



## **IZY AIR LIMITED**

### **GENERAL TERMS & CONDITIONS OF CARRIAGE (GTCC)**

These Conditions apply to all chartering of aircraft from Izy Air Limited, to the exclusion of all other terms, conditions, warranties, and representations, except any specifically agreed between the parties in writing.

#### **1.1 DEFINITIONS**

In these Conditions the following expressions shall have the following meanings:-

The Carrier – Izy Air Limited.

The Charterer - any person, firm or body corporate chartering, or offering to charter, any aircraft from the Carrier.

The Aircraft - any aircraft which is the subject of a charter agreement between the Carrier and the Charterer.

The Flight Schedule - the place of departure, place of destination and any stopping points, together with any indications of departure and arrival times, agreed between the Carrier and the Charterer.

The Agreement - any agreement between the Carrier and the Charterer for the charter of aircraft from the Carrier.

The General Terms and Conditions of carriage (GTCC) – these standard terms & conditions for the charter of aircraft.

SDRs – Special Drawing Rights. Convention – the Convention for the Unification of Certain Rules for International Carriage by Air signed at Montreal, 28<sup>th</sup> May 1999.

#### **1.2 AIRCRAFT AND CREW**

The Carrier shall provide for the Charterer's use of the Aircraft, manned and equipped for the performance of the Flight Schedule. The Carrier shall provide no services during flight.

#### **1.3 CARRIER'S DISCRETION**

If the Aircraft shall for any reason (whether before or after the commencement of the Flight Schedule) become incapable of undertaking or continuing all or part of the Flight Schedule the Carrier may at its discretion substitute therefor one or more aircraft of the same or another type and the provisions of the Agreement shall apply mutatis mutandis to the substituted aircraft. If the Carrier does not substitute another aircraft it shall not be under any liability to the Charterer and the Charterer shall remain liable to pay for that part of the Flight Schedule (if any) that has been performed at the time the Aircraft becomes so incapable.

#### **1.4 CAPTAIN'S DISCRETION**

The Captain of the Aircraft shall have absolute discretion: (a) to refuse any passenger(s), baggage, cargo or any part thereof; (b) to decide what load may be carried on the Aircraft and how it shall be distributed; and (c) to decide whether and when a flight may be safely undertaken and where and when the Aircraft should be landed.

## **1.5 LOADING AND PACKING**

(a) Subject as otherwise provided in these Conditions loading and unloading of the Aircraft shall be at the expense of the Carrier.

(b) The Charterer shall ensure that any goods to be transported are sufficiently and properly packed for carriage and shall supply adequate dunnage and tie-down material taking into account all reasonable demands of the Carrier and the Captain..

(c) Charges for ground transportation, warehouse handling, warehousing and customs clearance shall be at the expense of the Charterer.

## **1.6 DANGEROUS GOODS**

Passengers must not include in their baggage the following:

(a) items the carriage of which is prohibited by law;

(b) items listed in the IATA Dangerous Goods Regulations;

(c) any other items likely to put the Aircraft or people and property onboard the Aircraft in danger, including but not limited to firearms and ammunition (save as provided under Clause 1.6(e)), disabling items (including mace and pepper spray), explosives (including fireworks and flares) security type attaché cases, electro shock weapons, strike anywhere matches, blue flame cigarette lighters, cigar lighters, compressed gas cylinders, flammable liquids (including paints, lighter fluid, solvents, petrol and varnish), flammable solids (including fire lighters), radioactive materials, substances that emit flammable gases in contact with water, substances liable to spontaneous combustion, toxic substances (including weed killer and insecticides) and oxidising materials;

(d) hypodermic syringes, except where supported by applicable papers confirming the medical requirement for the same; and

(e) sporting firearms and a reasonable quantity of associated ammunition, unless prior permission has been sought from the Carrier (such permission being at Carrier's sole discretion). The carriage of such items is subject to such additional terms as may be advised by the Carrier.

## **1.7 UNUSED CAPACITY**

The Carrier shall be entitled at its own discretion and without notice or compensation to the Charterer to use any part of the carrying capacity of the Aircraft unused by the Charterer, except by means of the carriage of additional passengers, and to use any part of the Flight Schedule unused by the Charterer.

## **1.8 CHARTER PRICE**

The Charterer shall promptly pay to the Carrier the charter price and applicable ancillary charges and subject as otherwise herein provided the Charterer shall not be responsible for any other expenses of or in connection with the Aircraft or the Flight Schedule. Time for payment shall be of the essence and unless some other credit period has been agreed by the Carrier in writing, payment shall in any event be made no later than 72 hours after receipt of the Carrier's invoice(s). Non-payment shall entitle the Carrier to suspend or cancel the Flight Schedule without liability and without prejudice to the Carrier's right to claim from the Charterer the monies remaining unpaid.

## **1.9 INTEREST ON DELAYED PAYMENT**

If the Charterer shall delay in making any payment to the Carrier when due, interest on the amount overdue will be payable at 2% per month or part of a month, compounded monthly.

## **1.10 CARRIER'S PROTECTION AGAINST INCREASED COST**

In the event of there being any increase beyond the control of the Carrier in the cost of the Carrier's performing any of its obligations under the Agreement between the date of the Agreement and the completion of the Flight Schedule, the Carrier may give written notice thereof to the Charterer and the amount payable by the Charterer shall be increased by the amount directly attributable to such increase. Such additional costs shall include but not be limited to de-icing costs, weather-related

hangerage costs and increased aviation insurance premiums.

#### **1.11 TAXES AND CHARGES**

Unless expressly included the charter price does not include any taxes levies or charges assessed or imposed by any taxing or airport authority directly upon the execution or performance of this Agreement or the carriage, embarkation or disembarkation of passengers or the loading or unloading of baggage and/or goods, all of which shall be paid by the Charterer on demand.

#### **1.12 NON-PERFORMANCE OR DELAYS**

(a) If the performance of the flight is prevented or delayed by the Charterer or anyone acting on its behalf including (but not limited to) any passenger arriving later than 20 minutes before scheduled departure time the Carrier may at its discretion and without liability depart as scheduled or alternatively elect that demurrage shall run against the Charterer at a daily rate equivalent to TWO hours flying at the current charter rate for the Aircraft.

(b) In the event of non-performance or delay caused by actions of third parties, labour difficulties, force majeure (including but not limited to inclement weather) or technical breakdown or accident to the Aircraft or any part thereof or any machinery to be used in relation to the Aircraft the Carrier shall use reasonable endeavours to perform or continue the Flight Schedule but otherwise shall have no liability to the Charterer.

(c) The Charterer shall be liable to pay such portion of the charter price as shall be proportionate to that part of the Flight Schedule which has been performed together with all passengers' expenses and any additional charges and expenses payable by the Charterer pursuant hereto.

#### **1.13 ADDITIONAL FLIGHTS**

If at the request of the Charterer the Aircraft is used by the Charterer otherwise than in accordance with the Flight Schedule the Charterer shall pay to the Carrier in respect of such use a sum calculated at the basic hourly rate applying to the Flight Schedule which sum shall be notified by a duly authorised officer or employee of the Carrier and shall thereupon become due and payable together with all fees and charges imposed by law in respect of each flight including without prejudice to the generality of the foregoing landing fees, hangarage fees, parking fees, air navigation fees, ground service and handling fees, customs fees, airport surcharges, accommodation, meals and refreshment charges and all pilot and crew expenses thereby incurred.

#### **1.14 DEPARTURE FROM FLIGHT SCHEDULE**

The Carrier shall use all reasonable endeavours to complete the Flight Schedule but shall be entitled without liability to depart from the Flight Schedule if necessary in its opinion and any additional expenses (including the fees and charges referred to in clause 1.12 hereof) shall be borne by the Charterer.

#### **1.15 DIVERSIONS**

If for any reason the Aircraft is diverted from any airfield or destination shown in the Flight Schedule to another airfield the journey to the said airfield of destination shall be deemed to be complete when the Aircraft arrives at the other airfield.

#### **1.16 TERMINATION BY EITHER PARTY**

Subject to the provisions of clauses 1.17 and 1.18 hereof either party may terminate the Agreement by giving written notice to the other:

(a) at any time before the time specified for the commencement of the first journey set out in the Flight Schedule; or

(b) at any time if the other party commits an act of bankruptcy or becomes insolvent or enters into any arrangement or composition with its creditors or being an individual dies or being a partnership is dissolved or being a corporation passes a resolution for or has a petition presented for winding up (otherwise than for the purpose of merger or re-construction only); or

(c) in the case of the Charterer only by giving to the Carrier written notice of termination within 7 days of receipt by it of notice of increase from the Carrier as referred to in clause 1.10 hereof.

### **1.17 TERMINATION BY CARRIER**

If the Agreement is terminated by the Carrier:-

(a) pursuant to clause 1.16(a) hereof then the Charterer shall not be liable to pay the charter price and the Carrier shall be under no further liability to the Charterer by reason of such termination; or

(b) pursuant to clause 1.16(b) hereof then the Charterer shall be liable to pay the appropriate cancellation charges referred to in clause 1.19 together with such portion of the charter price as shall be proportionate to that part of the Flight Schedule which has been performed and additional charges and expenses payable by the Charterer pursuant hereto and the Carrier shall be under no further or other liability to the Charterer by reason of such terminating.

### **1.18 TERMINATION BY CHARTERER**

If the Agreement is terminated by the Charterer:-

(a) pursuant to clause 1.16(a) hereof then the Charterer shall be liable to pay to the Carrier the appropriate cancellation charge referred to in clause 1.19 ;

(b) pursuant to clauses 1.16(a) and 1.16(b) hereof then the Charterer shall be liable to pay such portion of the charter price as shall be proportionate to that part of the Flight Schedule which has been performed together with any additional charges and expenses payable by the Charterer pursuant hereto; and

(c) pursuant to clause 1.16(c) hereof then the Charterer shall be liable to pay such portion of the charter price and charges and expenses as aforesaid.

### **1.19 THE CANCELLATION CHARGE**

(a) If notice of cancellation is received more than 24 hours before scheduled departure time ten percent of the total charter price;

(b) If notice of cancellation is received less than 24 hours but more than 12 hours before scheduled departure time twenty-five percent of the total charter price;

(c) If notice of cancellation is received less than 12 hours before scheduled departure time fifty percent of the total charter price; and

(d) If notice of cancellation is received at or after scheduled departure time eighty percent of the total charter price or such portion thereof as is proportionate to that part of the Flight Schedule already performed (whichever is the greater) together in either case with any additional amounts payable by the Charterer hereunder.

### **1.20 CARRIER'S LIABILITY – GENERAL PROVISIONS**

(a) The Carrier's liability for the carriage of passengers and baggage is governed by the Convention. Clauses 1.20 – 1.23 of these Conditions set out the limits of the Carrier's liability and summarise the liability rules applied by the Carrier under the Convention. Where there is inconsistency between these Conditions and the Convention or other applicable law, the Convention or other applicable law will override these Conditions.

(b) The Carrier does not undertake carriage as a common carrier.

(c) Except as expressly provided in these Conditions the Carrier shall not be liable to the Charterer in any manner whatsoever (whether arising from the negligence of the Carrier, its employees or agents or otherwise) for any loss or damage whatsoever (including without limitation consequential loss) provided that this shall not exclude or restrict the Carrier's liability for death or personal injury resulting from the negligence of the Carrier, its employees or agents.

(d) The Charterer agrees to indemnify the Carrier and keep the Carrier indemnified against all liability claims, costs and expenses whatsoever incurred to, due or claimed by any third party as a result of any such reason or circumstance mentioned in Clause 1.20(c), subject to the exception and proviso mentioned in that Clause.

### **1.21 CARRIER'S LIABILITY FOR DEATH AND BODILY INJURY**

With regard to the liability of the Carrier for damage sustained as a result of death, wounding or bodily injury in an accident taking place on board the aircraft (or in the course of any of the operations of embarking or disembarking) on a flight operated by the Carrier:

- (a) the Carrier's liability will not be subject to any financial limit, be it defined by law, convention or contract;
- (b) for proven damages not exceeding 113,100 SDRs per passenger, the Carrier shall not be able to exclude or limit its liability;
- (c) notwithstanding Clause 1.21(b), if the Carrier proves that such damage was caused by, or contributed to by, the negligence or other wrongful act or omission of the injured or deceased passenger or of the person claiming compensation, the Carrier may be exonerated wholly or partly from its liability in accordance with applicable law;
- (d) the Carrier shall not be liable for damages to the extent that they exceed 113,100 SDRs for each passenger if the Carrier proves that such damage was not due to the negligence or other wrongful act or omission of the Carrier or its servants or agents or such damage was solely due to the negligence or other wrongful act or omission of a third party;
- (e) the Carrier shall without delay, and in any event not later than 15 days after the identity of the natural person entitled to compensation has been established, make such advance payments to such person as may be required to meet immediate economic needs on a basis proportional to the hardship suffered (such amount to be not less than the equivalent of 16,000 SDRs per passenger in the event of death). Any such advance payment shall not constitute recognition of liability and may be off-set against any subsequent sums paid by the Carrier, but is only returnable if the damage was caused by, or contributed to by, the negligence of the passenger or of the person who received the payment, or if the person to whom the payment was made was not the person entitled to compensation;
- (f) the Carrier reserves all other defences available to it (whether under the Convention or otherwise) and all rights of recourse against any other person, including (without limitation) rights of contribution and indemnity.

#### **1.22 CARRIER'S LIABILITY FOR DESTRUCTION, LOSS, DAMAGE OR DELAY OF /TO BAGGAGE**

- (a) For checked baggage, the Carrier shall be liable for its destruction, loss or damage caused by an event taking place on the Aircraft or during any period within which the checked baggage was in the charge of the Carrier, save to the extent that the damage resulted from the inherent defect, quality or vice of the baggage;
- (b) The Carrier shall only be liable for the destruction, loss or damage to unchecked baggage if the destruction, loss or damage resulted from its fault or that of its servants or agents;
- (c) The Carrier shall not be liable for damage arising out of baggage delay where it proves that it or its servants or agents took all reasonable measures to avoid the damage or that it was impossible for it or them to take such measures;
- (d) The Carrier's liability in respect of baggage (including damage arising out of baggage delay) is limited to 1,131 SDRs per passenger unless the passenger proves that damage resulted from an act or omission of the Carrier, its servants or agents either with the intention of causing damage or recklessly with knowledge that damage would probably result, and the passenger proves that the Carrier's employees or agents responsible for the act or commission were acting within the scope of their employment.
- (e) Where the passenger completes a special declaration of value at check-in and pays the applicable fee the Carrier's liability shall be limited to the higher declared value;
- (f) The passenger is responsible for damage caused by their baggage to other people and property, including the Carrier's property;
- (g) The Carrier is not liable in any way whatsoever for damage to or loss of items which a passenger includes in his or her baggage even though the carriage of such items is prohibited under Clause 1.6 or the special conditions attached to such carriage have not been complied with.

#### **1.23 CARRIER'S LIABILITY FOR DELAY TO PASSENGERS**

The Carrier's liability for damage caused to a passenger by delay is limited to 4,694 SDRs. The Carrier is not liable for damage to passengers caused by delay where it proves that it or its servants or agents took all reasonable measures to avoid the damage or that it was impossible for it or them to take such measures.

#### **1.24 WRONGFUL ACTS OF CHARTERER**

The Charterer shall indemnify the Carrier against all claims and expenses (including legal fees and costs) in respect of any liability of the Carrier to third persons (including but not limited to passengers consignors and consignees) for any loss or damage whatsoever (including costs and expenses on a full indemnity basis) arising out of any wrongful act of omission of the Charterer its servant or agents or any passenger carried by authority of the Carrier.

#### **1.25 TICKETS**

The Carrier shall be responsible for the issue of all necessary passenger tickets baggage checks and air way bills and the Charterer shall give to the Carrier in good time all information and assistance required to complete such documents. The Carrier shall at all times keep the Charterer indemnified against all liabilities claims costs and expenses whatsoever which result from any failure to issue a passenger ticket baggage check or air way bill. Provided however that where passenger tickets and/or baggage checks are delivered to the Charterer or its agent by the Carrier for distribution to passengers the foregoing indemnity shall not apply and the Charterer warrants and undertakes to the Carrier that it will effect delivery of the said tickets to the passengers at a reasonable time prior to the commencement of the Flight Schedule and shall indemnify the Carrier against all liabilities costs and expenses which result from any failure by the Carrier to effect such delivery.

#### **1.26 LAWS AND TRAFFIC REGULATIONS**

The Charterer will comply with and take all reasonable steps to cause all passengers and owners of freight carried to observe and comply with all traffic regulations of the Carrier and all customs police public health and other laws and regulations which are applicable in the countries in which flights are originated landings are made or over which flights are made. The Charterer warrants that all passengers will hold all necessary passports visas health and other certificates necessary to secure transit through any immediate points and entry into the country of destination of the flight and in the event that the appropriate immigration authorities refuse entry to any passenger in circumstances where the Carrier is required to transport such passengers to the point of origin of the flight or to any other point then the cost of so doing shall be repayable by the Charterer to the Carrier upon demand.

#### **1.27 ASSIGNMENT AND VICARIOUS PERFORMANCE**

The Charterer shall not be entitled to assign the benefit of this Agreement to any other person without the consent in writing of the Carrier but the Carrier may procure the vicarious performance of its obligations hereunder by some other person or company.

#### **1.28 NOTICES**

Any notice required to be given under these Conditions or the Agreement shall be given by delivering it by hand at or by sending it by recorded delivery to the address or by fax to the fax number of the addressee shown in the Agreement. Notice shall be deemed given if

- (a) delivered by hand on presentation or refusal of presentation,
- (b) delivered by recorded delivery at the time recorded by the delivery service and
- (c) delivered by fax or electronic mail address provided in the contact information, on sending provided the addressee does not notify the sender within 24 hours that it has been incorrectly or illegibly sent.

#### **1.29 CHANGES IN AGREEMENT AND WAIVER**

- (a) Alterations and additions to these Conditions or the Agreement will only be binding if made in writing and signed by the Carrier and the Charterer.
- (b) The Charterer cannot rely on any verbal undertaking from or given in the name of the Carrier which is different from or additional to these Conditions or the terms of the Agreement.
- (c) The rights of neither party shall be prejudiced or restricted by any indulgence or forbearance granted by it and no waiver if any breach shall operate as a waiver of any other or further breach.

### **1.30 THIRD PARTY RIGHTS**

The parties to these Conditions and the Agreement shall be deemed not to have intended to confer any rights whatsoever on any other person.

### **1.31 WAIVER**

The rights of neither party shall be prejudiced by any indulgence or forbearance granted by it and no waiver of any breach shall operate as a waiver of any other or further breach.

### **1.32 SEVERANCE**

If any part of these Conditions or the Agreement is considered by any court or other competent authority to be unenforceable, it shall be considered severable so as not in any way to effect the remainder of the terms.

### **1.33 HEADINGS**

The headings in these Conditions are for convenience only and shall not affect interpretation.

### **1.34 APPLICABLE LAW AND JURISDICTION**

The Agreement and these Conditions shall be governed by and construed in accordance with The Laws of the Federal Republic of Nigeria. The courts of Nigeria shall have non-exclusive jurisdiction to deal with any disputes arising hereunder.

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