

KEARSLEY AIRWAYS LTD

GENERAL TERMS AND CONDITIONS OF SALE AND CONTRACT

These General Terms and Conditions of Sale and Contract, any special conditions or additional conditions agreed by Kearsley Airways Limited or any of its subsidiary & associate companies (any of which shall be referred to hereafter as the “Company”) constitute the entire agreement between the company and any person (the “Customer”) to whom or for which the Company supplies or undertakes any goods or services (whether reconditioning, overhaul, repair, service, testing, inspection or otherwise howsoever) to the exclusion of all other terms, conditions and warranties whatsoever and represent the only terms on which the Company trades notwithstanding any terms and conditions that may be contained in any order or other form of the Customer.

No employee or agent of the Company has any authority to give or make any representation or warranty relating to goods or services provided or to be provided by the Company unless such representation or warranty is in writing and signed on behalf of the Company by a Director or the General Manager of the Company.

Any exclusion, waiver or variation of these Conditions may only be made in writing signed by a Director or the General Manager of the Company and by a duly authorised representative of the Customer.

A. QUOTATIONS

- A.1 No estimate or quotation given by the Company constitutes an offer.
- A.2 The Company reserves the right to withdraw or amend a quotation at any time before receipt of an unqualified order from the Customer and each quotation shall be deemed withdrawn unless so accepted within the period for acceptance stated in the quotation or , if no such period is stated, 30 (thirty) days from the date of the quotation.

B. STRIP AND INSPECT

- B.1 Any delivery by the Customer to the Company of goods for reconditioning, overhaul, repair or service subject to quotation by the Company shall constitute the Customer’s authority to the Company to strip and inspect such goods for the purpose of preparing the quotation.
The Customer shall be liable to pay to the Company all costs incurred by the Company in stripping and inspection whether or not the Customer subsequently instructs the Company to proceed with the reconditioning, overhaul, repair or service.

C. PRICES

- C.1 Where a quotation has been given, the price is that stated in the quotation but the Company reserves the right to increase such sum to cover any of the following:
- a) The cost of any additional special testing, or investigation, required by the Customer, or any government, Regulatory Body or Original Equipment Manufacturer.
 - b) The cost of any amendments to the enquiry or variation between the order and the original enquiry instigated by the Customer.
 - c) Any increase in labour costs and/or material prices outside the control of the Company.
 - d) The prior sale of any material (whether held by the Company outside supplier) the prices of which were used in the preparation of the quotation.
 - e) Any expense incurred by the Company as a result of any suspension of the contract by the Customer's instructions, or lack of instructions, or any change in the Customer's instructions.

Where a quotation has not been requested by the Customer, the price shall be stated on the invoice.

- C.2 The goods will be delivered in standard packing. Unless otherwise expressly stated, whether in these Conditions or otherwise, the costs of any special packing required, carriage, insurance, airport, dock or handling fees and other charges stated separately from the price are payable by the Customer at the same time, and shall be treated, as an additional part of the price.
- C.3 Unless otherwise expressly agreed in writing, the price is exclusive of value added tax and any other taxes, duties and impositions which, if applicable, shall be paid by the Customer in addition.

D. CANCELLATION OF CONFIRMED ORDER

- D.1 In the event of cancellation of a confirmed order the Customer will be charged for all costs incurred up to the date of receipt of the cancellation by the Company.

E. PAYMENT

- E.1 All goods sold or services provided must be paid for in full by the end of the calendar month following the date of the invoice, unless agreed otherwise in writing by the Company (signed by a Director of the Company). The Company shall be entitled to invoice each part delivery as if it were a separate order or contract and the provisions of this clause shall apply to each such invoice.
- E.2 The Customer must make all payments without set-off or counter-claim in United Kingdom sterling, unless the Company has stipulated for payment in another currency, and in immediately available cleared funds.
- E.3 Time of payment is of the essence and the Company reserves the right to charge interest on any overdue amount, from the due date until actual payment. Interest will be payable at a rate of interest equal to 3% above National Westminster Bank Base Rate in force at the time.
- E.4 Where the cost of goods or services sold or supplied to the Customer includes the cost of goods or services sold or supplied by a third party and no invoice from such party has been received by the Company by the time the invoice in respect of the goods or services sold or supplied to the Customer is raised, the Company shall, provided this is indicated on the initial invoice, be entitled to charge an estimated amount for such bought-out goods or services, subject to adjustment later.
- E.5 If exchange units are being supplied, the Customer will become liable to pay the full sale cost of the replacement unit(s) if the units of the Customer (which must be like for like, including modification states and complete to D.I.S.) being exchanged for units of the Company are not received within 60 days of the replacement units being delivered, unless an extension is expressly granted in writing by the Company. Otherwise the Company shall be entitled to issue a supplementary invoice to cover the difference between the exchange and sale prices, or the value of the exchanged units.
- E.6 If the Customer pays any amount without appropriating the amount in writing at the time of payment to the discharge of any specific debt(s), it shall be appropriated by the Company (who may attribute a partial payment to one or more specific items, rather than to all the items ordered by the Customer) and in the absence of any more specific appropriation by the Company shall be deemed to be appropriated to discharge debts not or no longer having the protection of any lien or the subject of reservation of property rights in favour of the Company before discharging debts having the protection of lien or which are the subject of such reservation of rights.

F. TRANSPORT & DELIVERY

- F.1 Except where collected by the Company's own transport, goods sent to the Company for reconditioning, overhaul, repair, service, testing, inspection, or exchange shall be sent carriage paid. Where this involves goods shipped from outside the United Kingdom the goods must be consigned c.i.f. port of entry. Any freight forward charges incurred by the Company as a result of the Customer failing to comply with this requirement will be recharged to the Customer. These charges may be invoiced separately, payable before the goods or, as applicable, exchange goods are released for return to the Customer.
- F.2 For goods sent to the Company from outside the United Kingdom the Customer is responsible for ensuring that adequate documentation is provided for the importation of the goods into the United Kingdom, including details of part and serial numbers, component description, approximate value for customs purposes only and stating that the goods are reconditioning, overhaul, repair, service, testing or inspection only and will be re-exported, or that they are for service exchange. Any delay caused by failure to comply with this Condition shall be the sole responsibility of the Customer and any charges incurred as a result, including any storage charges incurred at the port of entry while goods are being cleared by Customs and Excise will be recharged to the Customer. These charges may be invoiced separately, together with any freight forward charges, payable before the goods or, as applicable exchange goods, are released for return to the Customer.
- F.3 Unless otherwise agreed in writing, delivery of goods shall be ex works, or, in the case of overseas deliveries, f.o.b. at a UK port or airport. In the case of delivery ex-works delivery shall be deemed to have taken place when the goods in question are despatched from the Company's works.
- F.4 The time quoted for delivery or completion is to be treated as an estimate only and while the Company will make all reasonable efforts to deliver or complete within the time quoted, it shall not be responsible or liable for any losses or damage caused to the Customer by later delivery or completion.
- F.5 If the Customer fails to take delivery of the goods, or fails to give adequate delivery instructions within 14 days after the same have been requested by the Company, the Company may, without prejudice to its other rights, dispose of the goods and (whether or not the goods are disposed of) charge the Customer with the cost of storage from the date the goods were tendered for delivery, the cost of any additional transport and (where the goods are disposed of) a sum equal to any loss suffered by the Company in any resale caused by the Customer's default.

G. WARRANTY

- G.1 Subject to the remaining provisions of this Condition G and to Condition H the Company warrants that:
- G.2 The Company warrants that if any fault failure or malfunction becomes apparent in any component, where it is established to the reasonable satisfaction of both parties that there is a fault in workmanship as a result of the provision of the service within 12 calendar months or 500 flying hours from the date of the last return of such component by the Company to the buyer (whichever occurs first). The Company expressly limits liability to the replacement or repair of warranted components or parts and shall not include any removal or installation costs incident to such correction or replacement.
- G.3 The benefits of the warranty set out above shall be subject to the following terms, conditions and limitations.
- a) The Company shall not accept any liability whatsoever in respect of any component which has been operated other than in accordance with the manufacturers instructions or flight manual, or which has been subject to any accident, abuse misapplication or connection, or use in development or experimental running, or subject to interference prior to receipt by the Company.
 - b) The Company warranty shall not apply in respect of any priorwork, refurbishment or rectification carried out by any party other than the seller, and the foregoing warranty shall only be applicable in respect of work actually carried out by the Company.
 - c) The Company shall not be under liability whatsoever for any fault, failure or malfunction in, or caused by any component, spare or part which has not been overhauled or repaired by the seller but will, so far as it is capable of so doing, assign to the buyer any remedy or right of action which it may have against the overhauler, manufacturer or repairer of such component, spare or part. This shall be the full extent of the sellers liability.
- G.4 The provisions of this warranty are in substitution for, and exclude all other warranties express or implied, including but not limited to fitness, for purpose, quality, standard of workmanship or otherwise and save as provided herein, the Company shall not be liable in tort, in contract, statute or otherwise at law, to the buyer at any time for loss of, or damage to any component, accessory or spare thereof, arising out of the performance of the services and subsequent use thereafter. The obligation and liability to the buyer or to any other person for direct, indirect, incidental or consequential damages (including without limitation loss of revenue, loss of profits or loss of contracts), regardless of whether any claim for such damages shall be

based upon or in contract, strict liability, negligence or any other tort and any other such claim is freely waived by the buyer.

- G.5 Each warranty claim will be subject to in-house investigation by the Company's Quality Manager whose decision as to the validity of the claim will be final. In the event of rejection of any claim a copy of the written report of the results of the investigation will be made available to the Customer on request.

H. LIMITATION OF LIABILITY

- H.1 Should any goods delivered to the Company for reconditioning, overhaul, repair, service, testing or inspection be destroyed, lost, (by any means) or damaged while such goods are on the Company's premises or under its control, the Company's liability in respect of such destruction, loss or damage shall in no circumstances exceed an amount equal to the current price of a replacement asset or the cost of repair and/or overhaul like for like in equivalent condition dependent on circumstance.
- H.2 In no circumstances will the Company be liable for and the Company accepts no responsibility for such loss, damage or destruction of the Customer's goods while such goods are in transit to or from the Company's premises except where carriage is in one of the Company's vehicles.
- H.3 Advice and information, in whatever form it may be given, is provided in good faith by the Company only, and without liability, and the Customer shall have no claim against the Company for any loss, damage, costs or expenses arising out of the Customer or any other party relying upon such advice or information.
- H.4 Where goods supplied or reconditioned, overhauled, repaired, serviced, tested or inspected by the Company are incorporated by a third party into another component, the Company shall not be liable for any costs, loss, damage, liability or expenses suffered or incurred by the Customer or any third party arising directly or indirectly from or in respect of such goods or component and the Customer shall indemnify and keep indemnified the Company from and against all such costs, loss, damage, liability or expenses suffered or incurred by the Company as a result of any claim or demand in respect thereof by any third party.

J. PROPERTY AND RISK, RIGHT OF RECOVERY

- J.1 Risk in the goods shall pass to the Customer on delivery.
- J.2 a) Subject to Clause K below, any goods supplied by the Customer to the Company for reconditioning, overhaul, repair, service, testing or inspection shall remain the property of the Customer.

- b) If the Company removes any part of the goods delivered to it by the Customer in order to replace it, the Company shall be entitled, unless otherwise instructed by the Customer in writing, to dispose of such part within 7 days of its removal and to retain for its own benefit the proceeds of any sale or other disposal of same.
- J.3 Notwithstanding delivery of the goods or any document representing them, any goods supplied by the Company to the Customer shall remain the property of the Company until (a) receipt by the Company of payment in full for such goods and all other sums on any account whatsoever owed by the Customer to the Company or (b) if earlier, sale by the Customer of such goods to an independent third party on arm's length terms in the ordinary course of business (which sale shall be the Customer as principal and not as agent for the Company).
- J.4 Where property in goods sold remains with the Company after delivery, the Customer may deal with those goods in the ordinary course of its business provided that:
- a) All sums due to, or received by, the Customer in respect of the goods shall be held in a fiduciary capacity as trustee and agent for the Company; and
 - b) If required to do so, the Customer will keep the goods separate from other stock in such a way as to be readily identifiable by the Company and the proceeds from any sale or contract, or other disposition of the goods in a separate account for the benefit of the Company and will assign to the Company the right to recover any such sums due in respect of such sale or other disposition of the goods.

Any failure by the Company to require strict compliance with this condition shall not constitute a release waiver or variation of the Company's rights and the Customer's obligations under this condition.

J.5 If the Customer takes delivery of the goods supplied to it by the Company before making full payment of the contract price, the Company shall be entitled to repossess the goods and thereafter to deal in any way with such goods free of any claim or right of the Customer therein if, before payment for such goods or service has been made,

- a) The Customer becomes bankrupt or makes an assignment, agreement or composition with its creditors or suffers distress or process of execution to be levied on its property or goes into liquidation whether compulsorily or voluntarily (except for the purpose of reconstruction or amalgamation) or has a receiver appointed over any part of its undertaking, property or assets or it appears to the Company likely that any of the above events will occur.

- b) This contract is terminated by the Company pursuant to Condition L below.

J.6 If the goods lose their identity by becoming part of other goods, then the Customer shall place such other goods into separate storage so as to be identifiable as being made from or with the Company's goods and the Company shall become owner, or part owner(as the case may be) of such other goods, which shall themselves be subject to the provisions of this condition in respect of the Company's interests therein.

K LIEN AND RIGHT OF RE-SALE

K.1 The Company shall have a lien on all goods delivered by the Customer to it for reconditioning, overhaul, repair, service, testing or inspection for all monies (whether presently payable or not) payable by, and all debts and liabilities (whether or not the period for payment or discharge of the same shall have actually arrived) of the Customer to the Company under any contract and such lien shall cover such goods whether or not the Company shall at the time of exercise of the lien have begun or completed reconditioning, overhaul, repair, service, testing or inspection of such goods. The Company shall be entitled to refuse to deliver up any goods at any time unless all charges accrued due under this contract and all other sums (if any) then owed by the Customer to the Company under any contract or on any account whatsoever shall have previously been paid.

K.2 Without prejudice to any other rights of the Company whether under these Conditions, this contract or the general law, if any sum due from the Customer shall not have been paid within 3 weeks after becoming due, the Company may upon giving 7 days' notice of its intention to do so unless such sums shall in the meantime have been paid sell (whether by auction or private treaty or in any other manner) any or all of the goods in the Company's possession on which the Company has a lien. The net proceeds of such sale after payment of the costs of such sale shall be applied in or towards payment of the costs of such sale shall be applied in or towards payment or satisfaction of the debts or liabilities in respect whereof the lien exists so far as the same are presently payable and any residue shall (subject to a like lien for debts or liabilities not presently payable as existed upon the goods prior to sale) be paid to the Customer.

L. TERMINATION

L.1 If:

- a) The Customer fails to pay any sum due to the Company within 3 weeks after the same shall have become due; or

- b) The Customer becomes bankrupt or any steps are taken with a view to the Customer or any of its assets becoming subject to any form of winding-up, administration, receivership, scheme of arrangement, voluntary arrangement, administrative receivership, the rights of a mortgagee in possession, insolvency proceedings, arrangements with creditors generally, enforcement of security or legal process or repossession; or
- c) It appears to the Company likely that one or more of the events in (b) above shall occur the Company may, at its discretion and without prejudice to its other rights:
 - (1) Suspend any deliveries to be made under or terminate the contract and any other contracts with the Customer.
 - (2) Repossess and resell any goods the property in which remains with the Company.
 - (3) Declare (whereupon there shall forthwith become) immediately due and payable any amounts owed by the Customer to the Company under any contract.

M PATENTS AND LIABILITY

- M.1 The Customer shall indemnify the Company against all damages, penalties, costs and expenses to which the Company may become liable as a result of any work done in accordance with the Customer's specification which involves any infringement of any copyright, patent or registered design.

N JURISDICTION

- N.1 These conditions shall be governed by and construed in accordance with the laws of England and the Customer submits to the non-exclusive jurisdiction of the English courts.
- N.2 Neither the Uniform Laws on International Sales nor the Convention on Contracts for the International Sale of Goods shall apply.

P. MISCELLANEOUS

- P.1 If and in so far as in any case a term, or part of a term, shall be void or illegal under any English legislation or common law, that term, or part of the term, shall to that extent only not apply, but without prejudice to the rest of the term, or terms.
- P2. Where the Company is under a liability to pay to the Customer any sum whether in respect of a contract or otherwise howsoever and at or shortly before the time the Customer is due to make such payment any sum then owing by the Customer to the Company whether under this contract, another contract or otherwise howsoever is unpaid, the Company shall, without prejudice to any other rights it may have whether under these Conditions, this contract or the general law, be entitled to set-off against any payment to be made by it an amount equal to such sum then owing by the Customer.

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