

## **Terms and Conditions of use of the Internet Complaint Platform NICE FLIGHT for Dispute Solution**

The Internet Complaint Platform NICE FLIGHT for Dispute Solution is provided by **FC Management Sp. z o. o.**, ul. Łętowskiego 20, 40-648 Katowice, entered into the register of entrepreneurs of the National Court Register kept by the District Court Katowice-Wschód in Katowice, VIII Commercial Division of the National Court Register [KRS], under the number 0000462256, Tax Identification Number [NIP]: 9542743110, National Business Registry Number [REGON]: 243261956, e-mail: kontakt@fcm.katowice.pl, hereinafter referred to as „FCM”.

### **GLOSSARY:**

For the needs of the following Terms and Conditions, the notions mentioned below shall be understood as follows:

**The Client** – natural person, passenger, the Client may particularly be the employees of a legal person, organizational units not being legal persons, corporation employees and NGO members having bilateral contracts for the use of the Internet Complaint Platform NICE FLIGHT for Dispute Solution services, which the organization is a party of, persons benefiting from discount codes, customers of travel agencies, which have signed bilateral contracts with FCM and are granting their customers with discount codes for the use of the NICE FLIGHT Platform services.

**Link** – also referred to as hyperlink – a navigational element , which facilitates switching between documents, or different localizations within the same document, or between websites.

**Compensation** - indemnity or reimbursement received from the Air Carrier, arising from the court judgment or from the decision of other competent authority, or offered by the Air Carrier as a settlement, goodwill gesture or in other ways resulting from any action taken by the Client in relation to the Compensation claim, also including the repair of damage in kind, or in any other form.

**Regulations concerning passenger rights of the Air Carrier** – legal regulations, conventions, acts, regulations, orders, directives and other, issued at international, EU, state or regional level, which regulate the question of passenger rights in case of a flight delay or cancellation, denied boarding, change of reservation class for lower one, loss of connection in transit flights; damage to, delay in collection, loss or theft of baggage; return of ticket or taxes, after-sales services, check-in, boarding, on-board service, quality of meals, any form of discrimination, traveling with a child or pet.

**Claim** – any demand for damage compensation against Air Carrier according to the regulations concerning the air passenger rights.

**User** – A Client who has concluded the Contract, possessing a User’s account on the NICE FLIGHT Platform; a person who has agreed to these terms of the Contract.

**Contract** – an agreement between the Client and FCM concluded by acceptance of these terms and conditions by the Client. FCM informs, that the agreement could be of payable nature.

**Contract Partner** – a legal person, organizational unit not being a legal person, NGOs, traveling agencies, solicitor’s or legal adviser’s offices, being parties to the bilateral contracts with FCM, the subject of which is the use of the Internet Complaint Platform NICE FLIGHT for Dispute Solution; or legal help to the Platform Clients.

**Fee** – a charge, which the User is obliged to pay to FCM to be able to seek redress, by means of the Internet Complaint Platform NICE FLIGHT for Dispute Solution. The fees are specified in these Terms and Conditions.

**Intermediary** – a third party, who under the provisions of the contract, concluded with FCM, intermediates in payment in accordance with the principles set out in the Air Carrier’s regulations.

**User’s Account** – a set of User’s data and privileges assigned to him, with a unique name (login) and password enabling the contract performance.

**Payment** – payment order through a payment service provider (Pay Pal, Przelewy24.pl)

**Complaint** – User’s action within the User’s Account, which aims to pursue claims against the Air Carrier. A fee is chargeable upon the complaint submission.

**Air Carrier** – an enterprise , which within its activity organizes air transport; airlines, charter airlines, low-cost airlines as well as flight operator, transport operator and other entity providing services of passenger and baggage carriage.

**Association** – Air Passenger Watchdog “Friendly Flying” (Przyjazne Latanie) with its registered office in Warsaw, ul. Marszałkowska 115, under the KRS Number: 0000459742.

## **§1 General Provisions**

1. These Terms and Conditions of use of the Internet Complaint Platform NICE FLIGHT for Dispute Solution, hereinafter referred to as FCM “Terms and Conditions” regulates mutual rights and obligations of FCM and its Clients.

2. The subject matter of the contract referred to in §1 Act. 1 is to provide the Internet Complaint Platform NICE FLIGHT for Dispute Solution services by FCM, to the Clients and Partners of the Contract, enabling the above mentioned entities to individually submit a Complaint, directly to the specified group of Air Carriers and to manage Complaints. The

NICE FLIGHT Platform is neither entitled nor obliged to interfere with the Complaint content, except for the cases specified in these Terms and Conditions. The Client acknowledges, that FCM only shares a tool for individual Complaint submission to the appropriate Air Carrier. FCM shall not be liable for Complaint rejection or lack of response from the Air Carrier.

3. To use the Internet Complaint Platform NICE FLIGHT for Dispute Solution, it is recommended to use one of the below mentioned browsers and their other versions. Using older versions of browsers is also possible, but FCM shall not be liable for malfunction or a modified website layout. The recommended browsers are:

- a) Internet Explorer version 9.x and later (Windows OS),
- b) Mozilla Firefox version 2.6.x and later (Windows OS, Mac OS X),
- c) Safari version 5.x and later (Mac OS X),
- d) Google Chrome version 2.8.x and later (Windows OS, Mac OS X),
- e) Opera 1.5.x and later (Windows OS).

4. The Client by accepting the regulations of these Terms and Conditions agrees to refrain from any activity resulting in malfunction of the Internet Complaint Platform NICE FLIGHT for Dispute Solution, in particular from unauthorized interference with its technical elements and the website contents.

5. The Client shall be prohibited from sending FCM information and content of the unlawful nature, as well as colliding with accepted custom and by means of words commonly recognized as offensive.

6. The Client is eligible to use the website according to its intended purpose. The Client shall be obliged to use the website with respect to the rules set out in these Terms and Conditions; rules of law respectful of the rules set out in Terms and Conditions; rules of law, respectful of the rules of social conduct and decency.

7. FCM reserves the right to deny access to the services or contract breach, in case the Contract Partner:

- a) uses the services for purposes contrary to its intended purpose, or to the detriment of third parties,
- b) violates legal provisions in force, rules of Terms and Conditions or accepted common decency as well as universally applicable social standards.

8. The Client is fully liable for damages resulting from their own behavior, disrespecting the rules of these Terms and Conditions.

9. FCM shall not be liable for the Client's website use contrary to the with the rules of Terms and Conditions.

10. FCM intermediates in transferring of the Complaint to the Air Carrier.

## **§2 Ways of concluding the Contract**

1. The Client is entitled to use the services referred to in §1 Act. 2 of these Terms and Conditions, available on the website, with subject to the technical requirements referred to in §1 Act 3 and 4 of these Terms and Conditions.
2. Using of services referred to in §1 Act. 2 of the Terms and Conditions requires former acceptance of these Terms and Conditions by the Client. The acceptance is expressed by checking the „I accept the Terms & Conditions of the service” box, entering User’s data (including personal data) necessary to provide certain service, giving consent to the processing of personal data and paying the Fee.
3. It is considered, that the time of the conclusion of the contract for providing services online, shall take place upon the performance of the activity referred to in §2 Act. 2 of Terms and Conditions, after receiving the information about the acceptance of Complaint by the NICE FLIGHT Platform.
4. FCM is entitled to transfer the Client’s Complaint to the Air Carrier.
5. FCM is obliged to forward the information on delivering the Complaint to the Client.
6. By concluding the Contract, the Client guarantees that he has full legal capacity to perform legal actions.
7. The Client shall ensure that the Complaint submission has not been entrusted to a third party and that the Client and the Air Carrier are not at same the time in any dispute regarding the same flight, and that no actions have been taken to pursue the claim.
8. The User shall ensure that he has paid the fees from his own bank account or credit card, or that the fee has been paid from a bank account or a credit card of a person, who has given consent; or that he has paid the fee by means of a bank card, which he are entitled to use according to the universally applicable rules of law.
9. The Contract is concluded for an indefinite period of time. The parties are entitled to terminate the Contract with a one day notice at any time of its duration.

### **§3 Contract Performance Conditions**

1. To use the services of the Internet Complaint Platform NICE FLIGHT for Dispute Solution, the Client is obliged to complete a Complaint Form under “Start e-Complaint” - “New e-Complaint” or “Your Account” – “New e-Complaint” links, and then:
  - a) In the „Incident” tab choose the character of the incident or incidents, referring to the actual state. NICE FLIGHT shall not be responsible for the effects resulting from completing of the Complaint Form in a way that interferes with the actual state; in particular if the Client has given false information, not corresponding with the actual state.

b) In the „Description” tab complete the detailed information, which will be helpful to create the Complaint Form. In case of leaving an empty box, it is assumed, that the Client has chosen the „I do not remember if such information occurred” option.

c) In the „Flight” tab choose the airline operating the flight (the Air Carrier), the departure airport, the arrival airport, flight date and number. It is the necessary information to create a proper Complaint Form, NICE FLIGHT shall hold the right to reject applications to create a Complaint Form, in case the Client does not provide the above mentioned information.

d) In the „Claim” tab it is required to describe the form of compensation the Client applies for. NICE FLIGHT holds the right to reject applications to create a Complaint Form, in case the Client does not give the above mentioned information.

e) In the „Passenger” tab, the Client is obliged to provide their given name and surname, e-mail address used for the purpose of contact and the order status notification, telephone number, ticket number and/or reservation number. Providing all the above mentioned data is necessary to enable the next step. The Client also holds the possibility to give declaration on behalf of other parties, if he has used the Air Carrier services together with other persons (maximum 6 persons can be added in one declaration). The condition to allow shared registration of the declaration is sharing the same flight and the existence of claims of the same character towards the Air Carrier (e.g. lost baggage). In case described in the above sentence, the Client shall check the “I also declare on behalf of other” box. The necessary condition to allow the Claim submission on behalf of the third parties, is to issue a proxy to submit a claim to the representative, and to attach a copy of the issued proxy in electronic form, and send it together with the declaration. The Client shall be held responsible for taking the public, legal and administrative liability for registering the declaration disrespectful to the willingness of other passengers.

f) In the „Payment” tab the Client is obliged to make the payment in one of the below mentioned forms:

- if the Client is in a possession of a discount code received from the Partner, it shall be entered in the „Enter/paste the discount code” box.

The discount code entitles the Client to submit a Complaint free of charge.

- if the Client has not received a discount code, they are obliged to make a Payment.

g) In the „Confirmation” tab, for the purpose of the Complaint submission certification, the User is obliged to click on the link sent in e-mail, or to copy and paste the 6 character code into the “Enter the code from the e-mail which has been just sent to you”

Having correctly completed the activities referred to in § 3(1 a- g) a message with confirmation of submitting a Complaint to the Air Carrier and to the Association, will be sent to the User’s e-mail address.

2. FCM warns, that to submit a Complaint it is necessary to fulfill actions referred to in § 3(1g). The lack of completion of actions pointed in the sentence above will result in lack of transferring of the Complaint to the Air Carrier.

3. FCM warns that it shall not be responsible for not transferring of the Complaint, resulting from the lack of Payment confirmation, as well as redirecting the e-mail sent to the User from FCM or the Payment operator, to the "SPAM" folder.

4. FCM shall not be responsible for providing incorrect data by the User. Once the payment is made, it is not possible to edit the Complaint. In case when the User submits another Complaint concerning the same flight, but containing correct data, he is obliged to make another Payment.

5. Creating the User's Account occurs:

a) at the moment of entering the NICE FLIGHT Platform and completing the Client's registration data in the "YOUR ACCOUNT/Sign Up" tab, or

b) by completing the Complaint Form without signing in, in the way referred to in § 3 (1 a-g).

6. Once the User's Account is created in the way referred to in § 3 (5a and b), a message with registration summary report will be sent to the direct e-mail address received from the User.

7. The Client is obliged **to set up/create the User's Account** within three days. On the expiry of that period, two consecutive activation obligation reminders will be sent to his address, in seven days intervals. In case of lack of the Clients response, FCM erases the Client's Complaint within seven days from the date of sending of the third reminder.

8. If the Complaint was successfully registered and was correctly paid, information about forwarding the submission to the Air Carrier will be sent to the User's e-mail address, with indication of the Complaint number; and about having forwarded the case to the **Association** monitoring.

9. The Client is fully responsible for the damage made to FCM, or compensated by FCM in any case of any pursuit of any claims against FCM from the third parties, in particular the ones caused by providing incorrect data or information.

10. In case the Client provides incorrect data, FCM shall not be responsible for problems and inconveniences, which may result in accordance with handling of the Complaint by the Air Carrier, towards whom the Complaint is submitted. The Client is legally liable for using the third parties personal data, including the access to third parties bank account or debit card, in the possession of which he has entered unlawfully.

11. The Client benefiting from the discount code for services of the NICE FLIGHT Platform, received from the Partner, agrees at the same time to disclose his personal data to the Partner, he has received the discount code from.

12. The Client declares that he has disclosed the data voluntarily and that it is correct, complete and valid.

#### **§4 Complaint submission monitoring**

1. By accepting the Terms and Conditions, the Client agrees for the Complaint to be transferred to the monitoring, and gives consent to process his personal data by the **Association**. Detailed terms and conditions of monitoring are available at: <http://friendlyflying.org/>

2. The Client declares, that he has provided the Association with the data voluntarily, and that it is correct, complete and valid.

#### **§5 Service implementation**

1. Once the case is registered, FCM informs the User, that his Complaint has been transferred to be recognized by the Air Carrier.

2. The Client declares that by creating an individual account on the NICE FLIGHT Platform and by assigning a unique number to the Complaint, he authorizes the FCM to implement the contract.

3. FCM shall not be responsible for damage, lost profits or alike, including among other things Claim rejection due to expiry of time limits in case if:

- a) The Contract with FCM has been terminated;
- b) The Air Carrier has not replied to the Complaint;
- c) The Complaint has been rejected by the Air Carrier.

4. FCM declares the period of twenty-one days, counting from the date of sending the Complaint to the Air Carrier, as the deadline of confirmation by the Air Carrier of the reception of the declaration, dismissal of the complaint as unfounded or of Complaint rejection. The deadline applies also in case of leaving the declaration unanswered. FCM informs that the above mentioned deadline is a deadline suggested to the Airways and that it is of informational character. The User cannot demand any claim, compensation, or reimbursement of charges, or any other receivables for failure in meeting the deadline by the Air Carrier.

5. In case when the Complaint is rejected by the Air Carrier, or has been left unanswered for the period of twenty-one days, the User may decide for the solutions proposed by the Association expert, including the possibility to take advantage of the offers of the FCM Contract Partners, such as Solicitor's Office or Legal Advisor's Office.

6. By accepting these Terms and Conditions, the User agrees to receive offers both from FCM and the Contract Partners, which aim at improving the dispute solution.

7. The Client may individually terminate the submitted Complaint. To terminate the Complaint, click on the „Terminate” tab, and then choose option and mark if the Complaint has been terminated positively or negatively. Individual Complaint termination is possible when:

- a) The Air Carrier admitted at a claim, and the User has considered the case as terminated.
- b) The User has received negative consideration of the claim of the claim and does not intend to take further steps to enforce the claim.
- c) The User does not intend to pursue the Claim for any other reasons.

8. FCM holds the right to terminate the Complaint in case of:

- a) The Air Carrier has admitted at the Complaint, and the User considered the case to be over.
- b) The User has received the rejection of Complaint and does not intend to take any further actions to enforce the claim.
- c) The User despite of two calls from FCM or from the Partners does not take any actions within at least thirty days counting from the date of the first notice issuance.

9. In case referred to in §5 Act 8.(c), The User receives information, at the given e-mail address, that his case has been closed due to the lack of taking actions indicated in electronic mail.

### **§6 Contract Renunciation**

1. The Client holds the right to renounce the Contract for services, without giving a reason within 14 (fourteen) calendar days counting from the date of Contract conclusion, by submitting a relevant statement in writing.
2. The Contract renunciation form is available in the form of an attachment to the Terms and Conditions. It includes the name and address of the FCM office.
3. The User may inform the FCM about the intention of the Contract renunciation within the date indicated in w §6 Act.1, by entering the “Delete Account” tab. Checking this option does not free the User from the obligation to send a written statement setting out the Contract renunciation, compatible with the attachment.
4. The user acknowledges that the Contract performance, i.e. the submission of the Complaint to be considered, takes place at the time of making the Payment.

### **§7 Contract Termination**

1. This Contract shall be terminated when the Air Carrier admitted at the Complaint and the Compensation offer has been presented to the User and the User has accepted all of its conditions.

2. FCM is entitled to terminate the Contract with immediate effect in case of the User's conduct, contrary to the decency and the rules of social interactions.

3. In case of providing incorrect data or information, FCM shall hold the right to terminate the Contract with immediate effect.

4. The User may terminate the Contract at any time of its performance by erasing the Users Account.

a) The User logs onto the Internet Complaint Platform NICE FLIGHT for Dispute Solution using his login and password, and then chooses „Your Account” in the menu, and enters „Your e-Complaints” tab.

b) The User will be redirected to the list of his cases, where by checking the „Delete Account” option, he agrees to terminate the Contract.

c) Before erasing the Account, The User has the last possibility to download his Air Carrier e-mailing history. At the same time, by erasing the Account and accepting the Terms and Conditions, the User declares that he will pursue no future claims against FCM to regain his e-correspondence.

d) The User definitely confirms the will to terminate the Contract by checking the „I accept the Terms and Conditions of the service, including the regulations on the account deletion”.

e) The Account will be terminated at the moment of clicking on the „Delete Account” button and the Client will irrecoverably lose access to the account. In case of reuse of service of the Internet Complaint Platform NICE FLIGHT for Dispute Solution, signing in with the previous e-mail address shall be possible.

f) The Client acknowledges, that once the User's Account is terminated, his data connected with the Complaint is no longer available on the Internet Complaint Platform NICE FLIGHT for Dispute Solution.

## **§8 Complaint**

1. Any irregularities concerning the services performed at the Internet Complaint Platform NICE FLIGHT for Dispute Solution, is to be notified by entering the „Your Account” tab, and then clicking „Your Feedback”, within two months after the causes of the Complaint had been revealed.

2. On submitting a Complaint, the Client is obliged to provide his given name and surname, e-mail address and to precisely describe the cause of the service complaint. The Client will be notified if the Complaint has been submitted correctly, by receiving an auto confirmation to the address given at the Complaint Submission.

3. Complaints occurring from the ignorance of the Terms and Conditions and law regulations, as well as those including incorrect or incomplete data referred to in Act. 2 above, shall be rejected.

4. Complaints will be considered by FCM within 14 (fourteen) calendar days from the date of the Complaint reception.

5. The Client shall be notified about the way of considering the Complaint in an e-mail sent to the address given on Complaint Submission.

### **§9 Personal Data**

1. By accepting the Terms and Conditions, the Client gives consent to the processing of his personal data by the FCM data administrator, i.e. **FC Management Sp. z o.o.**, ul. Łętowskiego 20, 40- 648 Katowice, entered into the register of entrepreneurs of the National Court Register kept by the District Court Katowice-Wschód in Katowice, VIII Commercial Division of the National Court Register [KRS] under the number 0000462256, Tax Identification Number [NIP]: 9542743110, National Business Registry Number [REGON]: 243261956, included in the application form comprising the opinion about the air carriage service, and/or the request for advice, in accordance with the Act, dated August 29, 1997 on personal data protection (Dz. U. from 2002 Nr 101, section 926 with further amendments). All the gathered data will be used in the scope necessary to perform the service, also in the future, also to forward the information on passenger's rights and to indicate the possibility of the occurred problems. By accepting the Terms and Conditions the Client agrees to forward and process his personal data by the subject cooperating with the FCM, also for marketing and commercial purposes. Information about a particular case, may be stored anonymously for statistical purposes.

2. The Client holds the right to access to his personal data, and the possibility to correct or erase it, if it is incomplete, invalid (out of date) or has been gathered with the violation of the act, or it is redundant to the achievement of the aim it had been gathered to.

3. FCM shall forward the personal data to the third parties only with respect to the below mentioned conditions:

a) The Client has agreed to it.

b) it is used for the purpose directly connected with the purpose for which it had been received.

c) it is required by the regulations of law, or FCM has been obliged by the Court, judicial authorities or state or local administration authorities.

d) If it is used to prevent abuse or to prevent commitment or other offences, such as intentional attack, or to assure the personal data prevention.

4. According to the art. 32 Act.1(7) on the Personal Data Prevention, the Client has the right to a reasoned request to stop the processing of his personal data, due to his specific situation. Moreover, under art. 32 Act. 1(8) on the Personal Data Prevention, the Client has the right to object to the processing of his personal data for marketing purposes; or to the forwarding the data to other administrator.

### **§10 Service Charge**

1. Registration (creating the User's Account) on the NICE FLIGHT Platform is free of charge.

2. Submitting a Complaint to the Air Carrier by means of the NICE FLIGHT Platform is payable.

3. FCM informs, that the Fee is charged for the performance of the Contract i.e. for the service consisting in forwarding the Complaint to the Air Carrier. The rejection of the Complaint due to incorrect data provided by the Client in the Register Form or data referred to in § 3(1a-e) of these Terms and Conditions shall not create an obligation to reimburse the Fee. In case of submission of another Complaint concerning the same Claim, the Client is obliged to pay another Fee. The User may not request to reimburse, or to recognize the previous Fee towards a new Complaint.

4. The fee for submitting a Complaint by means of the NICE FLIGHT Platform and transferring it to the Association expert monitoring is **40 PLN**.

5. Submission of the Complaint may be free of charge. The Condition to submit a Complaint for free is to receive a discount code from the FCM Partner.

6. The User may not request reimbursement of Fee from FCM, or of any other receivables arising from the rejection of his Complaint, also in case of the Air Carrier's failure in meeting the suggested deadlines of considering the Complaints.

7. In cases described in § 7(2- 5), FCM is not obliged to reimburse the Fee.

### **§ 11 Final provisions**

1. Any dispute arising from the electronically supplied services by FCM, pursuant to these terms and Conditions shall be resolved by the competent common courts.

2. In case when any of the provisions of these conditions were or became invalid, unlawful or feasible, this fact shall not influence the validity of other provisions.

3. These Terms and Conditions shall enter into force with the date of its publishing on the NICE FLIGHT Platform website and shall abolish all the previously existing provisions in this subject.

4. The current Terms and Conditions are available at the NICE FLIGHT Platform website.

5. FCM reserves the right to change the provisions of these Terms and Conditions or to issue a new ones, about which the Client shall be informed by a publishing made at the NICE FLIGHT Platform website. New Terms and Conditions or changes to the existing ones, shall enter into force at the date of its publishing at the NICE FLIGHT Platform website, and the Client shall be informed by means of an e-mail.

6. In matters not covered in these Terms and Conditions, the provisions of the Act on Rendering of the Electronic Services dated July 18, 2002 (Dz. U. 2002 Nr 144, section 1204 with further amendments), and the provisions of the Civil Code dated April 23, 1964 (Dz. U. 1964 Nr 16 section 93 with further amendments) shall be applied.

7. In matters concerning Payments by Intermediary, to the mutual rights and obligations pursuant to the Contract concluded between the Client and the Intermediary, the provisions of Terms and Conditions and acts of commonly applied law, including the Act on Payment Services dated August 19, 2011 ( Dz.U. 2011 Nr 100 section 1175 with further amendments) shall be applied.

**Coming into force: 28th September 2015**