

## General Terms and Conditions for Supplies and Maintenance Services (GTC S&MS)

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### 1. General

- 1.1 Unless otherwise agreed in writing, these GTC S&MS shall govern all aircraft maintenance and system support services and all supplies of components and parts (hereinafter referred to as "Services") provided by AMS Aircraft Maintenance Services GmbH (hereinafter referred to as "AMS"). AMS's Customer has noted and accepted these GTC S&MS. AMS does not accept Customer's general terms and conditions unless agreed in writing.
- 1.2 Services shall be provided in accordance with the agreed work order.
- 1.3 Work orders shall only be binding when submitted in writing. All verbal arrangements shall be confirmed in writing. The same applies to all modifications, supplements, specifications etc. to the original work order.
- 1.4 AMS shall be entitled but under no obligation to use commercial exchange components and parts. Upon completion and acceptance, if required and as set forth in clause 6, of provided Services, title to all exchanged components and parts supplied by AMS remain with AMS and Customer acknowledges that AMS is entitled to exercise a right of retention over the aircraft and any components and parts related to the aircraft until complete payment of any outstanding invoices in relation to the Services rendered.
- 1.5 Customer shall treat all information and documents (e.g. offers, work orders, contracts, prices, technical concepts, personal data) as confidential and shall not disclose such information and documents to third parties unless AMS's prior written approval is obtained. The obligation to maintain secrecy of the confidential information shall survive termination of any contractual relationship between the Parties.

### 2. Prices and payments

- 2.1 Prices shall be deemed to be:
- (i) ex AMS working place as defined in the work order (EXW Incoterm 2010); and
  - (ii) net prices, excl. VAT currently in force, if applicable.
- 2.2 The Parties shall agree on the Services to be performed on:
- (i) a flat rate basis; and/or
  - (ii) a time and material basis.
- Services provided on a time and material basis shall be charged at the man-hour rate in force at AMS's working place at the time of completion of the work order. However, in case where services and/or supplies are to be provided later than four (4) months after conclusion of the work order, the actual prices and hourly rates shall apply.
- 2.3 In case Services have to be provided outside the agreed working place, prices and all further conditions shall be agreed separately in writing.
- 2.4 AMS may demand a reasonable advance payment upon placement of work order. If advance payment is not received by the agreed date, AMS may withdraw from the work order without any liability to the Customer whatsoever and allocate the shop floor and man power capacity to another customer.
- 2.5 Customer shall be responsible for all costs and expenses incurred by delivering the aircraft to the agreed working place.
- 2.6 In case of parts provided under an exchange program, customer shall be responsible for cost arising if the core is not accepted by the initial spares vendor. E.g. core unit is beyond economical repair (BER) or the PN is not like-for-like etc..
- 2.7 Payments shall be due and payable within thirty (30) calendar days after date of invoice.
- 2.8 On expiry of the thirty (30) calendar days and without any further notice being necessary Customer shall be in default of payment and shall pay 5% interest per month on the invoice amount for default.
- 2.9 Customer shall have no right to set-off.
- 2.10 Any claim or dispute the Customer has in respect to invoiced items must be brought to AMS attention within ten (10) calendar days after the date of invoice in writing, and does not entitle the Customer to hold back payment of the undisputed items on the invoice in question.

### 3. Partial services

- 3.1 Partial maintenance and system support service as well as partial supply of components and parts shall be permitted provided Customer suffers no disproportional disadvantage thereof.

**4. Performance, delay in performance**

- 4.1 Ground time, time of performance and delivery dates shall only be binding if agreed on in writing and if:
- (i) Services to be provided are clearly defined;
  - (ii) the aircraft to be maintained is placed at AMS's disposal at the agreed time;
  - (iii) Customer has paid all amounts due under the relevant work order.
- 4.2 AMS shall be entitled to extend the agreed ground time and/or time of performance in case:
- (i) Customer requests performance of additional services;
  - (ii) unusual major defects on airframe, systems, engines or components have been discovered and have to be rectified;
  - (iii) any additional services are required to maintain and/or restore aircraft's airworthiness.
  - (iv) components, parts and documents requested by AMS on time from Customer or any third party are delayed, incomplete or not delivered;
  - (v) aircraft is being delivered late or not in accordance with the terms and conditions set out in the relevant work order or any other contract;
  - (vi) Customer's default of any other contractual obligation.
- 4.3 In case AMS, for reasons beyond its control (e.g. Force Majeure), does not receive the correct delivery of components or parts on time from its subcontractors or suppliers, AMS shall be entitled to withdraw from the work order or contract without liability to the Customer whatsoever, provided that AMS has informed Customer about the nonavailability of the components or items without undue delay.
- 4.4 AMS's liability for damage caused by delay shall be limited to direct damage verifiable caused by AMS's gross negligence or intent.
- 4.5 In addition, AMS's liability shall be limited to 0.05 % of the agreed amount for the part of the delayed performance for each day of delay, which amount shall in no case exceed 5 % of the agreed amount for the part of the delayed performance. Liability for loss of profit shall in any case be precluded.

**5. Force Majeure**

- 5.1 No party shall be liable for any delays due to reason of Force Majeure. Such events may include, depending on the circumstances, events such as, but not limited to, acts of God, unforeseeable circumstances, acts (including delay or failure to act) of any governmental authority (de jure or de facto), war (declared or undeclared), riot, revolution, governmental priorities, fires, strikes, lockouts or other labour disputes, nuclear incidents, sabotage or epidemics, quarantine restrictions and freight embargoes, or inability due to causes beyond the party's reasonable control to timely obtain necessary and proper labour, materials, components, facilities, energy, fuel, transportation etc.
- 5.2 In the event that a party will have to declare Force Majeure (whether for its own or its subcontractors' facilities), Force Majeure must be notified in writing within seven (7) calendar days of the date the event first occurred.
- 5.3 Unless mutually agree to in writing, the party unable to perform because of Force Majeure is temporarily excused from performance while the incident of Force Majeure is occurring and obligated to perform once the incident substantially subsides or ends. Such party shall not be subject to damage claims.
- 5.4 If the delivery of any component or part is delayed for more than fortyfive (45) calendar days of the scheduled delivery, AMS may, upon written notice of the supplier of the components or parts, either terminate the work order, in whole or in part, by reason of Force Majeure.

**6. Acceptance**

- 6.1 If a formal acceptance of the Services provided by AMS is required by law or regulation, the Customer shall perform such acceptance promptly upon receipt of the notification of completion.
- 6.2 If such formal acceptance is not required, the Customer shall inspect the aircraft promptly upon receipt of notification of completion in order to determine if the Services were completed to his/her satisfaction, and accept the Services provided. The aircraft shall then be deemed by both Parties ready for redelivery.
- 6.3 Acceptance shall be deemed to have taken place if the Customer or its representative has taken possession of the aircraft and/or components or parts. AMS shall not be obliged to verify the authorization of the person accepting the redelivery of the aircraft and/or components or parts.
- 6.4 Upon acceptance and test flight, if required by the Customer at its sole cost and risk, with the assistance of AMS, Customer shall take redelivery of the aircraft at AMS's working place at the scheduled date.
- 6.5 Customer agrees to inform AMS promptly upon notification of completion of the provided Services but latest at redelivery, if exchanged components and parts shall be returned to Customer at redelivery, or if AMS shall dispose of the exchanged components and parts, if so, or if Customer omits to inform AMS, Customer agrees to pay the invoiced disposal fees.
- 6.6 If the Customer for any reason whatsoever does not take redelivery upon acceptance and test flight at the scheduled date,

AMS may park or order to park the aircraft in the parking area at their facility or the aerodrome. Risk and responsibility shall fully pass to the Customer and AMS shall not be in any way responsible or liable for the aircraft anymore, except for damages (verifiable) caused by AMS's intent or gross negligence. AMS may charge the Customer a parking fee at AMS's actual standard rate per calendar day if parked at AMS's facility. AMS shall not be under any obligation to provide such parking and may refuse to do so at its own discretion.

## **7. Warranty**

### **7.1 General**

#### **7.1.1 AMS warrants that Services provided:**

- (i) are performed and conform to industry standards relevant to authorized providers of services as set forth in EASA Part 145;
- (ii) are free of defects in material and workmanship; and
- (iii) conform to all contractual requirements.

#### **7.1.2 The warranty term shall be sixty (60) calendar days, or one hundred (100) flight hours, or fifty (50) cycles of the aircraft whichever occurs first following the completion or the formal acceptance, if required.**

#### **7.1.3 Defects shall be reported to AMS in writing promptly after Customer becomes aware of them, at the latest within ten (10) calendar days after discovery.**

#### **7.1.4 Unless otherwise agreed, AMS reserves the right to rectify reported defects, free of charge to the Customer. AMS will only rectify the defects provided the defect is not the result of any alteration undertaken by any party, other than AMS. Customer shall not be entitled to any additional indemnification whatsoever.**

#### **7.1.5 In case the aircraft or components or parts are not at AMS's working place at the time a defect is reported, AMS shall be entitled to appoint any working place where the defect will be rectified.**

#### **7.1.6 AMS shall be entitled to have the defect rectified by a third party.**

#### **7.1.7 The warranty shall exclude defects due to normal wear and tear or the aircraft not being operated, handled or stored by the Customer in accordance with manufacturer's recommendations or in accordance with the flight manual or applicable authority requirements or other causes for which AMS is not responsible.**

### **7.2 Third Party Warranty**

#### **7.2.1 AMS assumes no liability of whatever nature to the Customer relating to defects in commercially traded components and/or parts or components and/or parts procured from third parties which have been installed by AMS.**

#### **7.2.2 However, AMS will use its best endeavours to obtain from its suppliers of parts and components any warranties and shall assign, if possible, such warranties to the Customer.**

### **7.3 Warranty Notice**

#### **7.3.1 Above warranties are exclusive and Customer waives all other claims for warranties (express or implied) of AMS to the Customer arising by law or otherwise with respect to or relating to the supply and maintenance services performed by AMS under the work order.**

#### **7.3.3 Any warranty work carried out by the Customer or any third party as agreed in writing with AMS shall not be reimbursed at a rate higher than AMS' rates, and in such event AMS is not responsible for any aircraft positioning costs, or freight charges which may be incurred.**

## **8. Liability**

### **8.1 AMS liability for Services provided shall be limited to direct damages caused by AMS gross negligence or intent and shall not exceed the amount agreed for the respective work order. Liability for indirect or consequential damages or for loss of profit shall in any case be precluded.**

### **8.2 Customer shall be liable for any damage which its representatives caused.**

### **8.3 Customer shall inform AMS immediately about any damage for which AMS shall be held liable and shall – upon request – allow AMS a damage survey.**

## **9. Handling of "Third Party – Manufacturer Warranties"**

If AMS handles warranty claims for Customer toward third parties (e.g. manufacturers), Customer's obligation to first remunerate AMS's efforts shall remain unaffected thereby. Payments, if any, made by such third party will then be reimbursed to Customer.

## **10. Retention of Title, Pledge and Right of Retention**

### **10.1 Supplied components and parts shall remain AMS's property until full payment of all claims arising, now or in future, from the respective contractual relations. AMS reserves its right to entry in the register of retention of title and Customer accepts this reservation.**



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- 10.2 Customer shall only sell, transfer as a security, dispose of or pledge supplied components and parts, if it has completely met all payment obligations arising from the contractual relationships with AMS.
- 10.3 If the components and parts subjected to AMS's retention of title are drawn upon by third parties (e.g. by seizure), Customer shall advise third party about such retention of title and immediately inform AMS of such event.
- 11. Final Provisions, Applicable Law and Jurisdiction**
- 11.1 The place of performance for all of the liabilities ensuing from the GTC S&MS shall be the principal place of business of AMS (Munich, Germany)
- 11.2 The place of jurisdiction and venue for any and all disputes which may be arising out of this contractual (GTC S&MS) relationship shall be Munich. AMS shall also have the right to bring suits before that particular Court of Justice which has general competence of jurisdiction for the Customer's principal place of business.
- 11.3 German law shall apply to the exclusion of the Hague Convention of 01.07.1964 relating to Uniform Laws on the International Sale of Goods and the United Nations Convention of 11.04.1980 relating to Contracts for the International Sale of Goods
- 11.4 If any of the provisions of this GTC S&MS were to be of no legal force and effect, then this shall not release and relieve the Customer from having to comply with the other remaining provisions of this GTC S&MS. In such case, the validity of the remaining provisions shall not be affected.