data Protection Regulation (Regulations [EU] 2016/679) and/or c) any corresponding or equivalent legislation and/or regulation implementing or made pursuant to the foregoing or which amends, replaces, re-enacts or consolidates any of them; ii. In Member States of the European Union; the Data Protection Directive or the GDPR and all applicable Member State legislation and/or regulations giving effect to or corresponding with any of them.
Departure Time	means the departure time of the Flight(s) as set out in the Charter Contract

Flight	means the flight described in each Charter Contract
FlightProtect Guarantee	means ACS's separate flight protection scheme, being the subject of separate agreement,
Force Majeure	means any event beyond a party's control including (but not limited to) acts of God, explosions, revolutions, acts of terrorism, hijacking, insurrection, riot, civil commotion, war, national or local emergency, act of government, lock-out, strike, industrial dispute or action, fire, lightning, flooding, embargoes, quarantine, requisition of an aircraft or cargo, acts or omissions of third parties and extreme weather conditions.
Traffic Documents	all passenger tickets, baggage checks, air waybills and other documents required under applicable international conventions or other applicable law.

2. Services provided by ACS

- 2.1 ACS agrees to provide aircraft charter brokerage services to the Charterer in accordance with the requirements, terms and conditions of this Agreement.
- 2.2 ACS shall be responsible for the sourcing of a suitable aircraft from the Carrier for Charter in accordance with the Charterer's requirements.
- 2.3 The Charterer agrees that carriage will be provided by the Carrier and that the Carrier will have the exclusive responsibility for the maintenance and operation of the Aircraft for the period of the charter. The Charterer agrees that, ACS having no authorisation from the Carrier, the crew shall be the servants and agents of the Carrier and shall be authorised to take orders only from the Carrier unless otherwise agreed by the Carrier and recorded in writing.
- 2.4 ACS shall procure that the Carrier provides the Aircraft properly manned, maintained, equipped and fuelled for the Charter in accordance with the laws and regulations of the state of registration of the Aircraft and all other applicable laws and regulations.
- 2.5 Carriage performed by the Carrier shall be subject to the conditions of carriage contained or referred to in the Traffic Documents of the Carrier from time to time, including its own conditions of carriage.

3. Charter Price

- 3.1 The Charter Price shall be specified in the Charter Contract and shall, unless otherwise stated, include fuel, oil, maintenance, landing, security, per capita head fees, air traffic control, hangarage, parking, ground handling, all license fees, clearance fees, royalties and non-objection fees, baggage screening charges, and the remuneration and expenses of the Carrier's crew and cabin staff.
- 3.2 All other costs including (but not limited to), aircraft de-icing, diversion of the aircraft (unless for technical reasons), passengers use of satellite communications, on-board Wi-Fi and other such communication and media services, connections to and from airports, ground accommodation and non-standard catering shall exclusively be for the account of the Charterer, unless otherwise specified in the Charter Contract.

3.3 The Charter Price shall be based on the costs of aviation fuel and other variables at the date of the Charter Contract. Accordingly, the Charter Price shall be subject to surcharges imposed by the Carrier for any fuel, insurance or currency variations.

3.4 The Charter Price and all other charges provided for in this Agreement are exclusive of any value added or sales taxes which shall be paid in addition by the Charterer at the prevailing rate.

4. Payment

4.1 The Charterer shall pay ACS the Charter Price and any other sums set out in the Charter Contract at the time specified in the Charter Contract and in the currency specified in the Charter Contract without set-off, deduction or counterclaim.

4.2 In the event that additional services are requested over and above those in the Charter Contract and ACS agree to provide such services, ACS shall raise separate invoices for such services, the payment terms for which shall be set out in the invoice.

4.3 In the event that the Charterer is required to withhold any part of any payment payable by it to ACS hereunder or to make any deduction therefrom, it shall pay such additional amount as may be necessary so that, after making such withholding or deduction, ACS shall receive from the Charterer the full amount of such payment.

4.4 Time of payment is of the essence in this Agreement. ACS may, without prejudice to any other rights or remedies under this Agreement, terminate this Agreement without liability to the Charterer in the event that payments are not made on the dates specified. ACS shall also be entitled to recover from the Charterer any applicable cancellation charges imposed by the Carrier.

4.5 If for any reason any payment due to ACS hereunder is not made on the due date, and notwithstanding ACS's rights in Clause 4.3, then the Charterer shall pay to ACS simple interest on the amount unpaid at the rate of 8% per annum above the prevailing base rate of National Westminster Bank from the due date until the date of payment.

5. Traffic Documents and Embarkation

5.1 ACS shall procure that the Carrier shall supply the Traffic Documents and all other necessary documents relating to the carriage undertaken pursuant to this Agreement and the Charterer shall provide to ACS all necessary information and assistance to complete such documents as soon as possible after the making of this Agreement and, in any event, in sufficient time to be completed for issue to passengers.

5.2 All Flights are conditional on the grant and continued retention of, and are subject to, the terms and conditions of (i) the relevant air transport license issued to the Carrier by the relevant authority and (ii) any further licenses or registrations which may be required for the operation of the Flight, whether required under the laws or regulations of the state in which the Aircraft is registered or any other state to, from or over which the Aircraft will be flown in the course of the Flight.

5.3 The Charterer shall ensure that passengers and their baggage and any cargo shall be at the specified check-in point at the departure airport not later than the Check-in Time and that all passengers possess all required Traffic Documents, identity documents, passports, visas and other documents required by the Carrier and authorities of states of departure, transit and arrival of the Flight for the transportation of them, their baggage and any cargo.

- 5.4 In the event that any passenger of the Charterer fails to arrive in sufficient time to be carried on the Flight (notwithstanding any efforts made by ACS to re-schedule the Flight pursuant to Clause 6.2), ACS and/or the Carrier shall be under no liability whatsoever to the Charterer or to such passenger. If the Carrier, in its absolute discretion, arranges for any such passenger to be carried on an alternative flight or routing, the Charterer shall pay on demand to ACS such additional sum that the ACS may specify for each such passenger to cover any additional charges levied by the Carrier.
- 5.5 In the event that any passenger of the Charterer is refused entry at any destination airport, the Charterer shall indemnify and keep indemnified ACS, its officers and employees and agents against any and all cost or expense whatsoever incurred by ACS in respect thereof (including but not limited to charges, fee, penalties, imposts or other expenses levied upon the Carrier and passed on to ACS) or of any arrangements made by the Carrier and/or ACS to return such passenger to the country from which such passenger was originally carried.

6. Flight Cancellation and Delay

6.1 In the event that:

- 6.1.1. any Aircraft required for the operation of any Flight is detained (whether lawfully or not) by any third party (including but not limited to detention by any aviation or airport authority, overflight authority or by way of lien or requisition for hire or otherwise); or
- 6.1.2. if the Carrier has an administrator, receiver, administrative receiver, trustee or other like person appointed over a part or all of its assets or business and as a result the Carrier is unable to perform the Flights at the same cost to the Carrier; or
- 6.1.3. if the Carrier becomes insolvent, enters into voluntary liquidation or is compulsorily wound up

then ACS shall use reasonable endeavours to find an alternative carrier to operate such Flights as may be affected by the occurrence of any of the above events and any additional costs in securing an alternative carrier shall be for the account of the Charterer.

- 6.2 If a Flight is, or is to be delayed beyond the scheduled time of departure by reason of any failure by the Charterer or any passenger to comply with its obligations hereunder or any other act or omission on the part of the Charterer or any passenger, in all cases which is not attributable to Force Majeure or otherwise not beyond Charterer's or any passenger's control, then ACS shall use reasonable endeavours to make arrangements with the Carrier to re-schedule the affected Flight provided always that the Charterer shall indemnify ACS in respect of any loss incurred by, or increased charges levied on, ACS as a result of such delay.
- 6.3 If ACS is unable to make arrangements with the Carrier to re-schedule the affected Flight noted in 6.2 above, ACS reserves the right in such circumstances to cancel the Charter Agreement with respect to the affected Flight, and to charge the Charterer the applicable cancellation charges in the Charter Contract.
- 6.4 In the event of any delay (other than any delay for technical reasons the responsibility and liability for which shall lie with the Carrier) deviation or diversion of any Flight, the Charterer shall be solely responsible for any and all accommodation, refreshments, meals, transportation or any other additional costs, expenses, losses, damages or liabilities of whatsoever nature incurred in respect of the Charterer's passengers wherever and howsoever the same shall arise. All such costs, expenses, losses,

damages or liabilities incurred by the Carrier shall be reimbursed by the Charterer to ACS on demand.

6.5 The Charterer may cancel a Flight pursuant to this Agreement at any time prior to departure by notice in writing to ACS, subject to the cancellation terms set out in the Charter Contract.

6.6 Cancellation charges shall vary depending on the Carrier and Flight(s) to be performed. ACS shall use reasonable endeavours to minimise cancellation charges raised by the Carrier however the Charterer acknowledges that such charges will be levied upon ACS in the event of Charterer's cancellation and as such, the cancellation charges as between ACS and Charterer represent a genuine pre-estimate of the loss that ACS will suffer and do not in any way represent a penalty.

7. Aircraft and Crew

7.1 The captain of the Aircraft shall have complete discretion concerning preparation of the load carried and its distribution and of the Aircraft for flight, whether or not a Flight shall be undertaken or abandoned once undertaken and deviation from proposed route, where landing shall be made and all such other matters relating to the operation of the Aircraft and the Charterer shall accept all such decisions as final and binding.

7.2 All ground and operating personnel, including cabin staff, are authorised to take orders only from the Carrier unless specific written agreement shall first have been obtained from the Carrier whereby certain defined instructions may be accepted by such personnel from the Charterer.

7.3 Subject always to the Carrier's conditions of carriage, in the event that a passenger's conduct, behaviour or health is deemed by the captain of the Aircraft to cause, or be likely to cause, discomfort or nuisance to other passengers or jeopardise the safety of the passengers and/or the Aircraft, then the captain of the Aircraft shall be entitled to take any action deemed necessary to procure the safety of the passengers and Aircraft including, but not limited to diverting or returning to the airport of departure and/or removing the passenger(s) in question. If such action is deemed necessary, Charterer shall compensate ACS against any loss incurred by ACS as a result of such diversion and removal.

8. Exclusion of Liability

8.1 Both ACS and the Charterer shall not be under any liability to each other for any failure by it to perform its obligations under this Agreement arising from force majeure (as defined below), labour disputes, strikes or lock-outs or any other cause beyond the control each party including but not limited to accidents to or failure of the Aircraft, engines or any other part thereof or any machinery or apparatus used in connection therewith.

8.2 The Charterer shall indemnify ACS against any loss, damage, liabilities, costs or expenses of whatsoever nature caused to be suffered or incurred by the ACS and its officers, employees, agents or subcontractors arising out of any act or omission of the Charterer or its officers, employees or agents whether arising in contract or tort (including negligence) or otherwise.

8.3 ACS is not an air carrier neither is it an operator of aircraft or agent of the Carrier and accordingly shall not be deemed to undertake any carriage to which this Agreement relates as a common carrier.

- 8.4 The Charterer hereby acknowledges that it recognises that ACS is not in any way responsible for the acts, omissions or defaults of the Carrier or the failure of the Carrier to perform its obligations contemplated hereunder and hereby waives any claims against ACS for the Carrier's acts, omissions and defaults, including but not limited to, technical failure of the Aircraft resulting in accident, cancellation or delay.

9. Termination

- 9.1 Either party ("the terminating party") may terminate this Agreement immediately by notice in writing if:
- 9.1.1 the other party commits a breach of this Agreement which is incapable of remedy or which, if capable of remedy, is not remedied within such reasonable time as the terminating party shall require following notice to the other party of the breach; or
 - 9.1.2 the other party is unable to pay its debts (within the meaning of Section 123 Insolvency Act 1986 as if the words 'if it is proved to the satisfaction of the court' were replaced by 'if in the reasonable opinion of the terminating party') or a petition is presented or a resolution is passed to wind up the other party or an administration order is made in relation to the other party or a receiver, manager, administrative receiver or like person is appointed over the whole or any material part of the property, undertaking or assets of the other party; or the other party makes a voluntary arrangement within the meaning of Section 253 Insolvency Act 1986 or the other party becomes insolvent or is otherwise unable to pay its debts; or an analogous event to any of those in this Section 11.4.2 occurs in respect of the other party in any territory whose jurisdiction the other party is subject.
- 9.2 Termination of this Agreement shall be without prejudice to any rights or remedies available to or any obligations or liabilities accrued to, either party at the effective date of termination. Except as provided herein, following termination the parties will have no obligation to further perform their obligations under this Agreement, with the exception of any obligations which expressly apply hereunder after termination.
- 9.3 Notwithstanding anything in this Agreement to the contrary, in the event of any termination by ACS, ACS shall, at Charterer's request, honour and cause each Carrier to perform any trips that were scheduled by Charterer prior to the effective date of the termination.

10 Data Protection

- 10.1 Notwithstanding anything else hereunder, the Charterer acknowledges and accepts that it is a requirement to provide to the Carrier, immigration authorities and other authorised agencies in all countries where the Flight will operate, Personal Data of all passengers who will be travelling on the Flight, including any of the Charterer's employees, agents or representatives. The Personal Data will be collected from the passengers by Charterer or their appointed agents in good time and it is the Charterer's responsibility to ensure the accuracy and completeness of this data. The Charterer shall send the data to ACS using secure means and ACS will receive and process the data in accordance with the terms of this Clause 10, which sets out the framework for the sharing of Personal Data between the Parties as separate, not joint, Data Controllers in common.
- 10.2 For the purposes of this Clause 10, the terms "Data Controller", "Data Processor", "Data Subject", "personal data" and "processing" shall have the meaning given to them in the Data Protection Laws. "Data Receiver" means a Party to this Agreement when it receives

Transferred Personal Data (as defined in Clause 10.2 below), directly or indirectly, from the other Party; "Data Discloser" means a Party to this Agreement when it discloses Transferred Personal Data, directly or indirectly, to the other Party.

- 10.3. The Parties acknowledge and agree that for the purposes of providing passenger information to the Carrier and other authorised persons for the operation of the Flight ("Agreed Purposes") the Parties shall share between them personal data of the passengers, including any employees, agents or representatives of the Charterer who will travel on the Flight, such as but not limited to, full names of passengers, their gender, date of birth and passport details ("Transferred Personal Data"), only to the extent necessary for fulfilling the Agreed Purposes.
- 10.4. The Parties agree to only share between them and process Transferred Personal Data in accordance with Clause 10.2. Each Data Receiver shall ensure that it processes the Transferred Personal Data fairly and lawfully in accordance with this Clause 10.3 and the Data Protection Laws and on the basis of one or more of the legal grounds prescribed by the Data Protection Laws.
- 10.5. Neither Data Receiver shall disclose or transfer the Transferred Personal Data to a third party located outside the EEA unless it complies with the provisions of Articles 25 and 26 of the Data Protection Directive as implemented in the national Data Protection Laws to which it is subject, Chapter V of the GDPR or such other manner as may be approved by the European Commission from time to time.
- 10.6. Each Data Discloser shall, in respect of the Transferred Personal Data it transfers to the other Party pursuant to this Agreement, ensure that its privacy notices to the Data Subjects are clear and provide sufficient information in relation to the types of their Personal Data shared with the Data Receiver and the circumstances and purposes of such data sharing.
- 10.7. Each Data Receiver shall only retain Transferred Personal Data insofar as this is necessary to carry out the Agreed Purposes, or to the extent required thereafter by legal or regulatory requirements to which such Data Receiver is subject. Subject to the extent permitted by Data Protection Laws including that the relevant Party has a lawful basis for doing so, each Data Receiver shall securely destroy any Transferred Personal Data in accordance with the reasonable instructions of the Data Discloser on the earlier of the following circumstances:
 - a. on the expiry or termination of this Agreement;
 - b. once processing of the Transferred Personal Data is no longer necessary for the Agreed Purposes or for any applicable legal or regulatory requirement.
- 10.8. Each Party warrants to the other that it has in place, and shall have in place for as long as it processes Transferred Personal Data, appropriate technical and organisational security measures to prevent the unauthorised or unlawful processing of Transferred Personal Data and the accidental loss or destruction of, or damage to, Transferred Personal Data.
- 10.9. Each Party shall promptly notify any breach and/or potential breach or actual loss of the Transferred Personal Data to the other Party to enable the Parties to consider what action is required in order to resolve the issue in accordance with the applicable Data Protection Laws and guidance. The Parties agree to provide reasonable assistance as is necessary to each other to facilitate the handling of any data security breach or loss in an expeditious and compliant manner.

- 10.10. Each Party undertakes to the other that it shall respond to requests of Data Subjects exercising their rights in accordance with its policies and with applicable Data Protection Laws.
- 10.11. Each Data Discloser shall make reasonable efforts to ensure that all information provided to the Data Receiver is accurate, reasonable and complete, and undertakes to the Data Receiver to promptly correct any Transferred Personal Data if it becomes aware that it is inaccurate and to notify the Data Receiver accordingly.
- 10.12. This Clause 10 shall survive termination of this Agreement.

11. Miscellaneous

- 11.1 Any notice required to be given under this Agreement shall be in writing and shall be deemed duly given if left at or sent by first class post or facsimile message to the address herein stated of the party to whom it is to be given. Any such notice shall be deemed to be served at the time when the same is handed to or left at the address of the party to be served and if served by post on the day (not being a Sunday or Public Holiday) next following the day of posting or if served by facsimile message upon the day such facsimile message is sent.
- 11.2 This Agreement sets out the entire agreement and understanding between the parties or any of them in connection with the charter of the Aircraft as described herein.
- 11.3 No person other than a party to this Agreement may enforce this Agreement by virtue of the Contracts (Rights of Third Parties) Act 1999
- 11.4 No party has relied on any warranty or representation of any other party except as expressly stated or referred to in this Agreement.
- 11.5 No claims shall be made against ACS in respect of any representation warranty indemnity or otherwise arising out of or in connection with the charter of the Aircraft except where such representation, warranty or indemnity is expressly contained or incorporated in this Agreement.
- 11.6 No variation of this Agreement shall be effective unless made in writing and signed by authorised signatories on behalf of both parties.
- 11.7 No failure by ACS to exercise and no delay by ACS in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided are cumulative and are not exclusive of any rights or remedies provided by law.
- 11.8 The Charterer shall not be entitled to assign the benefit of this Agreement without ACS's prior written consent.
- 11.9 The waiver by either party of a breach or a default of any provision of this Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or any other provision, nor shall any delay or omission on the part of either party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any right, power or privilege by such party.
- 11.10. This Agreement shall be governed by and interpreted in accordance with English law and the parties hereby submit to the jurisdiction of the English courts. If so requested by ACS

the Charterer shall provide an address in England and Wales where service of process can be effected.

- 11.11 This Agreement may be executed in any number of counterparts each of which shall be an original but such counterparts shall together constitute but one and the same instrument.

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