

**Terms and Conditions of Business**  
**for HAM Ground Handling GmbH & Co. KG**

Issued: July 2018

**1st General**

These Terms and Conditions of Business (hereinafter "Terms") apply to all services offered by HAM Ground Handling GmbH & Co. KG (hereinafter "HAM GH"). Client Terms and Conditions shall not apply.

**2nd Service Provision**

2nd1 HAM GH provides various ground handling services for airlines (hereinafter "Airline"/"Airlines").

2nd2 It is important to HAM GH to facilitate smooth operations. The basis for the performance time for all service provision is the flight plans submitted by the Airline.

The Airlines therefore provide their timetables and all necessary information and requirements to HAM GH as early as possible and in good time for HAM GH to fulfil its service obligations. HAM GH must be notified of non-scheduled flights (incl. diverted flights) and deviations from planned arrival times in good time before the intended use of services.

2nd3 Should early or late arrivals for which from one Airline, for which notification was not received, overlap with the handling of aircraft from another Airline, HAM GH reserves the right to prioritise the handling of the scheduled and announced aircraft.

2nd4 In order to keep operations as smooth as possible, the Airline contacts HAM GH in good time when:

- a) loading, unloading or transshipment of particularly bulky or heavy cargo will require special equipment or specialised personnel; or
- b) special facilities or other services will be necessary for the loading, unloading or transshipment of unusual cargo.

2nd5 An Airline requiring de-icing of an aircraft requests the service from HAM GH.

Once the Airline has confirmed the order, HAM GH will carry it out. HAM GH is only obliged to carry out requested aircraft de-icing operations to the extent that it has capacity. Members of the Cold Pool have priority over non-members in this matter. The "first come, first served" principle applies amongst Cold Pool members. The same is true amongst non-members of the Cold Pool.

2.6 Should requested services not be cancelled at least 10 minutes before the actual time of performance, the full fee will be due.

### **3rd Service standards**

3rd1 Services are provided in accordance with personnel and equipment availability and taking into account the traffic and order situation at the time.

3rd2 HAM GH provides services requested with trained personnel and with equipment that meets the requirements of the service in question and, wherever possible, fulfils the standards common in international aviation. HAM GH is entitled to make use of third parties to assist in the provision of services.

3.3 In the case of war, terrorism, strike, industrial dispute or other work stoppage, unrest, natural disaster, other force majeure incident or any other cause beyond the influence of HAM GH rendering the fulfilment of a service impossible, HAM GH may interrupt or appropriately adjust such service.

3rd4 HAM GH shall notify the Airline without delay in the event that one of the reasons listed above precludes the fulfilment of service, unless the facts and their impact on services are obvious.

### **4. Handling charges**

The following are jointly and severally liable for all charges:

- a) the aviation company whose Code is used for the flight in question;
- b) the aviation companies under whose Airline Codes and Flight Numbers the respective flight takes place (codeshares);
- c) the company ordering the ground handling service without clearly doing so on behalf and in the name of another company; an order is deemed to have been placed when the company requests HAM GH to issue the invoice for a charge to that company;
- d) the aircraft operator;
- e) the natural or legal person having usage of the aircraft whilst not the aircraft's operator or owner.

Ground handling charges may be altered with one month's notice.

### **5. Terms and conditions of payment**

5.1 Where charges have not been published, they are either regulated by contract or available on request from HAM GH sales.

5th2 All charges and fees must be paid at the very latest by the completion of service delivery, and in normal circumstances by cash (euros) in advance, unless an alternative means of payment has been expressly agreed in writing.

5th3 Cash payments — including payments made with debit or credit cards — are to be made in the General Aviation Terminal without any deduction.

5th4 Where a means of payment other than cash has been agreed, HAM GH will invoice the customer for services provided. Invoices will be paid by direct debit except where otherwise agreed. The customer shall issue a SEPA Direct Debit Authorisation for this purpose in good time.

5.5 An agreement according to Point 5.4 of these terms is conditional upon the customer providing HAM GH with security in the form of either a security deposit or a directly enforceable, open-ended performance guarantee, furnished by a major bank based in Germany, in the amount determined by HAM GH, and on the payment without deduction of charges invoiced. As a rule, this security shall amount to thirty days of charges, but the amount shall be determined exclusively by and at the discretion of HAM GH. If the rate of charges increases, HAM GH is entitled to require an equivalent increase in the security provided.

5th6 The debtor must cover the cost incurred by HAM GH in the transfer of funds.

5th7 For non-cash payment, the date of payment shall be considered to be the date of unconditional crediting of the amount to the recipient's bank account.

5th8 Should payment be in arrears, interest is payable at 9 percentage points above the current basic rate. The basic rate that applies on the 1st day of a month is to form the basis of every interest calculation during that month. In addition, HAM GH is entitled to charge a flat rate of EUR € 30.00 for the issuance of payment reminders. The interest rate stated above applies to all claims on the part of HAM GH. HAM GH must also be reimbursed for any further verifiable costs incurred.

5th9 If a customer falls into payment arrears, HAM GH is entitled to require all future payments to be made in cash and/or to require future charges and fees to be made in advance, with immediate effect. Unless otherwise stipulated by the customer, payments shall be credited initially for any costs, then for interest and finally for the main debt, whereby older debts shall be met first. In the case of late payment, HAM GH is entitled to determine how incoming payments shall be assigned, irrespective of how the customer may have earmarked these payments.

5th10 All prices are nett and subject to Value Added Tax ("Umsatzsteuer") at the legally applicable rate.

## **6. Offsetting and right of retention**

HAM GH is entitled to offset all counterclaims; further, HAM GH has the right of retention and the right to object to plead the defence of non-fulfilment of contract.

The contractual partner is only entitled to refuse performance when the counterclaim is based on the same legal relationship. The contractual partner is only entitled to offset payment when the counterclaim is undisputed or has been absolutely and bindingly established in law.

## **7. Liability**

7th1 HAM GH is liable for damages caused by HAM GH, its legal representatives or leading personnel deliberately or by acts of gross negligence, in accordance with statutory provisions.

7.2 Beyond this, HAM GH shall only be liable in the event of culpable violation of an essential contractual obligation. Liability in each incident causing damage is limited to foreseeably damages typical for the agreement, and

- a) for losses and damage to baggage and goods, including live animals and airmail, by the provisions of the Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention),
- b) for other damages to the average order volume for one calendar month,
- c) for damage to aircraft
  - i) up to 50t MTOM to €250,000.00,
  - ii) between 50t and 100t MTOM to €500,000.00
  - iii) exceeding 100t MTOM to €1,000,000.00

or

- d) if a business liability insurance policy is in place, to the maximum amount of cover provided by the policy, if and to the extent that the insurer pays on the claim. Should multiple persons incur damages from a single incident, they shall be considered a joint creditor with regard to payment by the insurer.

7.3 No further liability shall be assumed or accepted. Specifically, HAM GH accepts no liability for consequential damage. This applies regardless of the legal nature of the claim asserted, and specifically also to claims for damages culpa in contrahendo, for ancillary contractual infringement and for torts.

7.4 The disclaimer of liability above shall not apply where there is an agreement to exclude or limit liability for damages arising from injury to life, body or health resulting from deliberate or grossly negligent infringement of obligations on the part of HAM GH or a legal representative or agent of HAM GH.

## **8. Final provisions**

8th1 Where individual agreements have been reached, these shall have priority (German Civil Code / BGB, Article 305b).

In the event that a ground handling agreement has been concluded pursuant to the IATA Standard Ground Handling Agreement (SGHA) in the currently valid form, the provisions so agreed shall have priority over these Terms.

8th2 Amendments and supplements to these Terms must be in writing. This also applies to amendments to or exemptions from this requirement.

8th3 HAM GH will inform the Airlines of changes to these Terms by sending the current version or informing the Airlines that a new version has been published. Changes shall be deemed accepted if an Airline does not lodge an objection within

one month. Should the Airline exercise its right to object, the changes shall be deemed refused. The contract shall then continue without changes. In the event that an Airline objects to changes to these Terms, however, HAM GH has a special right of termination of the contract with the Airline in question. HAM GH will specifically inform the Airlines of this right when announcing changes.

8th4 The Terms shall remain valid even if individual clauses prove to be invalid or unenforceable. The invalid or unenforceable provision(s) shall be replaced with the statutory provisions. The same shall also apply to any loophole or gap in these Terms.

8th5 The contractual relationship between HAM GH and the Airline is subject exclusively to the laws of the Federal Republic of Germany, except for the rules governing the conflict of laws. Insofar as translations of these Terms have been made, the German version shall be exclusively authoritative.

8.6 All obligations arising from these Terms and/or from obligations associated with these Terms are to be fulfilled at the HAM GH facilities in Hamburg.

8th7 Insofar as the contractual partner is a registered trader, a legal entity under public law, or a special fund under public law, the exclusive competent jurisdiction is Hamburg. HAM GH is also entitled to sue the contractual partner in the competent jurisdiction of the contractual partner.