



GERMAN AIRWAYS

**General Terms & Conditions
of
German Airways GmbH & CO. KG**

Content

1.	Scope.....	1
2.	Conclusion of Contract	1
3.	Pricing, Invoice, Payment.....	2
4.	Cancellation by the Client.....	3
5.	Air Transport Service, Conduct of Flights.....	3
6.	Liability, Default	5
7.	Extraordinary Termination of Contract	6
8.	Miscellaneous	6

1. Scope

1.1. These General Terms and Conditions (*Allgemeine Geschäftsbedingungen*; “**AGB**”) apply to all business, contractual and legal relationships between German Airways and its vicarious agents (“**GERMAN AIRWAYS**”) on the one hand and GERMAN AIRWAYS’ clients, users and customers (“**Client**”) on the other.

These AGB shall be an integral part of the agreement/contract between GERMAN AIRWAYS and the Client.

These AGB apply for all services rendered by GERMAN AIRWAYS, including but not limited to flight preparation and planning as well as flight performance and conduct unless otherwise agreed and confirmed in written form (E-Mail is acceptable as written form) by GERMAN AIRWAYS.

1.2. GERMAN AIRWAYS’ General Terms and Conditions of Carriage of passengers, baggage and/ or cargo (*Allgemeine Beförderungsbedingungen*, “**ABB**”) shall be an integral part of the agreement/contract between GERMAN AIRWAYS and the Client and apply in addition to these AGB if passengers, baggage and/ or cargo are carried by GERMAN AIRWAYS as part of the rendered services. In case of inconsistencies or discrepancies between these AGB and the ABB, the requirements of the AGB shall prevail, except otherwise explicitly set forth herein.

2. Conclusion of Contract

2.1. GERMAN AIRWAYS promotes charter of aircraft, seating capacities in its aircraft and/or cargo-space capacities in its aircraft. The promotion of such offers is subject to change without further notice and shall not be deemed as legally binding. Such promotion offers are deemed to be an invitation by GERMAN AIRWAYS to the Client to submit a legally binding offer to GERMAN AIRWAYS („*invitatio ad offerendum*“). Contracts/agreements shall not be legally effective if GERMAN AIRWAYS has not issued a written order confirmation for the Client’s offer and request (booking confirmation). Such booking confirmations confirms that GERMAN AIRWAYS legally accepted the offer of the Client about the services (generally air transport services) and the pricing conditions.

2.2. Aircraft charter offers, which are subject to confirmation by GERMAN AIRWAYS, include options for Clients to rent an aircraft from GERMAN AIRWAYS or its contractual partners with crew and insurance (on so-called ACMI basis (aircraft, crew, maintenance and insurance), which and to realize desired flight routes with GERMAN AIRWAYS to the extent legally possible).

Seat capacity offers, which are subject to confirmation by GERMAN AIRWAYS, include options for Clients to book seats in an aircraft of GERMAN AIRWAYS or its contractual partners for specified flight(s).

Cargo capacity offers, which are subject to confirmation by GERMAN AIRWAYS, include options for Clients to book cargo space in an aircraft of GERMAN AIRWAYS or its contractual partners for specified flight(s).

Flight offers, which are subject to confirmation by GERMAN AIRWAYS, contain options for Clients to book a seat in an aircraft of GERMAN AIRWAYS or its contractual partners for specified flight(s). A specific seat reservation for a booked flight is – if even possible - generally subject to



GERMAN AIRWAYS

additional expenses, if not otherwise individually agreed between GERMAN AIRWAYS and the Client.

- 2.3. All contracts are concluded subject to GERMAN AIRWAYS obtaining the necessary landing, take-off, and/or traffic rights as well as all official and/or sovereign approvals, consents or licenses required for the flight. GERMAN AIRWAYS is entitled to withdraw from a contract if one of these rights and/or approvals, consents or licenses are not granted. GERMAN AIRWAYS shall not be liable for any damages and/ or compensation provided that it has taken all necessary steps to obtain these rights and/or approvals, consents or licenses, or if it was the Client's obligation to obtain such rights and/or approvals, consents or licenses. The Client shall indemnify GERMAN AIRWAYS against any third-party claims relating to such damages.
- 2.4. In case of withdrawal from the contract in accordance with Section 2.3 above, GERMAN AIRWAYS is entitled to charge a cancellation fee to the Client in accordance with Section 4, provided that and to the extent that the obtaining of the rights was an obligation of the Client.

3. Pricing, Invoice, Payment

- 3.1. The agreed prices shall cover the services and fees specified in the order, booking and/or charter confirmation issued by GERMAN AIRWAYS only.
Any additional expenses actually incurred due to handling out of hours, at night-time or on public holidays, or expenses due to necessary flight diversions, de-icing and/or disinfection of the aircraft shall be charged to the Client. The additional administrational work of GERMAN AIRWAYS due to the need of such additional operational activities shall be invoiced to the Client with an hourly rate of EUR 65, -- to the favor of GERMAN AIRWAYS.
- 3.2. The agreed prices shall in no event cover the expenses of transporting passengers, their baggage or cargo from and to the airport, the expenses of endorsements, customs clearance, customs fees, airport tax, passenger tax, the cost of security checks and security fees or similar passenger or cargo duties and/ or obligations, if not otherwise agreed and confirmed in the order, booking and/or charter confirmation issued by GERMAN AIRWAYS by listing these expenses as being included into the price.
- 3.3. If catering has been included into the price for a passenger flight, the GERMAN AIRWAYS's standard catering has been agreed between the parties, unless other catering arrangements have been confirmed by GERMAN AIRWAYS in writing.
- 3.4. Any increase in fuel prices by more than 5% that arises between the conclusion of the contract and the actual flight performance shall be passed on to the Client by GERMAN AIRWAYS. The Client is obliged to pay the calculated amount of the price increase to GERMAN AIRWAYS without undue delay. This provision shall also apply in the event of an increase in the dollar exchange rate in correlation to the Euro (EUR) by more than 5%.
- 3.5. Should there be a period of more than three (3) months between the date of the GERMAN AIRWAYS' order, booking or charter confirmation and the date of the agreed flight and should the insurance premiums increase by more than 10% during this period, such insurance premium increase shall be borne by the Client. The Client is obliged to pay such an amount to GERMAN AIRWAYS without undue delay.
- 3.6. All prices are net prices and are subject to the applicable statutory value added insofar as the services provided by GERMAN AIRWAYS are subject to value added tax.
- 3.7. The agreed prices shall be paid by the Client to GERMAN AIRWAYS in principle five (5) days after the conclusion of the contract, but in any case, prior to the agreed departure time, unless GERMAN AIRWAYS has explicitly agreed other terms of payment.
- 3.8. GERMAN AIRWAYS shall be released from its obligation to perform under the contract if payment is not received in full by the time of departure. If GERMAN AIRWAYS has agreed other terms of payment, the invoices issued by GERMAN AIRWAYS shall be paid in full within 14 days after receipt without deductions.
- 3.9. Payment shall in principle be arranged via bank transfer, exclusive of bank service charges and fees, in EUROS to the bank account of GERMAN AIRWAYS specified below:

Deutsche Bank AG
IBAN: DE95 3707 0060 0610 5027 00
BIC: DEUTDEDKXXX



GERMAN AIRWAYS

Foreign currency cheques are not an acceptable payment method. GERMAN AIRWAYS shall be entitled to pass on any bank service charges, fees and exchange rate losses to the Client. The client must pay such charges, fees and/ or losses to GERMAN AIRWAYS without undue delay.

- 3.10. If the Client, who is not a consumer in accordance with the German Civil Code (*Bürgerliches Gesetzbuch, BGB*), fails to make any payment by its due date, the Client is obliged to pay interest on the overdue amount at 9 percentage points above the prime rate of the European Central Bank. If the Client is a consumer in accordance with the German Civil Code (BGB), the interests for an overdue amount shall be 5 percentage points above the ECB's prime rate.
GERMAN AIRWAYS is free to claim further damages incurred due to the delay.
- 3.11. The Client's payments are credited at first against to expenses, then to interest, and finally respectively to GERMAN AIRWAYS's oldest claim against the Client.

4. Cancellation by the Client

- 4.1. If the Client cancels the contract in whole or in part without a default of GERMAN AIRWAYS, the Client shall pay the cancellation fee as specified below:

- 10% of the agreed price for cancellations made from the date after the order, booking and/or charter confirmation has been issued;
- 20% of the agreed price for cancellations made within 60 days of departure;
- 40% of the agreed price for cancellations made within 30 days of departure;
- 60% of the agreed price for cancellations made within 7 days of departure;
- 85% of the agreed price for cancellations made within 48 hours of departure.

If the cancellation is made within 24 hours of departure or after the scheduled departure time for the first flight leg, the Client shall pay 100% of the agreed price. A cancellation of the return flight is excluded once the Client boarded the outbound flight. These cancellation fee rules do not apply for taxes and fees which have not been accrued after the cancellation.

After departure of the outbound flight, a refund of the fare for the return flight is also excluded in case of cancellation. This does not apply to taxes and fees which have not been accrued after the cancellation.

All cancellations must be made in writing.

For the avoidance of doubt, the cancellation conditions in section 5.2 of the ABB shall only apply in relation to the end customer in single seat bookings and shall, in that case, take precedence over the above cancellation conditions.

- 4.2. The Client may demonstrate that no damages and/ or expenses to GERMAN AIRWAYS incurred due to the cancellation or that such were substantially lower than the cancellation fee itself.
- 4.3. If GERMAN AIRWAYS incurs additional costs as a result of a termination and/or cancellation of a contract or parts thereof by the Client, in particular but not limited to costs for ferry flights and parking, the Client shall bear such costs in addition to the cancellation fee pursuant to Section 4.1. In such event the Client must pay the calculated amount to GERMAN AIRWAYS without undue delay.

This rule does not apply, if GERMAN AIRWAYS is at default of the contract with the Client and the client cancelled the contract due to that default.

In the event of the Client cancelling parts of the contract, GERMAN AIRWAYS shall be entitled to cancel the entire contract at its discretion, charging a cancellation fee in accordance with Section 4.1 in proportion to the part of the contract cancelled by the Client.

- 4.4. If GERMAN AIRWAYS waives its right to charge cancellation fees in case of a cancellation of a contract once or several times during the existing business relationship, such waiver shall only apply to each specific case. GERMAN AIRWAYS do not waive its right to charge cancellation fees for future events or to claim cancellation fees which have not been time barred.
- 4.5. If the Client fails to pay the agreed price by the time of departure and no other terms of payment have been agreed (Section 3.7), the Client shall pay a cancellation fee in accordance with Section 4.1 in case GERMAN AIRWAYS cancels the contract hereupon.

5. Air Transport Service, Conduct of Flights

- 5.1. GERMAN AIRWAYS conducts each flight in accordance with its ABB as a matter of principle. The Client is obliged to include GERMAN AIRWAYS' ABB or equivalent General Terms and Conditions



GERMAN AIRWAYS

of Carriage as an integral part of the air transport agreement between the Client and the passenger. The Client is liable for any damages and expenses incurred by GERMAN AIRWAYS, as a result of a violation of that obligation specified above. The Client shall indemnify GERMAN AIRWAYS and hold it harmless against any claims of third parties, including passengers.

- 5.2. GERMAN AIRWAYS is entitled to deviate from the flight schedule, to change the seating capacity, the maximum baggage allowance per passenger or the maximum payload for reasons of flight safety, if special circumstances beyond its control so require; in particular, for example, with regard to the performance limitations of the aircraft type used on certain routes.
- 5.3. The departure and arrival times indicated in the flight schedule and the carriage documents are estimated times. GERMAN AIRWAYS does not guarantee compliance with these specific times and reserves the right to deviate from the agreed flight schedule times, in particular if circumstances beyond GERMAN AIRWAYS' control (e.g., ATC instructions) or the safety of flight operations make this necessary.
- 5.4. The Commander (Captain) of the aircraft inherits the power of authority for the safety and security of the aircraft. Thus, the Commander is entitled to take any safety and/ or security measures required at any time. All passengers must obey to the instructions of the Commander and the operating crew. The Commander has complete discretion regarding acceptance of passengers, loading, distribution, tiedown, lashing, securing, and unloading of the baggage and cargo carried on board of the aircraft. Further, the Commander is entitled to take all decisions, how the flight will be performed and may deviate from the planned routing and/ or decide on landing at alternative airports other than the planned destination airport.
- 5.5. In case of a charter agreement for one or more aircraft of GERMAN AIRWAYS, the entire transport capacity of the aircraft chartered by the Client shall be at its disposal. Any transport capacity not used by the Client may be used, at no cost, by GERMAN AIRWAYS for its employees and dependents, unless such use has been excluded by an individual written agreement.
- 5.6. The Client shall ensure that the passengers and their baggage are at the check-in counter, and cargo is at the place of acceptance, on time in accordance with local conditions, but at least 90 minutes prior to the agreed departure time. Reference is made to section 6 of the ABB for further details.
- 5.7. If the time of departure of a GERMAN AIRWAYS aircraft is delayed due to a violation of an obligation by the Client, for instance because the Client's passengers, baggage and/ or cargo handling is delayed, or the Client has caused such delay, GERMAN AIRWAYS shall be entitled, at its sole discretion, either to operate the flight as scheduled within the allotted time slots and to close the check-in counter in accordance with the cut-off times, or to cancel the flight if such delay is incompatible with the further operation of GERMAN AIRWAYS. This is the case, for example, if the relevant aircraft is already booked and scheduled for a subsequent rotation and another Client. In case of a cancellation of the flight which is based on such a delay, the Client is obliged to pay GERMAN AIRWAYS a cancellation fee in accordance with Section 4 hereof.
GERMAN AIRWAYS shall not be liable for any damages and/ or expenses incurred by the Client as a result of such delay, unless to the extent GERMAN AIRWAYS has caused such delay by negligence or willful misconduct. In such case, GERMAN AIRWAYS shall be liable for the proportion of the damage caused by GERMAN AIRWAYS. Otherwise, the Client is obliged to indemnify GERMAN AIRWAYS and hold GERMAN AIRWAYS harmless against all claims of third parties. Compensation claims, which arise in favor of passengers in accordance with Art. 5 and 7 of the Denied Boarding Compensation Regulation (Reg (EU) 261/2004) as a result of such delays as specified above, must be reimbursed by the Client to GERMAN AIRWAYS without delay, provided that GERMAN AIRWAYS has settled such the passenger's claims. This also applies to claims arising from the Montreal Convention of 1999.
- 5.8. A delay or interruption in operations due to technical or flight operational reasons shall not be deemed as a reason to cancel the contract, unless six hours have elapsed since the scheduled time of departure and such delay or interruption still continues. This also applies whenever a flight must be interrupted due to technical or flight operational reasons.
- 5.9. The Client shall issue and hand over to the passengers the travel and transport documents, in which GERMAN AIRWAYS shall be designated as the operating air carrier, unless GERMAN AIRWAYS has explicitly assumed this obligation in writing.



GERMAN AIRWAYS

- 5.10. The documents required for the performance of the flight shall be issued by GERMAN AIRWAYS. Unless otherwise agreed in writing, the Client shall provide GERMAN AIRWAYS with all necessary information and documents regarding passengers, baggage and cargo no later than 48 hours prior to the scheduled time of departure. Based on such information, GERMAN AIRWAYS will generate the final passenger list, which must include any special characteristics such as: "transit passenger from ..., disabilities, diseases, specific seat allocations", if applicable. The Client is liable for damages and/ or expenses resulting from incomplete and/ or incorrect content of the documents required for the performance of the flight , provided that and to the extent such incorrect and/ or incomplete content has been provided by the Client (such as for instance: passenger name, sex, and age).
- 5.11. The Client shall be liable to GERMAN AIRWAYS, at GERMAN AIRWAYS' option, jointly and severally with the relevant passenger for all damages and/ or expenses incurred by GERMAN AIRWAYS as a result of acts and/or omissions of the respective passenger pursuant to sections 14.6 and 14.7 of the ABB. This applies in particular, for example, to costs incurred by GERMAN AIRWAYS having to transport a passenger to his place of departure or to another place by order of an authority because the passenger is not admitted to a country (country of transit or destination). This shall also apply, for example, to any fines or other expenses payable or to be deposited by GERMAN AIRWAYS in this connection. The Client shall indemnify GERMAN AIRWAYS against any third-party claims relating to such damages and / or expenses.
- 5.12. The Client shall ensure that pressurized containers (spray cans, oxygen bottles etc.), explosives (fireworks, ammunition etc.), highly inflammable substances and liquids (petrol, alcohol etc.), corrosive or oxidizing substances, poisons, tear gas, radioactive materials, mercury, and magnetic materials are only brought aboard the aircraft with GERMAN AIRWAYS's prior knowledge and explicit approval. The Client shall ensure that the cargo to be carried is suitable for carriage by air and appropriately packaged (in accordance with the current IATA DGR Standards and/or ICAO Technical Instructions for the transport of dangerous goods by air). Further, reference is made to sections 8.8 to 8.15 of the ABB.
- 5.13. Any deviations from the agreed flight route and schedule requested by the Client shall only be performed with GERMAN AIRWAYS's prior approval in writing. The Client shall bear any additional costs arising from such deviations.
- 5.14. GERMAN AIRWAYS is entitled to deny boarding and/ or transport of passengers, their baggage and/or cargo in accordance with the ABB. The denial of boarding and/ or transport does not constitute a reason for the Client to withdraw from, or terminate, the contract between GERMAN AIRWAYS and the Client. In fact, the Client shall indemnify GERMAN AIRWAYS against any claims of the passengers which might arise out of such denial, provided that the denial of GERMAN AIRWAYS is based on reasonable grounds in accordance with the ABB. The Client inherits the burden of proof that the denial of transport and/ or boarding was not justified.
- 5.15. In case of carrying cargo, GERMAN AIRWAYS is obliged to notify the consignee only, if such notification has been explicitly agreed between the parties in writing and if the current and complete contact details of the consignee have been submitted to GERMAN AIRWAYS by the Client.
- 5.16. GERMAN AIRWAYS is entitled to have one or more flights performed by other air carriers, provided that such air carrier has an equivalent safety standard than GERMAN AIRWAYS. An equivalent safety standard shall be for instance, but not limited to: an air carrier with an air operator certificate (AOC) issued by a civil aviation authority of an EU member State and/ or an air carrier with an IOSA (IATA Operational Safety Audit) certificate of the International Air Transport Association (IATA), Montreal, Canada.

6. Liability, Default

- 6.1. The Client shall be liable to GERMAN AIRWAYS for all damages, expenses and compensations (including passenger denied-boarding compensations under Regulation (EU) 261/2004), including actual legal costs incurred (court fees/lawyers' fees) and any interest payments and penalties/fines, incurred by GERMAN AIRWAYS as a result of the Client's and/ or passenger's violation of obligations and responsibilities under or in connection with the air transport contract including these AGB and the ABB.



GERMAN AIRWAYS

- 6.2. GERMAN AIRWAYS shall not be liable for defaults due to force majeure such as war or similar events, hostilities, uprising or civil war, arrest, seizure or obstruction by government bodies or other persons, quarantine measures and strike, lockout, or walkout. In the event of a strike, lockout or walkout at GERMAN AIRWAYS, GERMAN AIRWAYS shall be entitled to terminate the contract with immediate effect.
- 6.3. GERMAN AIRWAYS' liability under Section 5.8 and Section 5.14 hereof is limited to the remission or refund of the agreed price for the part of the route and/or the relevant passenger, baggage or cargo affected. This limitation of liability does not apply in case of GERMAN AIRWAYS' is acting or failing to act with gross negligence or willful misconduct. Any compensation claims of passengers arising from the Montreal Convention of 1999 and/ or the Denied Boarding Compensation Regulation (Reg (EU) 261/2004) shall remain unaffected by this limitation of liability.
- 6.4. GERMAN AIRWAYS is liable to the Client without limitation in the event of willful misconduct or gross negligence as well as pursuant to a warranty claim. GERMAN AIRWAYS is not liable for slightly negligent breaches provided such breaches do not result in damages for loss of life, personal injury or health, or breaches of guarantees or claims under the German Product Liability Law. Furthermore, the GERMAN AIRWAYS' liability for breach of obligations, the performance of which: (i) is required for due implementation of the contract between GERMAN AIRWAYS and the Client and (ii) may be relied upon regularly by the Client (cardinal obligations (*Kardinalpflichten*)), remains unaffected by the above liability limitations. Any further liability of GERMAN AIRWAYS for compensation of damages is excluded hereunder.
- 6.5. The exclusion or limitation of liability of GERMAN AIRWAYS as well as the provision regarding the indemnification against claims of third parties shall apply mutatis mutandis also in favor of the personnel as well as the vicarious agents of GERMAN AIRWAYS.
- 6.6. The statutory liability of the Carrier pursuant to §§ 44 to 49c of the German Air Traffic Act (*Luftverkehrsgesetz, LuftVG*) shall remain unaffected by the provisions of these AGB and the ABB within the scope of the statutory minimum liability amounts.

7. Extraordinary Termination of Contract

- 7.1. The statutory right to extraordinary termination (without notice) for good cause shall remain unaffected for both parties.
- 7.2. Extraordinary reasons for an immediate termination of contract shall be for instance (but not limited to):
 - a) the Client fails to pay the agreed price in full at the due date in accordance with the agreed terms;
 - b) insolvency proceedings have been initiated against the Client's assets or a freezing injunction has been obtained over parts or all of its assets or the Client is in financial difficulties or has stopped payments.
- 7.3. In cases of justified extraordinary termination by GERMAN AIRWAYS, especially in the cases set forth in Section 7.2 above, the Client shall pay the cancellation fees to GERMAN AIRWAYS in accordance with Section 4 hereof.

8. Miscellaneous

- 8.1. GERMAN AIRWAYS is entitled to assign the performance of all or some of its obligations under the contract concluded with the Client to third parties.
- 8.2. These AGB, and the entire legal relationship between GERMAN AIRWAYS and the Client, are governed by the laws of the Federal Republic of Germany and the GERMAN AIRWAYS' ABB as amended from time to time, as well as, if applicable, the Montreal Convention for the Unification of Certain Rules for International Carriage by Air, 1999, as amended from time to time..
- 8.3. The Client must ensure that all passengers acknowledge and confirm that they have read and familiarized themselves with GERMAN AIRWAYS' ABB. The ABB must be an integral part of the contractual relationship between GERMAN AIRWAYS, the Client, and every passenger.
- 8.4. Where a provision of these AGB is or becomes invalid or incapable of being performed, the validity of the remaining provisions is not affected thereby. The same applies if and when a gap hereunder becomes evident. A suitable provision shall apply in lieu of the one that is invalid or incapable of being performed or to close the gap that, to the greatest extent legally possible, comes as close as possible to what the parties had commercially intended or what they would have intended in



GERMAN AIRWAYS

keeping with the meaning and purpose hereof, if they had considered the relevant point when entering into the contract or when subsequently adopting the relevant provision.

- 8.5. If the Client is a merchant in accordance with the German Commercial Act (*Handelsgesetzbuch, HGB*), trading company, legal entity, or funds under public law, or do not have a place of general jurisdiction within Germany, the place of jurisdiction shall be Cologne, Germany for all disputes between the Client and GERMAN AIRWAYS. The regulatory requirements of the Montreal Convention of 1999 always supersede that provision.
- 8.6. These AGB have been published in German and English language. The German language version is legally binding and included in the contractual relationship. In case of inconsistencies and/ or contradictions between these versions, the German version shall prevail. The English version is provided for convenience purposes only.

Version 15.09.2022

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