

Terms & Conditions of Sale

MSI undertakes to carry out maintenance and repair work on the Customer's aircraft or its components and to procure spare parts and equipment required for the execution of maintenance and repair orders. MSI is also supplier of aircraft spare parts, components and systems and therefore undertakes to carry out orders to purchase and deliver those parts. Unless otherwise agreed upon in writing the following Terms and Conditions shall apply:

1. In General

Company means whichever of MSI Germany or its affiliate MSI Dubai is the party to the Contract.

Contract means the contract between the Company and the Customer of which these Terms and Conditions for Maintenance and Repair Services and of Sale and Delivery form part.

Core means the Customer part provided by the Customer to the Company in exchange for an overhauled or repaired part under the Standard Exchange Service.

Customer means the company or person who is the party to the Contract as customer.

Equipment means any aircraft or aircraft part or component furnished by or on behalf of the Customer and in relation to which the Services are to be performed by the Company.

Parts means new, overhauled or repaired aircraft spare parts, components and systems supplied by the Company under the Contract.

Sale and Delivery means the execution of purchase orders in respect to aircraft spare parts, components and systems supplied by the Company.

Services means maintenance and repair work performed or to be performed by the Company on, or in relation to the Equipment and includes, but not be limited to, the work authorized and any other unforeseen and additional work as the Company may in its discretion consider necessary to render the Equipment airworthy and serviceable, Parts and materials provided in connection with the maintenance and repair work and all ancillary transport, freight, storage, hangarage, inspections, modifications and testing.

Standard Exchange Service means the service provided by the Company to exchange a Part for the same or functionally equivalent Core provided by the Customer.

These general Terms and Conditions are Company's standard term and conditions for Services as well as for Sale and Delivery which the Company and its Customer have agreed that the Company shall perform. Unless otherwise confirmed in writing by the Company, these Terms and Conditions shall apply to all Services and/or Sale and Delivery provided by the Company and shall form part of the parties' agreement regarding the Services and/or the Sale and Delivery. Any Terms and Conditions referred to by the Customer shall be valid only if explicitly accepted by the Company in writing.

2. Services

The Company undertakes to carry out maintenance and repair work (Services as defined above) on Customer's aircraft or its components (Equipment as defined above) and to procure spare parts and equipment (Parts as defined above) required for the execution of Service orders as well as of Purchase orders.

The Customer shall give the Company at least 30 days prior to the desired performance and notice of any Service to be carried out by the Company. If the Customer wishes to postpone Services, it shall give the Company notice thereof at the latest 7 days prior to the planned commencement of Services.

Unless otherwise specifically agreed, the Company may subcontract or delegate any part of Services without the Customer's consent. Such subcontracting or delegation shall not release the Company from any of its obligations hereunder.

The Customer herewith explicitly agrees that the Company shall carry out any unforeseen Services, which are required in order to maintain the airworthiness of the Equipment. However, the Company will inform the Customer as soon as practicable of such additional unforeseen Services. The Company shall be entitled to recover such extra costs from the Customer.

In the event of the Company identifying that Services which do not effect the airworthiness of Equipment should be carried out, the Company shall inform the Customer immediately about the extent of additional Services, related costs and additional down time respectively turn-around time. Such additional Services must be approved by the Customer before execution. If the Customer decides not to perform the proposed Services, Company is released from any and all liability for any possible damage resulting from omitting of subject Services.

In the case of on-site Services the Customer shall give free and save access to the Equipment to employees and subcontractors of the Company.

The Customer will deliver the Equipment to the location nominated by the Company. On completion of the Services, the Company will make the Equipment available ex the responsible MSI premises or other agreed address and the Company fulfils its obligation to return the Equipment when it has handed over the Equipment into the care, custody or control of the Customer or Customer's nominee at one of the above locations.

Equipment must be collected by the Customer within 7 days from the notification by the Company to the Customer that they are available for collection. If the Customer fails to collect the Equipment within this period, all expenses incurred by the Company, including hangarage, packaging, unpacking, storage and handling, will be charged to the Customer. The Company may terminate the storage or hangarage on seven days' notice to the Customer and will not be liable for any loss or damage to the Equipment as a consequence of termination.

3. Acceptance by Customer

Customer will check the Equipment and notify any recognisable defects or missing items arising out of or in connection with the Services as well as delivered parts in writing within seven days after the date which is the later of the date of collection by the Customer or seven days after the Customer has notified that the Equipment or the parts are available for collection. After expiry of the relevant period, the Services or the Delivery will be deemed accepted and correct in accordance with the Contract.

4. Prices

Unless otherwise quoted, all Services will be invoiced at MSI posted rates. Every effort will be made to accomplish the Services during normal working hours, however overtime may be required to meet the Customer's schedule. When overtime is required, efforts will be made to notify the Customer if the overtime is expected to be significant. Overtime rates will be invoiced at Company's posted rates.

Parts will be invoiced at Company's or manufacturer's regular prices.

Equipment supplied by the Customer must be accompanied by the proper documentation paperwork. Service charges to install the Customer's supplied Equipment will be at Company's posted rates. Customers who supply their own Equipment assume responsibility or all dealing with vendors in the case of warranty, exchange or premature failure. Removal and installation of defective or failed Equipment which was supplied by Customers, will be at the Customers' expense.

5. Payment

Unless otherwise agreed to, the Customer guarantees that all costs and expenses incurred in connection with the execution of the order shall be paid without any deduction within thirty days after the date of the respective invoice of the Company. In the event of the Company performing any services at any location other than its own facilities, the Customer shall also reimburse the Company for any and all costs and expenses incurred by the Company due to such services. Such costs and expenses shall include but not be limited to the following: Travel, board and lodging expenses as well as fee for travelling time and living allowances, transportation costs, duties, handling fee, charges, access, fees and costs of material.

All invoices shall always be paid in full, without any set-off or counterclaim whatsoever and free and clear of any deductions.

If the Customer fails to effect payment(s) at the dates and within the times stipulated in the quotation and/or order confirmation, the Company shall be entitled to charge interest from the day on which payments have been due. Unless otherwise agreed, such interest shall be at the rate of 8 percentage points above the refinancing rate of the European Central Bank.

6. Replaced Equipment

Equipment replaced by the Company during the performance of Services shall remain the property of the Customer. However, the Company is prepared to dispose of such Equipment at Customer's expense.

7. Delivery

The Customer shall deliver at its own costs the Equipment to be repaired or maintained to those facilities of the Company where the Services shall take place.

The repaired and/or maintained Equipment shall be delivered by the Company ex responsible MSI premises.

Delivery of parts shall be ex responsible MSI premises.

8. Reports

The Company will prepare written maintenance reports or shop-findings reports on the Services carried out on the Equipment.

9. Export

The export and re-export of Parts, Equipment, Parts thereof and related information may be subject to applicable export laws. The Customer shall be responsible for obtaining and maintaining all required export licenses and approvals and for complying with all applicable export requirements. The Customer agrees that it will not directly or indirectly export or re-export any Parts, Equipment, Parts thereof or technical information received from the Company to any destination if such export or re-export would violate any applicable export regulations. The Customer shall identify and hold harmless the Company and its subcontractors from and against any claim, damage, injury, loss or expense resulting or arising from any breach of the Customer's obligations under this article.

10. Warranty

The Company warrants that delivered Parts shall be free from any defects in material for a period of six months after first use of the parts or twelve months after delivery of the parts, whichever is earlier, and that the Services carried out by it shall be free from any defects in workmanship for a period of six months after the date when the Company notified the Customer that the Services on the Equipment in question was completed or after 500 operation hours from re-delivery to the Customer or upon the repair, modification or other servicing of the warranted Equipment by anyone other than the Company, whichever occurs first.

The warranty of the Company's Services shall expire if

- the Customer does not inform the Company in writing within five working days from the discovery of the defect and/or
- the Customer does not give the Company immediate access to the Equipment in order to inspect the defects and/or
- the Customer or a third party appointed by the Customer have tried to repair the defect without prior inspection and/or authorization by the Company and/or
- the Customer has not taken all precautions to prevent an aggravation of the damage and/or
- the Customer does not comply with the instructions given by the Company.

Parts and/or Equipment, which are subject to warranty claim, shall be returned to the Company or its designated subcontractor at the Customer's risk and expense. The Parts and/or Equipment will be redelivered to the Customer at Customer's risk, however at Company's expense provided the Company reasonably has determined that such Parts and/or Equipment were defective when the Company notified the Customer that the Services and the Equipment in question was completed.

The Company's personnel may resolve a warranty claim by carrying out repairs/replacement of the Parts and/or Equipment or parts thereof at the Customer's facility.

The warranty period for repaired Parts and/or Equipment shall be the remaining warranty period for the Parts and/or Equipment extended by the time during which the Parts and/or Equipment has been unusable as a consequence of the defect.

Any Parts and/or Equipment replaced by the Company hereunder shall become the property of the Company.

The warranty shall not apply in respect of

- any defect arising from or in connection with any work, installation, operation, repairs, maintenance, refurbishment or rectification carried out by anyone other than the Company;
- any repair, modification or other service performed pursuant to a process specified by the Customer;
- any Parts and/or Equipment or Part thereof not supplied under this agreement;
- any Parts and/or Equipment or Part thereof which has been operated otherwise than in accordance with the original manufacturer's instructions of flight manual, or which has been subject to any accident, incident, abuse, misapplication, use in development of experimental running, or subject to interference; or
- any defect arising from or in connection with any ingestion of foreign materials, incorrect storage, normal wear and tear and/or deterioration.

If the Company replaces any defective Parts and/or Equipment which is subject to a life limited parts ("LLP") status under this warranty, the Customer shall pay the Company a portion on the price of the replacement LLP, that portion being calculated by reference to the ratio: Replaced LLP's number of hours in service/lifetime indicated by the manufacturer of replaced LLP.

11. Remedies

The remedies in this article are exclusive and therefore preclude the Customer's right to request any other remedies, actions or measures of whatever nature, as a consequence of any defects in the services performed in the material supplied.

12. Liability

Any liability of the Company, its legal representatives, employees or agents employed in performance of its obligations shall not be liable for damage sustained vis-à-vis the Customer. The Customer shall indemnify the Company, its legal representatives, employees or agents employed in performance of its obligations for all and any such claims filed by third parties in connection with this Contract and the Services performed. The foregoing indemnity shall not apply in cases of intent or gross negligence or to damage arising from injury to life, limb or health insofar as the Company is at fault. The same shall apply in cases of initial inability to perform or impossibility within the control of the Company and in case of faults which were concealed with intent to deceive or the absence of which has been guaranteed by the Company; also in cases in which the Product Liability Act prescribes liability for personal injury or property damage to privately used objects owing to faults in the delivered item.

Quality defects shall become statute part after a period of 12 months except for parts provided by the Company in performance of its obligations with a life cycle of less than 12 months. For those parts, quality defects shall become statute part after half the customary life cycle. This shall not apply in cases where longer periods are compulsorily prescribed by law in cases where the Company, its legal representatives, employees or agents employed in performance of its duties are guilty of intent or gross negligence. Nor shall it apply in case of damages resulting from injury to life, limb or health insofar as the Company is at fault. The same shall apply in case of initial inability to perform or impossibility within the control of the Company and in case of faults which were concealed with intent to deceive or the absence of which has been guaranteed by the Company; also in cases in which the Product Liability Act prescribes liability for personal injury or property damage to privately used objects owing to faults within the performance of the Services.

No claims for compensation or reimbursement of expenses by the Customer shall be accepted irrespective of the legal reasons, in particular claims for infringement of obligations arising from the contract and for tort. The foregoing shall not apply in cases where liability is compulsory, e. g. pursuant to the Product Liability Act; in cases of intent, gross negligence, and injury to life, limb or health, owing to the infringement of essential contractual obligations. Claims for compensation owing to the infringement of essential contractual obligations shall, however, be restricted to the typical foreseeable damage in such contracts, or a maximum of the total invoice amount, except liability is based on intent or gross negligence or owing to injury to life, limb or health. The foregoing provision shall not involve any shift of the onus of proof to the detriment of the Customer. Insofar as the Customer is entitled to claim compensation pursuant to the foregoing provisions, these claims shall become statute-barred on expiry of the period of limitations which applies to defects in quality and title. Claims for compensation based on the Product Liability Act shall be governed by the statutory limitation periods.

The provisions of this article shall apply, excluding all other claims by the Customer, if the Services are not usable by the Customer in conformance with the provisions of the contract for reasons for which the Company is to blame as a consequence of non-performance or faulty performance of proposals and consultations prior to or after conclusion of contract and other secondary contractual obligations, in particular operations for instruction and maintenance in the frame of the performed Services.

13. Retention of Title and Right of Lien

The Company shall retain title to all equipment, accessories and spare parts supplied by the Company until all invoices arising from the business relationship have been paid in full.

The parties are agreed that even as a result of installation, the spare parts owned by the Company shall not become integral parts of the Equipment.

The parties agree that the Company shall be entitled to exercise a retaining lien and a contractual lien on the items which have become its property as a result of the order in respect of its claims arising from the order. The retaining and contractual lien, also on other claims (tangible and intangible assets) can also be exercised owing to claims from previously performed orders, deliveries or other claims arising from the business relationship.

14. Force Majeure

Either party shall be released from the performance of its obligations under this contract to the extent and for so long as the performance is impeded by reason of Force Majeure. The party claiming Force Majeure shall give prompt notice of the commencement and cessation of any such event. For the purposes of this article the expression "Force Majeure" means, but shall not be limited to, industrial dispute, fire mobilization, requisition, embargo, currency transfer prohibitions, insurrection, lack of means of transport, restriction of the use of energy, bankruptcy or delay of the subcontractor, and generally any circumstances which are beyond the control of the parties and hinder performance by one party of its obligations. If an event of Force Majeure continues for a period exceeding three months either party shall be entitled to terminate the Contract by notice in writing without incurring any further liability.

15. General

The parties are agreed that all contractual and non-contractual disputes shall be settled before the courts of law which have sole national and international jurisdiction over the premises of the Company in Germany. In individual cases, however, the Company shall be entitled to file an action at the Customer's domicile or before other courts of law which have jurisdiction owing to domestic or foreign law.

Place of performance for this Contract shall be the responsible premises of the Company or the responsible premises of the Company at which performance is rendered.

16. Partial Invalidity

The parties are agreed that in the event that any of the foregoing provisions should prove null or void, the remaining provisions shall remain fully in force.