

# GENERAL TERMS AND CONDITIONS

## for FL3XX Online Services for Business

Version 1.5 - 21 Feb 2023

This FL3XX Online Services for Business (“Service” or “Services”) is provided by FL3XX GmbH, an Austrian company (“FL3XX”), to its customer (“Customer”). These General Terms and Conditions (“GTC”) are effective and integral to the principal agreement (“Subscription”) between FL3XX and the Customer.

### 1) Definitions

- a) “Active Item” means any item within the services that FL3XX provides to the Customer (“Service”) that has changed status, or been caused to change status, or caused other items inside or outside the Service to change status.
- b) “Admin Account(s)” means the administrative account(s) that FL3XX provides to the Customer for the purpose of administering the Services. The use of the Admin Account(s) requires a password, of which FL3XX will provide to the Customer.
- c) “Administrators” mean the Customer-designated personnel who administer the Services on the Customer’s behalf.
- d) “Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control of either Party.
- e) “API” means Application Programming Interface, or the software program that enables the exchange of data between the Service and a TPS.
- f) “Billable Item” means any item in the Service that is defined in the Pricelist with a fee.
- g) “Brand Features” include the trade names, trademarks, service marks, logos, domain names, and other distinctive brand features of each party, respectively, as secured by that party from time to time.
- h) “Confidential Information” means information disclosed by a party to the other party under the Subscription that is marked as confidential or would normally be considered confidential under the circumstances. Customer Data is the Customer’s Confidential Information.
- i) “Customer Contact” means persons designated and entitled by the Customer to communicate with FL3XX for matters concerning the Services.

- j) "Customer Data" means data, including email, provided, generated, transmitted, or displayed via the Services by Customer or End Users.
- k) "Effective Date" means the date that both parties have executed this agreement
- l) "Emergency Security Issue" includes a Customer's use of the Services in violation of the Acceptable Use Policy, another customer's use of the Services in a violative way, or unauthorized third-party access to the Services.
- m) "End Users" mean the individuals the Customer permits to use the Services.
- n) "End User Account" means an account that the Customer establishes through the Services for an End User.
- o) "Feature Request" means a request by a Customer Contact to incorporate a new feature or enhance an existing feature of the Services that is currently not available as part of the existing Services.
- p) "Fees" mean the amounts that FL3XX invoices to the Customer for the Services used by the Customer.
- q) "High Risk Activities" include uses such as the operation of military flights, air traffic control, life support systems, or other activities where the use or failure of the Services could lead to death, personal injury, or environmental harm.
- r) "Intellectual Property Rights" mean current and future international rights under patent law, copyright law, trade secret law, trademark law, ethics law, and other similar rights.
- s) "Maintenance" includes work that is performed on hardware or software that delivers the Services.
- t) "Notification Email Address" means the email address designated by Customer to receive email notifications from FL3XX. Customer may change this email address through the Admin Console.
- u) "Pricelist" means the list published on the website <http://fl3xx.com>, which lists the Fees for the use of Services.
- v) "Priority" means the level of impact with which a Request impacts the Customer's operations, and which is used to establish target response times. P1: Critical Impact = Service Unusable in Production; P2: High Impact = Service Use Severely Impaired; P3: Medium Impact = Service Use Partially Impaired; P4: Low Impact = Service Fully Usable.
- w) "Request" means a request from Customer to FL3XX, for technical support to resolve a question or problem report regarding the Services.

- x) “Service(s)” means the services provided by FL3XX to the Customer as contemplated by the Subscription.
- y) “SLA” means the Service Level Agreement, a separate document published on <http://fl3xx.com>.
- z) “Suspend” or “Suspension” means the disabling of access to the Services, or components of the Services, as applicable, to prevent use of the Service contemplated by the subscription.
- aa) “Taxes” means any duties, customs fees, or taxes (other than FL3XX’s income tax) associated with the sale of the Services, including any related penalties or interest.
- bb) “Term” means the term of the Subscription, which begins on the Effective Date and continues until the Subscription naturally expires or is terminated.
- cc) “Third Party Request” means a request from a third party for records relating to an End User’s use of the Services. Third Party Requests can be a lawful search warrant, court order, subpoena, other valid legal order, or written consent from the End User permitting the disclosure.
- dd) “TPS” means Third Party System, or systems that are not owned or operated by FL3XX, which may be connected to the Services to add functionality to the Services or to the TPS, at the option of the Customer. Connection of Services to TPS is requested by and operated under the responsibility of the Customer.
- ee) “Subscription Year”, a full year of Services that starts on the date of execution of a Customer Subscription Agreement and ends on the next year one day prior to the day of execution.

## **2) Services Provided**

- a) **Services Summary.**-- The Services include a web-based, end-to-end solution for aviation service providers. These Services provide the capability to sell, schedule, dispatch flights, manage the related information, send and receive messages, and to create reports, as described in the website [www.fl3xx.com](http://www.fl3xx.com).
- b) **Interoperability.**-- The Services may connect with TPS, and to interact with them to provide increased functionality. However, the functions and benefits gained by collaborating with a TPS are not guaranteed, and the Service’s operation may be limited by the availability of the TPS. So, the Customer explicitly waives any and all claims over the availability of any function in connection with TPS.

### **3) Representations, Warranties, and Disclaimers**

- a) **Authority to Enter the Subscription.**-- Each party represents that it has full power and authority to enter into the Subscription.
- b) **Legal Compliance.**-- Each party warrants that it complies with all laws and regulations applicable to its provision or use of the Services.
- c) **Financial Stability.**-- Each party warrants that it possesses ample financial resources to provide, use, and pay for the Subscription.
- d) **Service Provision.**-- FL3XX warrants that it possesses all licenses necessary to provide the Services, in accordance with the SLA.
- e) **Disclaimers.**-- To the fullest extent permitted by applicable law, except as expressly provided in this GTC, neither party makes any other warranty of any kind, whether express, implied, statutory or otherwise, including but not limited to warranties of merchantability, and/or fitness for a particular use. FL3XX makes no representations about any content or information made accessible by or through the services.

### **4) Customer Obligations**

- a) **Compliance.**-- The Customer shall use the Services in compliance with the Acceptable Use Policy and this GTC. FL3XX may create new Services, add or modify features, and/or adjust functionality from time to time, the use of which hinges upon Customer's agreement to additional terms.
- b) **Customer Administration of the Services.**-- The Customer may specify one or more administrators, who possess access Admin Account(s) to manage End User Accounts. The Customer understands that FL3XX's responsibilities do not extend to the internal management or administration of the Services; and that FL3XX is merely a data-processor, while the Customer is the data-controller. So, the Customer and its Administrator(s) are responsible for:
  - i) maintaining the confidentiality of the Admin Account(s) password(s);
  - ii) designating the individuals who are authorized to access the Admin Account(s); and
  - iii) (c) ensuring that all Administrative-Account-activities comply with this GTC.
- c) **Changes To Services.**-- The Customer's Administrators may request, install, remove, and order special features and functions, including when those features and functions are provided, of which may result in additional costs.

- d) **Support Service Level.**-- The Customer shall select the desired Support Service Level. The effective Support Service Level is displayed in the Service.
- e) **End User Consent.**-- The Customer's Administrators possess the ability to access, monitor, use, and/or disclose data to End Users within the End User Accounts. The Customer shall obtain and maintain all required consents from End Users to ensure access, monitoring, use, and disclosure of this data and make it available to FL3XX upon request.
- f) **Authorized Users.**-- The Customer may provide access to the Service to any of its employees or other persons working directly under its own control or under the direct control of controlled companies. Any person not under agency-type control may not be provided use of the Services without FL3XX's prior written consent. Any such person or company employing such person shall directly enter in an agreement with FL3XX for the use of the Services.
- g) **Unauthorized Use.**-- The Customer shall use commercially reasonable efforts to both prevent unauthorized use of the Services, and to terminate any unauthorized use. The Customer shall promptly notify FL3XX of any unauthorized use of, or access to the Services of which it suspects.
- h) **Restrictions on Use.**-- Unless FL3XX specifically agrees in writing:
  - i) the Customer shall not: (a) sell, resell, lease, or the functional equivalent, the Services to a third party; (b) attempt to reverse-engineer the Services or any component thereof; (c) attempt to create a substitute or similar service through use of, or access to, the Services; (d) use the Services for High Risk Activities; or (e) use the Services to store or transfer any Customer Data that is conditioned for export under Export Control Laws.
  - ii) the Customer shall use commercially reasonable efforts to ensure that a third party does not: (a) use or employ the Services for its own activities whether commercial or not-commercial, or whether such activities are connected to those of the Customer; (b) sell, resell, lease, or the functional equivalent, the Services to a third party; (c) attempt to reverse-engineer the Services or any component thereof; (d) attempt to create a substitute or similar service through use of, or access to, the Services; (e) use the Services for High Risk Activities; or (f) use the Services to store or transfer any Customer Data that is conditioned for export under Export Control Laws.

- i) **Third Party Requests.**-- The Customer shall respond to Third Party Requests. FL3XX will, to the extent allowed by law and by the terms of the Third Party Request: (a) promptly notify Customer of its receipt of a Third Party Request; (b) comply with the Customer's reasonable requests regarding its efforts to oppose a Third Party Request; and (c) provide the Customer with the information or tools required for the Customer to respond to the Third Party Request. The Customer will first seek to obtain the information required to respond to the Third Party Request on its own, and will contact FL3XX only if it cannot reasonably obtain such information.
- j) **Acceptable Use Policy.**-- The Customer itself shall not, and shall not allow third parties or its End Users to use the Services:
  - i) to generate or facilitate unsolicited bulk commercial email;
  - ii) to violate, or to encourage the violation of the legal rights of others;
  - iii) for any unlawful, invasive, infringing, defamatory, or fraudulent purpose;
  - iv) to intentionally distribute viruses, worms, Trojan horses, corrupted files, hoaxes, or other items of a destructive or deceptive nature;
  - v) to interfere with the use of the Services, or the equipment used to provide the Services, by customers, authorized resellers, or other authorized users;
  - vi) to alter, disable, interfere with, or circumvent any aspect of the Services;
  - vii) to test or reverse-engineer the Services in order to find limitations, vulnerabilities or evade filtering capabilities; and/or
  - viii) to use the Services or a component therein, in a manner not authorized by FL3XX.
- k) **Consequences for Unacceptable Use.**-- The failure of the Customer to comply with the above Acceptable Use Policies may result in suspension, or termination, of the Services.

## **5) Data Protection**

- a) **Compliance.**-- The Services provided comply with relevant regulations on data privacy and protection. Specifically, the Data Protection Agreement (the "DPA") specifies compliance with the European General Data Protection Regulation (GDPR).
- b) **Data Security and Transfer.**-- All facilities used to store and process Customer Data adhere to commercially-reasonable security standards. FL3XX uses these measures to ensure the

security and confidentiality of Customer Data, to protect against anticipated threats or hazards to the security or integrity of Customer Data, and to protect against unauthorized access to or use of Customer Data. As part of providing the Services, FL3XX may transfer, store, and/or process Customer Data in any country in which FL3XX maintains facilities. By using the Services, Customer consents to this transfer, processing, and storage of its Data.

- c) **Data Safety.**--FL3XX takes all commercially reasonable steps to protect Customer's data from loss and/or damage. These procedures include daily backups for the prior 30 days, and live replication of database holding Customer data. FL3XX protects all the data by commercially-reputed cloud-services suppliers.
- d) **FL3XX Domain Name Ownership.**--FL3XX provides its Services to Customer under its own Domain Names. The Customer does not own or control the FL3XX Domain Names. Further, FL3XX is under no obligation to provide the Customer with any Services other than those provided under section 1 above. Customer explicitly waives any and all claims over the use of the Domain Names under which the Services are provided.

## 6) Billing and Payment

- a) **Invoicing.**-- The Customer shall pay for the Services on a yearly basis starting at the Start of Service, as defined below.
- b) **Start of Service.**-- The Service shall start when FL3XX has (i) created the Services, (ii) made them accessible to the Customer, and (iii) provided the access-credentials to the Customer.
- c) **Fees.**-- The applicable fees are listed on the Pricelist.
- d) **Additional Costs and Fees.**-- Travel and lodging costs that FL3XX incurs are not included in any of the Fees and shall be invoiced to the Customer at additional costs.
- e) **Invoices.**-- FL3XX shall send invoices for Service Fees at the start of each Subscription Year, which are due paid 30 days after the invoice date. Six (6) months after the start of the Subscription Year, FL3XX will credit any previously paid and yet unused Services, and will debit any additional Services.
- f) **Installation and Setup fees.**-- Installation and Setup fees are invoiced when the order is placed or when the work starts.
- g) **Customer-requested development fees.**-- Customer-requested development fees are invoiced in two parts. When the order is placed and before the work starts FL3XX shall invoice 85% of the agreed total value. When the order is delivered to and accepted by the Customer, FL3XX shall invoice the remaining 15% of the

agreed value, plus any expenses incurred, plus any additional work requested during the work. The acceptance by the Customer is due within 2 weeks from the date of delivery of the work. Failure of the Customer to report any issues within this term means the Customer accepts the work as delivered.

- h) Payments.--** The Customer shall make all payments within 30 days of receipt of the invoice. Any late payments which are due or overdue will carry a late payment fee. All payments are non-refundable.
- i) Forms of Payment.--** The Customer shall pay FL3XX by direct deposit, wire transfer, or by agreement between the parties. And, the Customer shall seek FL3XX's written approval before changing the method of payment. And, these alternate other forms of payment may be subject to additional costs.
- j) Delinquent Payments.--** All payments due and payable that are not received by FL3XX are deemed delinquent. Delinquent payments incur interest at the rate of one percent (1%) per month (or the highest rate permitted by law, if less) from the payment due date until paid in full. The Customer shall be responsible for all reasonable expenses (including attorneys' fees) incurred by FL3XX in collecting such delinquent amounts, except where such delinquent amounts are due to FL3XX's invoicing inaccuracies. For each notice sent for delinquent payments, a charge in the amount defined in the Pricelist is added to the overdue invoice.
- k) Suspension for Non-Payment.--**
  - i) Automatic Suspension. If Customer does not pay delinquent Fees within twenty-one (21) days of the due date, FL3XX may Suspend the Service.
  - ii) During Suspension. If the Customer's Service is Suspended, FL3XX will continue invoicing Customer all Fees during Customer's Suspension for non-payment. During that time all functions and all connections to TPS will remain fully operational.
  - iii) End of Suspension. When Customer has fully paid all due and overdue invoices, and FL3XX has received such payments, FL3XX shall promptly reinstate the Service.
- l) Termination After Suspension.--** If Customer's Service remains suspended for more than ninety (90) days, FL3XX may terminate the Service for breach.

## **7) Taxes**

- a) Tax Liability.--** The Customer shall be responsible for any and all Taxes resulting from the Subscription.



- b) **Tax Payment.**-- The Customer shall pay FL3XX for the Services without any reduction for Taxes. If FL3XX must collect or incur Taxes from the Service, those Taxes will be invoiced to the Customer, unless the Customer provides FL3XX with a valid tax exemption certificate or method authorized by the relevant taxing authority. If the Customer is required by law to withhold any Taxes from its payments to FL3XX, Customer must provide FL3XX with official documentation to support such payments.

## **8) Technical Support Services**

- a) **By Customer.**-- Customer shall, at its own expense, respond to questions and complaints from End Users or third parties relating to the Customer's or End Users' use of the Services. The Customer shall use commercially reasonable efforts to resolve support issues before escalating them to FL3XX.
- b) **Support Service Level.**-- The Customer shall select the desired Support Service Level. The effective Support Service Level is displayed in the Service.
- c) **By FL3XX.**-- If Customer cannot resolve a support issue consistent with the section above, then Customer may escalate the issue to FL3XX in accordance with the SLA. FL3XX shall provide Support to the Customer in accordance with the SLA.

## **9) Suspension Of End User Accounts**

- a) **By Customer.**-- The Customer shall, under its own policing powers, promptly suspend any End User account that violates this GTC, the SLA, and/or the DPA, until that End User cures that breach.
- b) **By FL3XX.**-- If FL3XX becomes aware of an End User's violation of this GTC, the SLA, and/or the DPA, then FL3XX may request that the Customer Suspend the applicable End User Account. If the Customer fails to comply with FL3XX's request to Suspend an End User Account, then FL3XX may do so unilaterally. The duration of any Suspension by FL3XX will endure until the relevant End User has cured the breach that caused the Suspension.

## **10) Emergency Security Issues**

- a) **Emergency Security Issue.**-- Notwithstanding the foregoing, if there is an Emergency Security Issue, then FL3XX may unilaterally Suspend the offending use. That Suspension shall endure the minimum extent and duration, so required to prevent or terminate the Emergency Security Issue.

## **11) Confidential Information**

- a) Party Obligations.--** Each party shall:
- i) protect the other party's Confidential Information with the same standard of care it uses to protect its own Confidential Information; and
  - ii) not disclose the Confidential Information, except to affiliates, employees, and/or agents who require it for employment purposes and who have agreed in writing to keep it confidential.
- b) Use of Confidential Information.--** Each party and any affiliates, employees, and agents to whom it has disclosed Confidential Information may use Confidential Information only to the extent it requires to exercise its own rights and fulfill its obligations under this GTC, while using reasonable care to protect it. Each party shall be responsible for any actions of its affiliates, employees, and agents in violation of this section.
- c) Exceptions.--** Confidential Information does not include information that:
- i) the recipient of the Confidential Information already knew;
  - ii) becomes public through no fault of the recipient;
  - iii) was independently created, or developed by the recipient;
  - or
  - iv) was rightfully given to the recipient by another party.
- d) Required Disclosures.--** Each party may disclose the other party's Confidential Information when required by law but only after it, uses commercially reasonable efforts to notify the other party, and gives the other party the chance to challenge the disclosure, if legally permissible.
- e) Personal Information.--** The Services may contain personal information of End Users and personal information of other people in connection with the Customer's activities. FL3XX shall use all commercially reasonable technologies to protect all personal information. The Customer shall maintain and protect all personal information contained in the Services.
- f) Financial Information.--** The Services may contain financial information of End Users and financial information of other people or companies in connection with the Customer's activities, such as credit card numbers. FL3XX shall use all commercially reasonable technologies to protect financial information. The Customer shall be responsible for the storage and use of personal or corporate financial information, and explicitly indemnifies FL3XX of any and all responsibility arising from financial

information stored or manipulated in the Services, unless FL3XX is deemed negligent or careless in the implementation of the Services.

- g) Exchange of Information with Third Parties.**-- The Services allow for the exchange of information from the Customer to a third party, and from a third party to the Customer. The Customer shall accept the transmission and reception of information to and from the Services, and shall accept responsibility for the security and integrity of the transferred data.
  - i) Indemnification. -- The Customer indemnifies FL3XX of any and all responsibility arising from the transmission and/or the reception of data stemming from use of the Services.

## **12) Statistical Information**

- a) Research and Development.**-- From time to time, FL3XX shall undertake research to improve its services and its understanding of the business and market logic. To effect such research, FL3XX may extract information and process it directly or indirectly with its own tools or with third party tools. All extraction and processing shall be performed with diligence and with respect to the European General Data Protection Regulation and any other relevant regulations. Furthermore, all data shall be manipulated at all stages of such activities so that neither personal nor corporate information is released. And, FL3XX shall possess the rights to release the results of its research within the boundaries stated in this GTC.

## **13) Intellectual Property Rights**

- a) Intellectual Property Rights.**--Except as expressly stated otherwise, these GTC do not grant either party any rights, implied or otherwise, to the other Party's content or any of the other party's intellectual property. As between the parties, the Customer owns all Intellectual Property Rights in the Customer Data, while FL3XX owns all Intellectual Property Rights in the Services.
- b) Display of Brand Features.**-- Customer shall grant FL3XX the ability to display some Customer Brand Features within the Service. And, FL3XX shall grant Customer the ability to display FL3XX Brand Features. But, neither party may display or use the other party's Brand Features beyond what is allowed for in this GTC without the other party's prior consent.
- c) Brand Features Limitation.**-- Any use of a party's Brand Features will inure to the benefit of the party holding Intellectual Property

Rights in those Brand Features. A party may revoke the other party's right to use its Brand Features pursuant to this GTC with written notice to the other party and with a reasonable period to stop the Brand Feature use.

- d) **Property Rights of User Data.**-- The Services may contain information of End Users and information of other people or companies in connection with the Customer's activities, such as names, aircraft details, or flight details. The Customer is the sole owner of this information ("Customer Information") and FL3XX possesses no rights in this information. Other information provided by other sources, including airport information, maps, and weather data, remains the property of the respective copyright holder(s).
- e) **Possible Infringement.**-- If FL3XX reasonably believes the Services infringe upon a third party's Intellectual Property Rights, then FL3XX will:
  - i) obtain the right to use the Service without infringing for the Customer, at FL3XX's expense;
  - ii) provide a non-infringing functionally-equivalent replacement; or
  - iii) modify the Services to no longer infringe.
    - (1) Suspension or Termination- If FL3XX does not believe the foregoing options are commercially reasonable, then FL3XX may Suspend or Terminate Customer's use of the impacted Services.

## 14) **Term and Termination**

- a) **Term.**-- The Term begins on the Effective Date of the Customer Subscription Agreement and expires after one (1) year. The Term is automatically renewed each year at the anniversary of the Effective Date, unless terminated by either Party.
- b) **Minimum Term.**-- The Subscription may not be terminated within six (6) months of the Effective Date.
- c) **Involuntary Termination.**-- Either party may Suspend or Terminate the Subscription with immediate effect if:
  - i) Material Breach- the other party breaches any term of the GTC or any other obligation under the Subscription and fails to cure that breach within thirty days after receipt of written notice; or
  - ii) Dissolve/Insolvency- the other party ceases its business operations or becomes subject to insolvency proceedings that are not dismissed within ninety (90) days.
- d) **Voluntary termination.**--

- i) By the Customer- The Customer may Terminate the Subscription after the Minimum Term, at any time, at its own discretion by providing written notice to FL3XX at least ninety (90) days prior to the intended termination date.
  - ii) By FL3XX- FL3XX may terminate the Customer Subscription Agreement at the end of any Subscription Year by written notice to the Customer at least ninety (90) days prior to the intended termination date.
- e) Effects of Termination.**-- If the Subscription terminates, then:
- i) the rights granted by one party to the other party will cease immediately (except as set forth in this Section);
  - ii) FL3XX will provide Customer access to, and the ability to export the Customer Data for a period of three (3) months, at FL3XX's then-current rates for the requested access and export services;
  - iii) after a period of three (3) months, FL3XX will delete Customer Data by removing pointers to it on FL3XX's active and replication servers, before overwriting it over time;
  - iv) the Customer may request at any time that FL3XX delete Customer Data before the expiration of the three (3) month period; and
  - v) upon request, each party will use commercially reasonable efforts to promptly return or destroy all other Confidential Information of the other party.

## 15) Indemnification

- a) By Customer.**-- Customer indemnifies, defends, and holds harmless FL3XX from and against all liabilities, damages, and costs (including settlement costs and reasonable attorneys' fees) arising out of a third party claim regarding:
- i) Customer Data and/or Customer Domain Names;
  - ii) Customer Brand Features that infringe or misappropriate any patent, copyright, trade secret, or trademark of a third party; and/or
  - iii) Customer's use of the Services in violation of the Acceptable Use Policy.
- b) By FL3XX.**-- FL3XX indemnifies, defends, and holds harmless Customer from and against all liabilities, damages, and costs (including settlement costs and reasonable attorneys' fees) arising out of a third party claim that FL3XX's technology used to provide the Services or that any FL3XX Brand Feature infringes upon or misappropriates any patent, copyright, trade secret, and/or trademark of a third party. Notwithstanding the foregoing,

in no event shall FL3XX maintain any liability under this Section arising from:

- i) use of any Services or FL3XX Brand Features in a modified form, and/or in combination with materials not furnished by FL3XX, and (ii) any content, information, or data provided by Customer, End Users or other third parties.
- c) General.--** The party seeking indemnification will promptly notify the other party of the claim and cooperate with the other party in defending the claim. The indemnifying party has full control and authority over the defense, except that: (a) any settlement requiring the party seeking indemnification to admit liability or to pay any money requires that party's prior written consent, such consent shall not to be unreasonably withheld or delayed; and (b) the other party may join in the defense with its own counsel at its own expense. The indemnities above are the parties' sole remedy under this GTC, and the corresponding Subscription, for the other party's violation of a third party's Intellectual Property Rights.

## **16) Limitation of Liability**

- a) Limitation on Indirect Liability.--** Neither party shall hold the other party liable under this GTC for lost revenues, indirect, special, incidental, consequential, exemplary, or punitive damages, even if the party knew or should have known that such damages were possible and even if direct damages do not satisfy the other party's proven damages.
- b) Authority Approval.--** If the Service is approved by the Customer, the Customer shall maintain full responsibility for obtaining an air operator's certificate from the respective authoritative body. And, that approval or denial shall not constitute performance as contemplated by the Subscription or this GTC.
- c) Limitation on Amount of Liability.--** Neither party shall be held liable for an amount greater than the amount paid by the Customer to FL3XX during the twelve months prior to the event giving rise to liability.
- d) Exceptions to Limitations.--** These limitations of liability apply to the fullest extent permitted by applicable law, but do not apply to breaches of confidentiality obligations, violations of a party's Intellectual Property Rights by the other party, or indemnification obligations.

## 17) **Miscellaneous**

- a) **Notices.**-- Unless specified otherwise, all notices must be in writing and addressed to the attention of the other party's legal department or primary point of contact.
- i) **Notice Given**- Notice shall not be given by facsimile, and shall be deemed "given" when:
- (1) verified by written receipt if sent by personal courier, overnight courier,
  - (2) received if sent by mail without verification of receipt; or
  - (3) verified by automated receipt or electronic logs if sent by email.
- b) **Assignment.**-- Neither party may assign or transfer any part of the Subscription without the written consent of the other party, except to an affiliate, but only if:
- i) the assignee agrees to be bound by the terms of the Subscription; and
  - ii) the assigning party remains liable for obligations incurred under the Subscription prior to the assignment. Any other attempt to transfer or assign is null and void.
- c) **Force Majeure.**-- Neither party shall be held liable for inadequate performance caused by a condition that was created by something unforeseeable and beyond that party's reasonable control (a natural disaster, act of war, terrorism, riot, governmental action, and Internet disturbance).
- d) **No Waiver.**-- Failure to enforce any provision of this Subscription does not constitute a waiver of that provision.
- e) **Severability.**-- If any provision of the Subscription is found unenforceable, the remainder of the Subscription remains in full force and effect.
- f) **No Agency Created.**-- The parties are independent contractors, and the Subscription does not create an agency, partnership, or joint venture.
- g) **No Third-Party Beneficiaries.**-- There are no third-party beneficiaries to the Subscription.
- h) **Equitable Relief.**-- Nothing in the Subscription will limit either party's ability to seek equitable relief.
- i) **Governing Law.**-- The Subscription is governed by Austrian law. For any dispute arising out of or relating to the Subscription, the parties consent to personal jurisdiction in, and the exclusive venue of, the courts in Vienna, Austria.
- j) **Amendments.**-- From time to time, FL3XX may make commercially reasonable amendments to the Services, the GTC,

the SLA, the DPA or any other legal texts as available at the URL <https://www.fl3xx.com/legal/> (the “Amendments”). FL3XX shall inform the Customer in writing of the Amendments before they become effective. The Customer, having received a notice of Amendment, has one (1) month from that notice to accept or reject the Amendments. Then,

- i) If the Customer accepts the Amendments, the Amendments shall become effective upon the Acceptance date;
- ii) If the Customer remains silent to the Amendments, the Amendments shall become effective after the one month has expired; or
- iii) If the Customer rejects the Amendments, the prior legal texts shall remain effective for a period of 3 months ensuing the Amendments, after which period any agreements in force between FL3XX and the Customer are terminated.

## **18) Third Party Connections**

- a) Third Party System.**--When the Customer requests the connection of the Service to a Third Party System (“TPS”), Customer expressly grants permission to FL3XX to connect the Service to the TPS and transfer data from the Service to the TPS and from the TPS to the Service. The data transferred may include all data necessary to achieve the goals of the respective TPS.
- b) Data Protection.**--The data transfers between the Service and the TPS shall comply with the DPA.
- c) Duration of TPS Connections.**--The TPS connection shall continue until the end of the Term of this Subscription, unless terminated sooner by the Customer via written notice to FL3XX.

**Changes from previous version 1.4 to this version 1.5: 2)a); 6)a); 6)e); 14)a); 14)d)ii; 17)j); 17)j)iii);**