

# FirstJets GmbH

## Terms & Conditions

### 1 Definitions

The following definitions apply unless the context requires otherwise:

**Aircraft Charter Brokerage Contract** means the contract provided by FirstJets to the Charterer setting out the details of the Charter (incl. aircraft type, date and time of Charter, route of Charter, number of Passengers, amount of luggage/cargo);

**Ancillary Services** mean any services that are not included in the Charter Services, including (but not limited to) ground transportation, helicopter transfer, inflight/crew/flight attendant services, catering, satellite phone usage, Wi-Fi usage, de-icing/anti-icing, fuel surcharges, insurance surcharges (incl. war surcharges), costs for any delays caused by adverse weather or air traffic control, costs for any diversions caused by circumstances beyond the operator's control;

**Broker** means a provider of brokerage services that facilitates a Charter;

**Charter** means the charter of an aircraft;

**Charter Price** has the meaning given to it in "4 Charter Price";

**Charter Quotation** has the meaning given to it in "3 Brokerage";

**Charter Services** mean the chartering of the aircraft and certain additional services (navigation fees, arrival and departure charges, landing fees, positioning charges, and applicable layover charges);

**Charterer** means the customer who charters an aircraft;

**Confirmation Date** has the meaning given to it in "4 Charter Price";

**Departure Location** means the airport or nearby airports that are used to park the aircraft until the flight departure time;

**Estimated Departure Time** means the scheduled time the booked flight is meant to leave the departure airport;

**FirstJets** means FirstJets GmbH, Rossbergstr. 14, CH-8832 Wollerau, Switzerland;

**Operation Date** has the meaning given to it in "4 Charter Price";

**Operator** means a provider of air transportation services that operates, maintains, owns, and/or charters aircraft;

**Operator's Terms and Conditions of Carriage** mean the operator's terms and conditions as well as the crew's instructions pertaining to those;

**Passengers** has the meaning given to it in "3 Brokerage";

**Request for Quotation** has the meaning given to it in "3 Brokerage".

### 2 Role of FirstJets

FirstJets is a private aviation Broker that acts as an intermediary between the Charterer and the Operator by chartering aircraft as an agent on behalf of the Charterer.

FirstJets is not an Operator and as such does not itself operate, maintain, or own aircraft and does not provide air transportation services. FirstJets is not a contracting carrier for the purposes of the Montreal Convention 1999 nor is it a common carrier.

The services FirstJets provides as a private aviation Broker to the Charterer will be governed by these Terms & Conditions.

### **3 Brokerage**

The Charterer may contact FirstJets via FirstJets' website, social media, email, WhatsApp, phone, letter, or any other way to request a quotation for chartering an aircraft from an Operator ("Request for Quotation"). Nothing on FirstJets' website or social media presence shall in any case be construed as an offer to contract. Similarly, neither the Charterer's Request for Quotation nor the quotation issued by FirstJets following such Request for Quotation ("Charter Quotation") shall be considered an offer to contract.

Only the issuance of an Aircraft Charter Brokerage Contract by FirstJets constitutes an offer which requires acceptance within the stipulated acceptance period. The return of the duly signed Aircraft Charter Brokerage Contract within the acceptance period shall constitute a contract of brokerage between the Charterer and FirstJets, which is governed by these Terms & Conditions, and upon which FirstJets will charter the aircraft as an agent on behalf of the Charterer. If the aircraft becomes unavailable before FirstJets charters the aircraft on behalf of the Charterer, FirstJets shall inform the Charterer without undue delay and will not be bound by the Aircraft Charter Brokerage Contract.

Any Aircraft Charter Brokerage Contract entered into between FirstJets and the Charterer does not constitute a contract for carriage by air and any such contract will only be entered into directly between the Charterer and the Operator.

### **4 Charter Price and Ancillary Services**

The price quoted in the Aircraft Charter Brokerage Contract issued by FirstJets only includes the price for the Charter Services for the number of Passengers and amount of luggage/cargo as set out in the Aircraft Charter Brokerage Contract and unless set out otherwise does not include any Ancillary Services ("Charter Price").

If the Charterer wishes to (a) amend the number of Passengers and/or amount of luggage/cargo or (b) book additional Ancillary Services which are not included in the Charter Price, he may request such changes from FirstJets and upon confirmation from FirstJets shall be liable for the related costs (as informed of by FirstJets prior to confirming such Ancillary Services). Under no circumstances may the Charterer contact the Operator directly to book any Ancillary Services before the Operation Date.

The Charterer is also liable for the cost of any Ancillary Services which are incurred during the Charter either as the result of a request or act from the Charterer and/or the Passengers or if required as a result of operational requirements. FirstJets will inform the Charterer if any such costs have been incurred.

For the avoidance of doubt, any changes to the number of Passengers and/or the amount of luggage/cargo and any Ancillary Services (other than those set out in the Aircraft Charter Brokerage Contract) are subject to confirmation and FirstJets has no obligation to facilitate such changes or provide such Ancillary Services.

The Charterer is liable for any value added tax and any other taxes or charges which may be imposed in any country on the Price (and/or any other amount payable by the Charterer and/or the Passengers hereunder) or otherwise in connection with the flights. FirstJets will inform the Charterer if any such costs have been incurred.

For the avoidance of doubt, the Charter Price and the any additional costs for Ancillary Services or damages may include a service fee that will be retained by FirstJets.

Unless otherwise expressly provided herein, the Charterer shall not be entitled to any reduction or refund of the Charter Price (or any part thereof) for any reason whatsoever (including but not limited to in case of a reduction in the number of Passengers, a reduction in the amount of luggage/cargo, or an unexpected delay/deviation/diversion).

## 5 Payment

All payments due to FirstJets shall be made upon receipt of invoice, in the currency specified on the invoice, and in cleared funds received by FirstJets by the payment date specified on the invoice.

All payments are to be made via wire transfer to a bank account nominated by FirstJets and all bank or transfer costs are to be paid by the Charterer. FirstJets has no obligation to accept any other forms of payment but will consider requests for other payment methods by the Charterer. Payments via any other payment methods may incur surcharges which FirstJets will inform the Charterer of.

FirstJets may implement a credit card hold as specified in the Aircraft Charter Brokerage Contract. FirstJets will release this credit card hold upon settlement of all payments due in relation to the Charter. If the Charterer fails to make such payments by the due date, FirstJets is entitled to request payment of the sum on hold from the Charterer's credit card as required to settle all open payments (including any credit card transaction fees which may be incurred as a result of requesting such sum).

In case of payment or guarantee by credit card, the Charterer represents and warrants to FirstJets that (i) the holder of the credit card consents to such payment or guarantee (and accepts to be charged in case of exercise of the guarantee) and (ii) such payment and/or guarantee (and the exercise thereof) shall not breach any applicable national or international law or regulation.

If for any reason any payments due have not been received by FirstJets on the due date, the Charterer is liable for simple interest on the payment due (less any payments successfully requested from the hold on the Charterer's credit card) at the rate of 10% per annum calculated on a daily basis from the due date until the date of payment. First Jets also reserves the right to demand payment of all legal fees, court fees and recovery fees incurred in the event of delayed or non-payment.

FirstJets' right to request payment of interest or fees is without prejudice to any other rights FirstJets may have against the Charterer. Specifically, FirstJets retains the right to at FirstJets' sole discretion treat non-payment as a cancellation (which will incur cancellation fees as stipulated in "6 Changes & Cancellations" of these Terms & Conditions).

Only FirstJets is, but the Charterer is not entitled to withhold any payments due for purposes of any counterclaim, set-off, deduction or withholding. If FirstJets has any open claims against the Charterer or a person or entity related to or representing the Charterer arising out of a previous contractual relationship, FirstJets is entitled to set off any payments made by the Charterer or a person or entity related to or representing the Charterer first against that claim.

## 6 Changes & Cancellation

The Charterer may request changes to the Aircraft Charter Brokerage agreement, e.g. (but not limited to), Departure Location, Estimated Departure Time, routing, additional flight requirements. In such an event, FirstJets has the right but not the obligation to accommodate the Charterer's requests. Unless such changes are confirmed with an amended Aircraft Charter Brokerage Contract (any other confirmation, whether oral or written, will not suffice), the Charterer continues to be bound by the existing Aircraft Charter Brokerage Contract.

If the Charterer wishes to cancel the Charter after returning the duly signed Aircraft Charter Brokerage Contract, the cancellation conditions will apply as set out in the Aircraft Charter Brokerage Contract.

The percentages in the Brokerage Contract refer to the Charter Price as set out in the Aircraft Charter Brokerage Contract and any other costs or fees incurred or to be incurred (as set out in these Terms & Conditions). The days pre departure refer to the scheduled departure day of the Charter as set out in the Aircraft Charter Brokerage Contract and the time zone of the Departure Location.

Irrespective of the cancellation terms set out in the Aircraft Charter Brokerage Contract, 100% of the Charter Price and any other costs or fees incurred or to be incurred (as set out in these Terms & Conditions) will be charged if the booked aircraft has already been positioned by the Operator to the Departure Location. FirstJets will inform the Charterer upon request whether the aircraft has already been positioned.

Irrespective of the cancellation terms set out in the Aircraft Charter Brokerage Contract, ground transportation and helicopter transfers that are booked as an Ancillary Service to the Charter Service are fully non-refundable.

If for any reason any payments due have not been received by FirstJets on the due date, FirstJets reserves the right to cancel the flight in which case the Charterer will be liable for any cancellation fees as per the Aircraft Charter Brokerage Contract.

The Charterer may not, if not otherwise stated in the Brokerage Contract, arrive less than 45 minutes before the scheduled Estimated Departure Time at the FBO or General Aviation Terminal specified in the flight information provided by FirstJets ahead of the flight. Should the Charterer arrive later than 45 minutes prior to the Estimated Departure Time the Operator has the right to refuse transportation or claim payment of additional costs incurred by the Operator. In case the Operator refuses transportation, the late arrival of the Charterer will be treated like a cancellation and be governed by these Terms & Conditions.

The Estimated Departure Time provided in the Aircraft Charter Brokerage Contract is indicative and subject to change, including (but not limited to) for the following reasons: slots, crew duty times, maintenance checks, weather.

In the event of any delay, deviation, diversion or cancellation of any flight, the Charterer shall be solely responsible for any accommodation, refreshments, meals, transportation or any other additional costs, expenses, losses, damages or liabilities of whatever nature incurred by the Charterer wherever and howsoever the same shall arise. All such costs, expenses, losses, damages, or liabilities incurred by the Operator shall be reimbursed by the Charterer to FirstJets upon request.

If the Operator is unable to perform a Charter, if parking, permits (e.g., overflight, landing), and/or slots cannot be obtained, FirstJets has the right but not the obligation to provide the Charterer with an alternative Operator (at the same or reduced cost) within 24 hours. FirstJets will inform the Charterer of such change of Operator without unreasonable delay. If FirstJets is not able to provide the Charterer with an alternative Operator, it will inform the Charterer without unreasonable delay after the end of the 24 hours window and will reimburse any payments already made by the Charterer within 14 days, which will be the Charterer's sole remedy. For the avoidance of doubt, if the inability to perform a Charter doesn't affect all legs of the Charter, FirstJets will reimburse the Charterer only for the affected legs and not the entire Charter.

FirstJets and the Operator do not guarantee a specific aircraft model and reserve the right to change the aircraft model within the same category of aircraft without prior notice.

## **7 Flight Credits**

FirstJets may at its full discretion issue flight credits to certain customers. Any such flight credits can be revoked by FirstJets at its full discretion and will in any case expire at the latest after 24 months or any earlier date communicated by FirstJets to the Charterer either when issued or at a later date. Flight credits may be subject to certain conditions as communicated by FirstJets to the Charterer on a case-by-case basis, e.g., they may only be available to be used with a certain Operator.

## **8 Charterer's and Passengers' Obligations and Compliance with Laws**

Upon execution of the Aircraft Charter Brokerage Contract, the Charterer shall communicate to FirstJets (for further transmission to the Operator) the identity of himself as well as all Passengers who will travel on the Charter (the "Passengers") and all information and documents (including passport copies or proof of incorporation in case of corporations) related to himself, the Passengers, and any luggage/cargo as may be requested by FirstJets.

The Charterer and the Passengers shall be solely responsible for complying, and shall comply, with all applicable laws, regulations, sanctions, orders, demands, instructions and travel requirements (including immigration, customs, police, and public health (incl. Covid-19) regulations) and with the Operator's rules and instructions pertaining thereto. The Charterer will be liable for any additional costs (including surcharges, fees, fines, penalties) resulting from any non-compliance by the Charterer or a Passenger.

Carriage shall at all times be subject to the Operator's Terms and Conditions of Carriage and the Charterer and all Passengers shall be solely responsible for complying with these. Upon request by the Charterer, FirstJets can request the Operator's Terms and Conditions of Carriage from the Operator and make them available to the Charterer.

The Charterer acknowledges and agrees that the captain of the relevant aircraft is entitled to take all necessary safety precautions at any time, including but not limited to the full authority to make decisions regarding payload (passengers, luggage, and cargo), planned route, flight timings, the sufficiency of weather conditions for safe flight and ultimate landing destination.

If the Charterer and/or the Passengers do not comply with any such requirements, FirstJets and the Operator also reserve the right to refuse performing the Charter. The Charterer will continue to be liable for all payments incurred under the Charter Brokerage Agreement and these Terms & Conditions as well as any additional costs incurred because of non-compliance of the Charterer and/or Passengers. FirstJets shall it be under no obligation to make alternative travel arrangements for the Charterer and/or Passengers in the event of any resulting travel disruption (including delayed, partial, or non-performance).

The Charterer shall bear, and indemnify FirstJets against, any damages because of inappropriate behavior during the flight or misuse of the aircraft's interior by the Charterer and/or the Passengers. If the safety of the plane and/or crew cannot be guaranteed as a result of such action, the crew has the right at all times to take any action they deem necessary, including performing an emergency landing. In such a case, the Charterer will be liable for any damages and loss (incl. fines) incurred as a result. For the avoidance of doubt, smoking and transportation of pets are prohibited unless expressly allowed under the Aircraft Charter Brokerage Agreement.

## **9 Warranties, Liability, Indemnity**

To the full extent permitted by applicable law, any liability of FirstJets, including its shareholders, officers, and employees, is excluded. In particular, FirstJets shall not bear any obligation or liability in relation to any action or omission of the Operator or any other third parties (including any injury, damage, death, loss, accident, or delay). The Charterer expressly agrees that their sole recourse for claims arising out of the behaviour of the Operator and/or the performance of the Charter or any part thereof (including delayed, partial, or non-performance) shall be against the Operator.

The Charterer represents and warrants that he is of sufficient legal age and capacity to enter into legally binding agreements, including the Aircraft Charter Brokerage Contract and these Terms & Conditions. The Charterer represents and warrants that no restrictions apply to him that would prevent him from entering into or performing any such agreements and that he is not entering into any such agreements for, in the name of/or on behalf of third parties unless legally authorized to do so.

The Charterer's use of FirstJet's and the Operator's services is at his sole risk and expense.

Once FirstJets has transferred the Charter Price (minus FirstJets' remuneration) to the Operator, FirstJets shall not bear any liability and shall, in particular, not reimburse the Charter Price or any other amount to the Charterer or the Passengers) in case the Operator ceases activity, becomes insolvent, files for bankruptcy or is affected by any other similar event before the departure of the flight.

Unless stipulated otherwise in these Terms & Conditions, any information of any kind whatsoever which is provided by FirstJets is for information only (incl. Covid-19 travel requirements), without any warranty of any kind, either express or implied.

The Charterer is required to indemnify FirstJets against any direct or indirect damage resulting out of or in connection with his breach of these Terms & Conditions.

## 10 Miscellaneous

- a. The Charterer is required to keep the Charter Price confidential and may not disclose it to third parties without prior approval by FirstJets.
- b. FirstJets processes personal data in accordance with the Privacy Policy made available on FirstJets' website.
- c. FirstJets may refuse to provide brokerage services to a Charterer at any time in its sole discretion, with or without notice and with or without reason.
- d. These Terms & Conditions in combination with the Aircraft Charter Brokerage Agreement constitute the entire agreement between the Charterer and FirstJets and supersede any prior or contemporaneous understandings or agreements (whether oral or written) regarding the subject matter.
- e. No variation of these Terms and Conditions shall be effective unless agreed in writing by FirstJets.
- f. The Charterer shall not be entitled to assign these Terms & Conditions or the Aircraft Charter Brokerage Contract to any person without FirstJets' prior written consent.
- g. FirstJets may at any time amend these Terms and Conditions. The Charterer's use of FirstJets' services will be governed by the Terms and Conditions in force at the time of such use (as made available on FirstJets' website).
- h. Headings are for convenience only and do not affect interpretation.
- i. Mentioning anything after includes, including, for example, specifically or similar expressions, does not limit what else might be included.
- j. The singular includes the plural, and the converse also applies.
- k. A gender includes all genders.
- l. If a word or phrase is defined, its other grammatical forms have a corresponding meaning.

## 11 Governing Law and Jurisdiction

These Terms & Conditions shall be governed by and be construed in accordance with the laws of Switzerland, excluding its conflict of law provisions.

Any dispute, controversy, or claim arising out of, or in connection with, these Terms & Conditions, including the validity, invalidity, breach, or termination hereof, shall be submitted to the exclusive jurisdiction of the courts of Schwyz, Switzerland (with the right to appeal to the Swiss Federal Court),

to which FirstJets and the Charterer hereby irrevocably agree to be submitted. The foregoing shall not prevent FirstJets to sue any Charterer before any other competent court.