



TERMS AND CONDITIONS OF GIVT SERVICES

VERSION 1.9 ENG

DEFINITIONS

§ 1

The terms used in these Terms and Conditions of GIVT Services (hereinafter referred to as the “**Terms and Conditions**”) shall have the following meanings:

1. **Agreement** – an agreement concluded between the Client and GIVT for the claiming of damages for a breach of the air carriage agreement; with such claim based on a power of attorney granted by the Client to GIVT, and/or to the GIVT Partner (“**Agreement with POA**”); or based on a fiduciary assignment of the amounts owed as damages for breach of the air carriage agreement (“**Agreement with Assignment**”);
2. **Amount Owed** – the amount of money due to the Client from the Obligor, resulting from the breach of the air carriage agreement, paid as damages for: delayed flights; cancelled flights; denied boarding; damage, delay, or loss of luggage; or, losses arising from other costs in connection with the abovementioned events;
3. **Base Currency** – Euro (EUR);
4. **Claim** – a demand for compensation based on the provisions of Regulation (EC) No 261/2004 on account of flight delays; flight cancellations; denied boarding; or other losses arising from the violation of an air carriage agreement including the Amount Owed;
5. **Claim Application Form** (or the “**Application Form**”) – a request to conclude an Agreement, submitted by electronic means by the Client via the Website, or the GIVT Hotline, and then preserved in the ICT system, subject to its verification by GIVT;
6. **Client** – a person who submitted a Claim Application Form;
7. **Client's Bank** – the bank at which the Client's bank account, as specified by the Client, is kept;
8. **Commission** – GIVT's remuneration for the Services supplied. The value of the Commission is specified in the Price List;
9. **Compensation** – the amount of money paid by the Obligor;
10. **GIVT** – the entity providing Services, i.e. GIVT AG, with its registered office in Zug, Switzerland, at Dammstrasse 19, CH-6300 Zug, Switzerland;
11. **GIVT Business Partner** – a commercial entity that based on a contractual relationship with GIVT commits to redirect their client base to GIVT's website to file a claim for compensation for a disrupted flight;
12. **GIVT Hotline** – the telephone service providing information about the GIVT Services and accepting the submission of Claim Application Forms, operating under the telephone numbers stated on the Website;
13. **GIVT Partner** – such legal counsel or attorney-at-law instructed by GIVT to perform the Agreement, authorised to provide legal assistance in accordance with applicable laws;
14. **GIVT Rate** – the applied exchange rate between the Foreign Currency and the Base Currency. The GIVT Rate is applicable only for payments made to Clients in a Foreign Currency. The GIVT Rate is published on the Website, or otherwise communicated by GIVT to the Client;
15. **Foreign Currency (FCY)** – a currency other than the Base Currency. The Foreign Currency of the payment is always selected by the Client;
16. **Net Compensation** – the Compensation as reduced by the Commission, calculated in accordance with §5;

17. **Obligated** – an entity who is a party to an air carriage agreement concluded with the Client and who is bound by the duties specified in Regulation (EC) No 261/2004 and the Convention for the Unification of Certain Rules for International Carriage by Air, opened for signature in Montreal, on 28 May, 1999;
18. **Price List** – a list of fees for the supply of the Services by GIVT. The Price List is an integral part of these Terms and Conditions;
19. **Recommending Person** – a natural person, who is a consumer, and who was indicated as the person who recommended GIVT Services to a new Client, by such a new Client during their submission of a Claim Application Form;
20. **Regulation (EC) No 261/2004** – Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91; or such other legal acts providing for the legal grounds for the claiming of damages for a breach of the terms and conditions of the relevant air carriage contract; and/or, the Convention for the Unification of Certain Rules for International Carriage by Air, opened for signature in Montreal, on 28 May, 1999;
21. **Service** – a set of legal actions taken by GIVT, or the GIVT Partner, aimed at the recovery of the Claim on the basis of the Agreement;
22. **Website** – a set of interrelated web pages available at www.givt.com, and accessible using ICT devices providing access to the Internet;
23. **Working Day** – any weekday from Monday to Friday that is not a public holiday.

CLAIM APPLICATION FORM HANDLING PROCEDURE

§ 2

1. A Claim Application Form can be submitted to GIVT with no obligation on either side to conclude the Agreement.
2. By submitting a Claim Application Form, the Clients confirm that:
 - they accept the Terms and Conditions;
 - they are at least 18 years of age and have the legal capacity to sign the Agreement, a power of attorney, or any other documents related thereto, or they hold a valid authorization to represent a third party;
 - the data they have submitted is complete, true, and does not violate the rights of third parties;
 - they have not assigned the Claim to any third party, and no legal dispute is pending between the Client and the Obligated with regards to the Amount Owned.
3. GIVT will verify the Claim Application Form, and may request additional information to be provided by the Client regarding the basis of the Claim. Any data and files necessary for the verification of the Claim must be provided by their entry on the Website, communicated through the GIVT Hotline, or by electronic means in the form of an e-mail sent to info@givt.com.
4. GIVT reserves the right to refuse without cause a Claim Application Form submitted to them. The Client will be informed of such a refusal by way of an email to the email address specified in the submitted Claim Application Form immediately following the verification.

CONCLUDING THE AGREEMENT

§ 3

1. The Agreement for the provision of Services by GIVT to the Client may be concluded in the form of either:
 - an Agreement with POA;
 - or
 - an Agreement with Assignment.
2. GIVT reserves the right to select, at its own discretion, the form of the Agreement to be offered to the Client.

3. An Agreement in the form of an Agreement with POA is concluded by the Client accepting these Terms and Conditions, and submitting a signed power of attorney to GIVT.
4. An Agreement in the form of an Agreement with Assignment is concluded by the Client accepting these Terms and Conditions, and submitting a signed agreement including a fiduciary assignment to GIVT.
5. Following the conclusion of the Agreement, the Client undertakes to provide, at GIVT's request, originals of all documents which GIVT specifies as being necessary for the performance of the Agreement and to pursue the Claim. In particular, if the Client is unable to submit the flight ticket (either in hard copy or in electronic form), the Client hereby authorises GIVT to download an electronic copy of the flight ticket from the Obligated.
6. The Clients represent that they:
 - a) are entitled to monetary compensation from the Obligated as a result of a breach of the air carriage agreement;
 - b) have not filed any claims to the Obligated in respect of the subject of the Agreement;
 - c) have not entrusted the performance of the subject of the Agreement to any other entity;
 - d) have not waived their Claims in respect of the subject of the Agreement, including in particular under a settlement or any other agreement;
 - e) have not concluded any agreement with the Obligated which would result in the decrease of the amount of those Claims covered by the subject of the Agreement, and also that they do not have any outstanding debts towards the Obligated which could give the Obligated a right to mutually set-off such claims;
 - f) are aware that GIVT shall be solely entitled to determine the performance of the Agreement, and to reject a settlement offer involving a partial recognition of the debt, or the acceptance of a voucher – unless GIVT determines that a more favourable result is unlikely or impossible with regards to the Client's claim being the subject of the Agreement;
 - g) are aware that GIVT is the sole entity entitled to accept monetary compensation from the Obligated for the entire term of the Agreement;
 - h) will not waive their claims with respect of the Obligated, and will not conclude a settlement or an agreement obligating the Client to sign a settlement with the Obligated, unless they have notified GIVT of such a settlement or agreement, and they have obtained GIVT's prior consent to the conclusion of such a settlement or agreement;
 - i) have obtained the consent of fellow passengers to add them to the Claim in the event that fellow passengers are added to the Claim;
 - j) will immediately forward any information they may have concerning the subject of the Agreement to GIVT, as well as any documents and declarations requested by GIVT which, in GIVT's assessment, will be useful for the performance of the Agreement.

In the case of an Agreement with Assignment, the Client additionally represents that:

- k) they are entitled to dispose of the right to the Amount Owed, which is free of legal defects, is not collateral for the claims of any third parties, and that their right to dispose of their right to the Amount Owed is not excluded or limited by contract or law;
 - l) the Amount Owed, being the subject of the fiduciary assignment, has not been seized in the course of any proceedings to secure claims or in the course of any enforcement proceedings, and is not included within any composition or bankruptcy proceedings;
 - m) the Amount Owed being the subject of the Client's disposal has not been the subject matter of any other assignment;
 - n) they shall not undertake any actions aiming at the collection of the Amount Owed from the Obligated for the entire term of the Agreement, in relation to the fiduciary assignment of the Amount Owed.
7. The Client undertakes to notify GIVT in the event that any of the above declarations are inconsistent with the factual state of affairs prior to their conclusion of the Agreement. GIVT shall decide at its sole discretion, taking into consideration any notification by the Client in respect of inconsistencies with the factual state of affairs, whether to accept or reject the Client's case as submitted by the Claim Application Form.

SCOPE OF THE AGREEMENT

§ 4

1. The Agreement is concluded for such time as necessary in order to completely enforce the Amount Owed due from the Obligor on account of the Claim, whether during pre-trial, court, and/or enforcement proceedings.
2. GIVT shall:
 - a) analyse whether there are factual and legal grounds for the pursuit of the Amount Owed from the Obligor;
 - b) represent the Client, or collect the Amount Owed in GIVT's own name, during pre-trial court negotiations undertaken with the Obligor, and with the authority responsible for enforcing compliance with the provisions of Regulation EC 261/2004 (the National Enforcement Body, or NEB), or an entity resolving disputes with consumers being part of an Alternate Dispute Resolution scheme;
 - c) collect compensation at the court stage;
 - d) keep the Client informed of their performance of the Agreement by e-mail or telephone, to the email address or telephone number specified in the Claim Application Form.
3. If the Obligor fails to pay the Amount Owed, or fails to make an acceptable offer, within the prescribed period, GIVT is entitled to initiate court or administrative proceedings in order to recover the Amount Owed, without needing to obtain the Client's prior consent. In such case, GIVT undertakes to cover:
 - a) attorney's costs during the trial;
 - b) court fees; and
 - c) the costs of substitute attorneys or attorney's travel expenses related to travelling to court sessions or hearings.
4. If the judgment awards damages, or other compensation, GIVT shall be entitled to collect all court costs and fees actually awarded by the court on the account of already covered costs.
5. The Client undertakes to sign any and all documents required either for in- or out-of-court proceedings, including a particular power of attorney to GIVT to pursue the Claim.

REMUNERATION AND PAYMENTS

§ 5

1. GIVT undertakes to transfer the Net Compensation to the Client within 14 Working Days of the Compensation being received on GIVT's bank account. The Net Compensation shall then be transferred to the bank account indicated by the Client.
2. In consideration for the performance of the Agreement, GIVT is entitled to receive the Commission.
3. Clause § 5(2) shall not apply to Clients who have concluded an Agreement with GIVT through GIVT's Business Partner, and where such Clients were informed of any commissions other than that specified in §5(2), or stated in the Price List prior to the conclusion of the Agreement by way of the GIVT Hotline or e-mail.
4. The Commission is calculated on the basis of all payments, discounts, allowances, vouchers, etc. obtained from the Obligor as a result of, or in relation to, proceedings managed by GIVT, or GIVT Partners, excluding awarded court fees and costs and incidental dues.
5. If the Obligor satisfies the Claim being the subject of the Agreement including any incidental dues, e.g. delay interest, GIVT is entitled to be paid (keep) any and all such fully paid incidental dues.
6. Regardless of the currency in which the Compensation is paid by the Obligor, GIVT shall pay the Client the Net Compensation in either the Base Currency or the Foreign Currency, where:
 - a. if the Client indicated the Base Currency, then the amount of the Net Compensation paid to the Client shall be calculated according to the following formula:
amount of Compensation in Base Currency minus (amount of Compensation in Base Currency x Commission rate);
 - b. if the Client indicated a Foreign Currency, then the amount of the Net Compensation paid to the Client shall be calculated according to the following formula:

[amount of Compensation in Base Currency minus (amount of Compensation in Base Currency x Commission rate)] x GIVT Rate.

7. If the Obligated pays the Compensation directly to a bank account (or any bank accounts) other than GIVT's bank account, the Client undertakes to immediately, but in no case later than within 7 Working Days, notify GIVT of such a payment and of its amount, and to submit to GIVT any related documents received from the Obligated. GIVT shall calculate and inform the Client of the amount of the Commission, which GIVT is entitled to, which shall be calculated as follows:
 - a. if the Compensation was paid in the Base Currency, the amount of Commission-based remuneration due to GIVT shall be calculated according to the following formula:
amount of Compensation in Base Currency x Commission rate + awarded court fees and costs and incidental dues (if applicable);
 - b. if the Compensation was paid in a Foreign Currency, the amount of Commission-based remuneration due to GIVT shall be calculated according to the following formula:
amount of Compensation in Base Currency x Commission rate x GIVT rate + awarded court fees and costs and incidental dues (if applicable).
8. The Client shall make payment of such Commission to GIVT no later than 7 Working Days after receiving the information specified in point 7, above.
9. If the Client fails to provide GIVT with the payment information as indicated above, then the value of the Commission shall be calculated according to the following formula:
Amount Owed in the amount indicated in the Regulation EC 261/2004 for the distances between the departure airport and arrival airport x Commission rate + awarded court fees and costs and incidental dues (if applicable).
10. Client who fails to notify GIVT of the receipt of the Compensation directly from the Obligated, in breach of clause § 5(7), shall be liable to pay GIVT a contractual penalty as specified in the Price List, on the basis of a debit note issued by GIVT. GIVT shall be entitled to seek damages in excess of the stated contractual penalty on general terms, in particular to claim the Commission-based remuneration to which GIVT is entitled to.
11. GIVT undertakes to contact the Client three times in order to receive all details required to transfer the Net Compensation. If the Client continues to fail to respond to GIVT's correspondence/communications after the third notification sent by GIVT, then GIVT shall send the Client a registered letter, or an email with read-confirmation, in order to request all necessary details in order to transfer the Net Compensation. GIVT acquires the right to retain funds one year from the delivery date of the registered letter, or email with read-confirmation, sent by GIVT, if the Client has not responded by such a date.
12. GIVT shall in no case be responsible for any currency charges, and/or bank fees, or transaction costs imposed on the Client by the Client's Bank.

TERMINATION

§ 6

1. Both GIVT and the Client may terminate the Agreement, taking into account the following provisions:
 - a. GIVT may terminate the Agreement if it is established that there are no factual or legal grounds for the performance thereof. In this case, GIVT shall not charge any costs to the Client on account of GIVT's managing of the case;
 - b. GIVT may terminate the Agreement with immediate effect in the event that any of the representations made by the Client are found to be inaccurate, or when the Client fails to provide documents or data requested by GIVT by the deadline specified. In this case GIVT may charge the Client with all costs incurred by GIVT in connection with the performance of the Agreement, calculated as at the effective date of the Agreement's termination;
 - c. in the event that the Client terminates the Agreement (e.g. in order to entrust the collection of the amounts under the Agreement to GIVT's competitor), GIVT shall be entitled to charge the Client with all costs incurred by GIVT in connection with the performance of the Agreement, calculated as at the effective date of the Agreement's termination.
2. The termination of the Agreement shall be made exclusively in writing, or else shall be null and void. Notice of the termination of the Agreement shall be sent by post to GIVT's address.

FINAL PROVISIONS

§ 7

1. GIVT reserves the right to amend these Terms and Conditions at its sole discretion. The amended Terms and Conditions will be published on the Website.
2. Information concerning the processing of personal data can be found in the Privacy Policy available on the Website <https://givt.com/en/privacy-policy>.
3. The laws of Switzerland shall apply to the Agreement and any other document related thereto. All disputes, claims, or controversies arising out of, or in relation to, the Agreement, or any other document related thereto, shall be settled in the appropriate Swiss common court with jurisdiction over such disputes, claims, or controversies.
4. By providing the personal data of the Recommending Person at the moment of the Client's submission of a Claim via the Website or the GIVT Hotline, the Client agrees that the Recommending Person be notified of the final resolution of the case, i.e. on the receipt of, or failure to receive, compensation for the Client.
5. The English language version of these Terms and Conditions and the Agreement shall prevail in the event of any discrepancies with any other language version thereof.

Price List

Commission and Fees	Rates
1. Submitting of the Claim Application Form	0 EUR
2. First bank transfer sent to a Client	0 EUR
3. Commission for the Service if the Compensation from the Obligor is obtained within the complaint procedure with the Obligor without involving external entities for execution i.e. within the first stage of the complaint procedure with the Obligor.	29% (say: twenty nine percent), inclusive of VAT
4. Commission for the Service if the Compensation from the Obligor is obtained involving external entities such as supervisory authority, entity resolving disputes with consumers within the Alternative Dispute Resolution, common courts or external entities engaged in executing the Compensation i.e. within the second stage of the complaint procedure with the Obligor. For the avoidance of doubt the second stage of the complaint procedure begins as soon as the Obligor, at the stage of complaint procedure, refuses to pay or fails to pay the full due amount of compensation under the Regulation EC 261/2004 or fails to respond within at least 30 days from the day when the complaint was sent.	49% (say: forty nine percent), inclusive of VAT
5. Penalty fee paid on top of relevant Commission if the Obligor paid the Compensation to a bank account other than the GIVT bank account and the Client fails to notify GIVT about the receipt of the Compensation directly from the Obligor (within 7 days) in accordance with these Terms and Conditions	25 EUR + Late payment fee
6. Returned bank transfer	25 EUR and any fees deducted by any external banks
7. Second (and subsequent) bank transfer sent to a Client	25 EUR*
8. Late payment fee (% of the Compensation) if the Compensation was paid to a bank account other than the GIVT bank account and the Client fails to pay GIVT the due Commission and other costs and dues (if applicable)	1% per month

*bank transfers in a Foreign currency will be calculated based on a GIVT rate