

General Terms and Conditions of Sale

Introductory article

1. Purpose of service

AirRefund is a company established in Switzerland. Its purpose is to support passengers who have been denied boarding, suffered long delays or flight cancellations, in the process of claiming the compensation they are entitled to, under current legislation. Such a service is not a substitute for the advice of a legal professional.

2. Definition of terms

- * « **AirRefund** » or « Claim handler »: company entered in the trade register of the canton of Geneva under number CH-660.0.717.014-3, located at 59 route des Jeunes 1227 Carouge, Geneva (Switzerland).
- * « **Client** » or « Principal »: the passenger or their legal representative having signed a power of attorney authorizing a Claim handler to act upon their behalf, and thereby accept these General Terms and Conditions of Sale.
- * « Contract » or « Agreement »: an agreement between the **Client** and **AirRefund** entered into after the **Client** has accepted these General Terms and Conditions of Sale and has signed the power of attorney.
- * « Airline » or « Air carrier »: the air carrier company designated in the transportation contract that operates or intends to operate a flight under a contract entered into with a passenger and whose flight is the subject of a claim.
- * « Legal counsel »: officer of the court duly appointed by the **Client** who transfers all powers to defend their interests in legal proceedings.
- * « Current legislation »: all standards (law, regulation, directive, jurisprudence) issued under the authority of a federal, European, national or regional state governing the rules relating to the compensation of air passengers who are denied boarding, suffer long delays or flight cancellations.
- * « Regulation (EC) »: 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
- * « Claim »: any compensation request made by a passenger to an airline with the purpose of obtaining compensation under current legislation.
- * « Case file »: For the purpose of enforcing passenger's rights, a case file is made up of personal identification data for that passenger, relevant documents supporting the admissibility/eligibility of the compensation claim and written or electronic communications between **AirRefund** and the airline.
- * « Commission »: In the event of a successful outcome, **AirRefund** is paid a commission from the total compensation collected from the airline on behalf of the **Client** as described in the power of attorney accepted and signed when the claim is submitted.

Article 1: Agreement

The legal agreement between the **Client** and **AirRefund** is a power of attorney subject to the article 394 and following articles of the Swiss Code of Obligations.

The contract is entered into after the **Client** has accepted the General Terms and Conditions of Sale, signed the power of attorney and accepted the claim management, claim that will be deemed admissible by **AirRefund**.

AirRefund acts in the name of and on behalf of its **Client** who accepts to delegate authority to act through the power of attorney.

Under the agreement between the **Client** and **AirRefund**, these General Terms and Conditions of Sale constitute all rights and obligations that each party undertakes to observe with loyalty and diligence.

Purpose of the Agreement:

- ✎ **AirRefund** is authorized to represent its **Client** in all out-of-court actions to secure compensation from the Airline and specifically, but not limited to: sending emails, giving notice, notification etc.;
- ✎ **AirRefund** is authorized to collect compensation in the name of and on behalf of the **Client**;
- ✎ Reserves the right to **AirRefund** to refuse to initiate compensation proceedings or to discontinue at any time should they deem the circumstances inappropriate given the **Client**'s situation, documents communicated and the information supplied by the Airline. In such cases, **AirRefund** shall notify the **Client** within a reasonable time-frame and the **Client** shall regain the freedom to proceed with any negotiation or proceedings they deem useful or necessary in exercising their rights regarding the Airline.

Article 2: AirRefund's commitments

AirRefund undertakes to:

- ✎ Review and assess the compensation request made by the **Client** in light of current legislation;
- ✎ Cover all costs incurred and not to invoice any costs other than its commission, unless the **Client** withdraws and the contract is terminated due to a serious breach by the **Client** of their obligations. (see Article 4.2);
- ✎ Perform their duties with care and diligence, abiding by current legislation;
- ✎ Report to the **Client** on the progress of the compensation request made in their name and their behalf;
- ✎ Pay the **Client** the compensation obtained in the currency of the country of residence of the **Client**, minus the commission of **AirRefund**. **AirRefund** will choose the payment method (wire transfer, cheque etc.) for the aforementioned funds;

- ✎ Transfer, if necessary and without any cost for the **Client**, the compensation request to an officer of the court who will set in motion the recovery of damages, provided that the **Client's** claim has been deemed sufficiently sound by **AirRefund** to be argued before the relevant courts;

The **Client** remains free to decline the expertise of the legal counsel offered by **AirRefund**. However, **AirRefund** reserves the option of refusing to fund the legal counsel chosen by the **Client** particularly based on the financial terms of their services. In the absence of agreement on the choice of legal counsel, the contract shall be terminated in accordance with the law.

AirRefund's obligation is an obligation by means whereby the company undertakes to do its utmost to successfully perform the duties assigned. This agreement is entered into with no guarantee of success. **AirRefund** shall not be held liable in the event of an unsuccessful outcome.

Article 3: The **Client's** commitments

The **Client** undertakes to:

- ✎ Not be legally incompetent in such a way that might render this contract null and void;
- ✎ Appoint **AirRefund** as sole Claim handler in reviewing any information provided by the airline;
- ✎ Share with **AirRefund** any correspondence received from the Airline whether by telephone, mail or email, prior to or subsequent to entering into this agreement;
- ✎ Submit a real and genuine compensation request, insofar as any information and document provided by them must not be falsified nor truncated and must offer an objective, sincere and truthful view of the situation;
- ✎ Provide any document required by **AirRefund** as quickly as possible. The **Client** shall check that the information transmitted is authentic and shall notify **AirRefund** of any change liable to affect the compensation request;
- ✎ Work closely with **AirRefund** and together carry out the procedures necessary for a successful outcome. In order to keep in contact with **AirRefund**, the **Client** undertakes to be available, in particular by ensuring their computer equipment is in working order, their email address is accessible and their internet connection is operating effectively;
- ✎ Not interfere with the course of action taken by **AirRefund**, particularly by contacting the Airline in parallel and/or directly. The negotiation of a settlement either in or out of court outside of the scope of this contract and without the express agreement of **AirRefund** will result in the termination of the aforementioned agreement and all costs unnecessarily incurred by **AirRefund** being invoiced (see article 4);
- ✎ Follow the instructions given by **AirRefund** or the appointed legal counsel.

If the compensation amount is at least the minimum according to Article 7 of Regulation (EC), the **Client** authorizes **AirRefund** to accept on their behalf the proposed amount without the express consent of the **Client**.

Otherwise, if the amount proposed is below the mentioned regulatory stipulations, **AirRefund** requires the agreement of the **Client** before accepting any compensation.

However, if the **Client** accepts a non-monetary compensation from the Airline – goods, service(s), loyalty points (e.g. miles) -, the **Client** recognizes that **AirRefund's** commission, as defined in the

power of attorney signed when submitting the claim, will be calculated from the value of the non-monetary compensation.

Article 4: Costs and Expenses

1. Commission « Success fee ».

AirRefund or the duly appointed legal counsel shall collect the sums awarded by the Airline in the name of and on behalf of the **Client**.

Only in the event of a successful outcome, **AirRefund** will receive a commission calculated as follows:

- 20% (including VAT) of the total amount of the compensation collected;
- €35 of proceedings' costs

This commission will not vary however long the process of the claim, whatever the complexity of **AirRefund** or its correspondents' actions.

Such commission is invoiced by **AirRefund** to the **Client** as soon as the compensation by the Airline is obtained by **AirRefund** and received on its escrow account.

The **Client** is in compliance with the tax provisions of their country of residence in terms of any tax payable on the sums they receive.

In the event that the involvement of legal counsel is required, the **Client** acknowledges that the sums obtained for legal costs, or on the basis of articles 699 and 700 of the French Civil Procedure Code (or any other equivalent provisions in the signatory countries to the (EC) Regulation), are not included in the calculation of the compensation as they are intended to cover costs incurred by **AirRefund** and the legal counsel appointed in handling the legal proceedings of the claim.

2. Costs.

The **Client** may be required to refund any administrative costs incurred by **AirRefund** should they fail to meet their duties under this contract, including, but not restricted to:

- * If the **Client** has supplied false information, the knowledge of which appeared to be an essential and determining factor in entering into the agreement.
- * If the **Client** has reached a settlement with the Airline outside of the scope of the agreement with **AirRefund** or the appointed legal counsel, without having notified them.
- * If the **Client** intentionally fails to share with **AirRefund** the necessary documents for handling the claim.
- * If, on their own initiative, the **Client** revokes the agreement with **AirRefund** or if they enter into a contract with a competitor company to handle the same dispute.

Any bank or exchange fees relating to the payment of any compensation may be charged to the **Client**.

The possible costs that may be charged to the **Client** amount to a €50 fixed fee (VAT included) when **AirRefund** was in charge of the claim management for less than three (3) months between the day of the signature of the power of attorney and the day of failure of the **Client** duties. The possible costs will amount a €100 fixed fee (VAT included) if the claim management period was higher than three (3) months.

Article 5: Data protection

AirRefund is appointed as controller of any data processed electronically in accordance with the provisions below:

- * directive 95/46/EC of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and the free movement of such data
- * decision 2000/518/EC of 26 July 2000 pursuant to directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data provided in Switzerland;
- * Swiss Federal Data Protection Act (LPD) of 19 June 1992, entered into force 1 January 2014;
- * The recommendations of the Swiss Federal Data Protection Commissioner (PFPDT).

The **Client** gives their permission for their personal data to be processed by **AirRefund**. The aforementioned data are to be used to handle claims so as to satisfy the request for compensation and defend the client's interests as effectively as possible.

Personal data shall only be kept for the time strictly necessary for **AirRefund** to perform its duties and no longer than one year after the case is closed, which means when the **Client** is notified of the expiration of their power of attorney.

The **Client** is responsible for the veracity of any information shared.

To do so, the **Client** has the right to access and rectify data which they may exercise by sending a written request by email to contact@airrefund.com or by mail to:

AirRefund
59 route des Jeunes
1227 Carouge, Geneva (Switzerland)

Article 6: End of Agreement

1. Cooling-off period

The **Client** may withdraw their request for **AirRefund** to handle their claim within 14 business days from the following day the aforementioned agreement is entered into.

Should the **Client** exercise their right to withdraw during the cooling-off period, no fee will be charged.

2. Termination

In order to terminate the aforementioned agreement, the **Client** must make the request by recorded delivery letter with proof of receipt. The termination shall take effect upon the receipt of the letter by **AirRefund**.

The appointment of a new Claim handler for the same claim causes termination upon notification.

3. Withdrawal

AirRefund may withdraw from handling the claim. In such scenario, **AirRefund** will support all costs incurred.

AirRefund shall notify the **Client** of their decision by any means, particularly by email. The withdrawal takes effect on the date the notification is sent.

AirRefund reserves the right to terminate this contract, should circumstances hold in check the claim submitted by the **Client**, particularly in, but not limited to, the following circumstances:

- * unfavorable rulings by the relevant court;
- * grounds for exemption from liability reported by the Airline;
- * overturning of case law.

Termination is in accordance with the law, in the event of a serious breach of contractual duties by one of the parties.

4. Expiry of the Agreement

The agreement ends with the successful outcome of the claim handler's assignment, i.e. when the **Client** is paid the compensation awarded by the Airline and the commission to **AirRefund** is paid. The **Client** will be notified of the expiration of their power of attorney by email when the compensation is paid.

The personal nature of the agreement means that it must be terminated immediately in the event of the death of the **Client**.

Article 7: Applicable law and jurisdiction

In the event that the various translations of these General Terms and Conditions of Sale vary, the French version will be taken as the reference.

The parties hereby agree that these General Terms and Conditions of Sale are subject to the law of the **Client's** country of residence.

In the event of a dispute, particularly due to the interpretation or discharge of the aforementioned agreement or the General Terms and Conditions of Sale, the parties shall undertake to reach an out-of-court settlement; where this is not possible, the dispute shall fall within the exclusive jurisdiction of the Canton of Geneva.

If a provision of these General Terms and Conditions of Sale is, or becomes ineffective, illegal or unenforceable, it does not, in no way, affect other provisions.