



# ACC COLUMBIA

— JET SERVICE —

General terms and conditions

ACC COLUMBIA Jet Service GmbH | Benkendorffstraße 38 | 30855 Langenhagen | Germany

## General terms and conditions for maintenance and repair and for the sale of replacement parts

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### **I. Scope**

1. All contracts with our customers regarding maintenance, repair and overhaul services, as well as the supply of replacement parts, are exclusively subject to our General Terms and Conditions ("Terms and Conditions") set out below. We do not accept any derogating or supplementary terms and conditions of the customer. Our Terms and Conditions even apply where we are aware of derogating or supplementary terms and conditions of the customer and perform a service without reservation regardless.

2. In cases where the aircraft is hangared prior to or upon completion of the services provided by us at the customer's request or because it is in default of acceptance, our General Terms and Conditions of Hangarage shall apply in addition.

3. Our Terms and Conditions shall also apply to all future contracts with the customer under the existing business relationship.

### **II. Offer and execution of the contract, maintenance slots, order cancellation**

1. Our quotation prepared for the client, including a cost estimate/price quote, does not constitute a binding offer to execute a contract. By submitting the quotation signed by the customer, the customer is making a legally binding offer. The customer will be bound by such offer for a period of three weeks as of our receipt of the offer. A contract is only formed when we state our acceptance or start our performance.

2. If the customer's request is not based on a quotation provided by us, we are entitled to accept the customer's offer to contract contained in the request within three weeks of receiving it. The acceptance can be stated in the form of a written confirmation of the order or by starting our performance. In this case, invoicing will be based on the actual time worked and the cost of materials based on the manufacturer's list price plus a handling fee of 15%.

3. For additional works, findings and defect rectification we will provide the customer with detailed work quotations for customer acceptance. Costs integrated in the work quotations will be invoiced with down payment requests during the project.

4. "Cost estimates" (best estimate) provided by us – in comparison with 'price quotes' – only constitute a non-binding prognosis as to the prices related to a service to be provided by us. The cost estimate is not binding and in the final invoice the service will be invoiced based on the actual time worked and the cost of materials.

5. Periods for completion are only legally binding if they were part of our written offer, and they only relate to the work specified therein. Any additional work for an unforeseen remediation of errors or due to complaints will extend the proposed downtime. The commitment to the period for completion is subject to the correct and punctual delivery of materials to us by our suppliers. We cannot be held liable for a delay in performance which is due to a delay in the suppliers' delivery for which we are not responsible. The customer may not rely on oral commitments. Maintenance slots are usually assigned on a "first come first serve" basis upon the sending of the signed statement of acceptance.

6. Where the customer cancels the maintenance order, we will charge a cancellation fee in the amount of 10% of the order volume as set out in our offer. Where our unavoidable expenses (parts already ordered and work performed) exceed this amount at the time when the order is cancelled, we are entitled to also demand payment of the excess amount from the customer.

7. Where replacement parts are ordered directly outside of our maintenance service, we shall only take them back outside of the rights of rescission available to the customer under applicable law as a gesture of goodwill and this does not give rise to a contractual right of rescission without a valid reason for the cancellation. Where we accept such a replacement part regardless, the customer shall bear the cost of the manufacturer's return fee and a handling fee in the amount of 10% of the purchase price.

### **III. Prices and payment terms**

1. Unless otherwise agreed with the customer, our prices are net prices in the currency specified in the quotation for deliveries "ex works" (EXW – INCOTERMS 2010). Incidental expenses, e.g. for assembly, special tools, etc., where incurred, will be invoiced separately. Where VAT is payable, it will be shown in the invoice in the statutory amount applicable on the day the invoice is issued.

2. Unless otherwise agreed payments must be made within 10 days after the invoice issue date. If the customer does not make the payment when it is due, the outstanding amounts will accrue default interest as of the due date in the amount of 9 percentage points above the base rate per year for customers who are companies and 5 percentage points above the base rate per year for customers who are individuals. This does not affect our right to assert a claim for higher interest and further damage in cases of default.

3. Where VAT was not charged and it turns out later that VAT should have been charged, we are entitled to demand payment of the VAT later. Our right to demand payment of the VAT later becomes time-barred three years after the end of the year in which the relevant delivery or service was provided by us.

4. We reserve the right to change the price quoted in the quotation due to fluctuations in exchange rates if the currency of the quotation is the US dollar or if procurement transactions are not carried out in euros. The same applies if the quotation contains catalogue prices of manufacturers or suppliers that have changed by the time we place our order. In this event, we are entitled to pass on this increase or reduction in price to the customer. The customer is not entitled to be presented with catalogue prices or bills from suppliers or to receive any other kind of documentary evidence of these.

5. Where import duties or punitive tariffs are payable on the manufacturer's catalogue price, they shall also be paid by the customer if they were not included in the quotation.

6. We do not list incidental expenses (freight costs for the replacement parts ordered, consumables, small parts to be replaced) in the cost estimate. Instead, they are charged in the relevant security deposit invoices or the final invoice. For freight costs we charge a flat rate of 10% of the price of materials, with the exception of special freight (courier freight, dangerous goods freight, etc.) which is charged separately together with the cost generator. For consumables we charge a flat-rate surcharge in the amount of 1% of the order value, but only up to a maximum of EUR 3,000. Any additional services for example crew transportation, handling, airport fees, laundry service, fuel service, flight tickets, hotel or rental car costs will be charged at actual incurred costs plus a 10% administration fee with final invoice.

7. Unless otherwise agreed with the customer, the customer has a duty to pay the invoice amounts without any deduction by wire transfer to one of our accounts (free of charge to us) immediately upon receipt of invoice. In general, we bill partial payments in accordance with the payment schedules agreed in the quotation. For orders based on a cost estimate, we are entitled to add a security deposit in the amount of 5% of the order value to the cost estimate which will be offset against the invoice amount of the final invoice.

We reserve the right to only issue the release for the operation of the aircraft when the entire amount of all deposit invoices already prepared has been credited to our account.

8. Credit cards are only accepted on account of payment if they were read by a card reader on site. All costs

incurred if it is confiscated shall be borne by the customer.

9. The customer may only offset its claims if its counter-claims have become res judicata or are undisputed. This also applies to the customer's assertion of a right of retention or right to refuse performance.

#### **IV. Used parts to be exchanged (core unit); use of customer parts**

1. In cases where the removed used parts cannot be repaired cost-effectively, but the manufacturer does not accept a used part in exchange, or where the manufacturer only accepts a used part as a "core" unit with additional repair costs, we will notify the customer of this. In this event, the customer undertakes to pay the full price for the delivered or installed part (including additional repair costs) without deducting the credit for the "core return", but only up to the value of the list price of a new part. In addition, we will charge a handling fee in the amount of 15% of the manufacturer's price.

2. Title to the aircraft replacement parts that are replaced in the process of performing the technical service on the aircraft (referred to as "used parts") shall pass to us.

3. For aircraft replacement parts classified as "exchange parts", the removed used part (core unit) must be returned by the customer to the sender, to the address specifically provided for sending used parts in the accompanying documents, together with the following documents in exchange for sending a usable aircraft replacement part:

- "Material Return Authorization", i.e., the sender's authorization to send the used part as a core unit to the address specifically provided for sending used parts in the accompanying documents;
- A fully completed "Component change form".

The used part removed must be received by the sender or at the address specifically provided for sending used parts in the accompanying documents within the period specified by the supplier after receiving the usable aircraft replacement part. Where the customer does not comply with this obligation to send the used part, the customer has to pay any fees charged by the supplier due to the delay.

4. If we are unable to comply with this period specified by the supplier because the customer does not provide the necessary documents or the used part itself, we are entitled to pass on the fee for the delay, in the amount of the default fee charged by the relevant supplier plus a handling fee of 15% per day, to the customer. If it is not possible to return the used part to the sender within 25 days, we are entitled to charge the full price for the part delivered to the customer, without deducting the credit for the core unit return.

5. The import of customer provided parts must be registered with the customs authority using the customer's EORI number in order to be able to benefit from the customs exemption. Where the customer fails to properly register the import with the customs authority or to provide the EORI number, and where a claim for the import VAT is brought against us, as the recipient of the used parts, the customer shall indemnify us.

6. For parts that are provided by the customer we charge a handling fee in the amount of 10% of the manufacturer's list price, up to a maximum of EUR 2,500 per replacement part. We reserve the right to charge a higher handling fee for larger replacement parts (landing gear, engine, etc.) in the quotation. We cannot accept any liability or provide any warranty for such replacement parts.

7. The administration fee for warranty and special aftermarket programs amounts to 10% of the respective OEM list price per rotatable or per parts kit, not exceeding a maximum of EUR 250 per rotatable or per parts kit (not including freight charges, costs for customs clearing and financial costs for import turnover tax).

#### **V. Contractual lien**

1. For our claims under the contract we are entitled to a contractual lien on the items coming into our possession based on the contract which shall arise when the items (specifically the aircraft and documents) are delivered to us. We can also use the item subject to the lien to satisfy claims based on services performed on that aircraft or other aircraft owned by the customer in the past.

2. The customer warrants that customer is free to dispose of the items coming into our possession based on the contract (specifically the aircraft and documents). The customer is not restricted in his power of disposal.

3. If the customer discloses that the aircraft is not in his property and that the customer is also limited in his power of disposal, the customer warrants that the owner agrees to hand over the aircraft to us and agrees to the arising of contractual or statutory lien.

#### **VI. Acceptance**

1. The customer must pick up and accept the aircraft at the location where the service shall be performed within three days of receipt of the notice of completion. The aircraft shall be deemed accepted as soon as the customer has started using the aircraft.

2. If the customer is in default of acceptance, it shall bear the cost of our additional expenses (demurrage, etc.). We will charge a surcharge of 15% on the costs actually incurred by us. If the aircraft is damaged or destroyed during the default period, we are only liable for damage caused intentionally or through gross negligence by us.

3. Upon receiving the notice of completion, the customer itself is responsible for maintaining the aircraft's airworthiness. If the aircraft shall be hangared until pick-up, such hangarage must be ordered separately.

4. Paragraphs 1.-4. also apply in the event that the customer is in default with a payment and we stopped providing the service after a reminder and notice of this consequence or we do not issue the Certificate of Release to Service after completion of the maintenance and / or repair service due to non-payment.

#### **VII. Customer's warranty claims for defects**

1. Claims for poor performance or for parts supplied may not be asserted if the customer does not notify us of apparent defects without undue delay following acceptance. Where a defect was not apparent upon acceptance, the customer must notify us of the hidden defect within one week of becoming aware of it.

2. At our option, the defect may be remedied by rectification or by providing a replacement. The customer may only rectify the defect itself upon the expiry of an adequate period to be specified for us by the customer if we have not rectified the defect during such period.

3. Rectification or replacement delivery may regularly be refused by us if the aircraft is not made available to us at the place of performance pursuant to Section XI 2. hereof without incurring additional costs. Only in cases where rectification is possible without disproportionately high costs to us, rectification may be carried out abroad by our staff or, if necessary, at another aircraft repair and service center.

4. The customer is not entitled to a claim for subsequent performance if the part supplied by us or the work performed was modified, improperly installed, improperly stored or exchanged by the customer or at its request.

5. We do not provide any warranty for replacement parts not produced by us or services rendered by third parties. We do, however, assign all our warranty claims and manufacturer guarantees to the customer.

6. We do not assume any warranty for used spare parts which we have purchased from upstream suppliers and which we resell to the customer. This shall also apply if we install used spare parts purchased from upstream suppliers, subject to our own inspection and averaging obligations. This exclusion shall not apply to claims for damages arising from grossly negligent or wilful breach of duty or for any injury to life, limb or health. Where legally possible, claims for defects against upstream suppliers shall be assigned to the customer for this purpose.

#### **VIII. Liability for damages; default**

1. If the customer is a business owner with a registered office in Germany or a consumer, we are liable as follows:

1.1 For intentional acts and gross negligence committed by us, our employees, or persons employed by us in the performance of our obligations, we are liable in accordance with the statutory regulations. Likewise we are liable for any culpable injury to life, limb or health and in the event of liability under the German Product Liability Law.

1.2 We are liable on the merits for the culpable breach of a material contractual duty. In terms of the amount, our liability is limited to the foreseeable damage typically incurred. We are not liable for any further damage.

2. Where the customer is a business owner with a registered office outside of Germany, it is not entitled to claims for damages or for reimbursement of expenses, regardless of the legal theory they are based on (in particular for the breach of duties under the contract or for tort). This specifically applies to any consequential damage (in particular flight cancellations, travel expenses, crew) and loss of profits.

3. In the event of a delay in our delivery or performance or our non-performance we are not liable either if the delay was caused by events beyond our reasonable control. This specifically applies in cases of force majeure, such as war, measures taken by public authorities, strikes, environmental catastrophes, pandemics or other events beyond our control. We will notify the customer of such events without undue delay and will take appropriate action.

4. The same applies to any delay caused by the customer's failure to provide the necessary assistance.

4.1 Insofar as the customer is in default with his payment of the remuneration for the work or a required act of cooperation, we reserve the right to suspend work on the aircraft until further notice, provided that a previously set reasonable deadline has expired unsuccessfully and the customer has been notified of the impending suspension.

4.2 Insofar as the customer is in default with his performance as a result of the failure to pay the remuneration for the work or as a result of the failure to perform a required act of cooperation, we shall not be liable for the damage caused by parking without parking maintenance and consequential damage as well as consequential costs which have arisen as a result of the cessation of our work on the aircraft. This applies in particular to corrosion, damage caused by operating fluids and lubricants, as well as damage to the engines.

5. Insofar as spare parts are to be procured by us, we do not assume any procurement risk. Rather, we shall be entitled to withdraw from the contract if we have duly ordered a spare part and we do not receive it through no negligence on our part.

6. If we are unable to perform within an agreed period due to an event which we could not otherwise influence

by reasonable efforts, the period shall be extended by the duration of the disruption in performance caused by this event

7. We are not liable for movable items on the aircraft or any consequential damage caused by them which is not related to the aircraft or our service (items of luggage in luggage compartments, beverages in the galley). Consequential damage in this context specifically refers to any damage to the aircraft caused by containers containing liquids and beverages that burst and spilled their contents due to frost bursting.

8. Furthermore, we assume no liability for damage to the aircraft on the airport apron or in a hangar at Hanover or Cologne Airports caused by airport employees, other aircraft operators or force majeure (especially storms), if we did not take the aircraft into our custody (e.g. if the customer parks the aircraft in front of our hangar without prior notice and without signing a custody contract).

#### **IX. Limitation period for customer claims**

1. The warranty period for defects is one (1) year.

2. Other claims the customer may have based on our breach of duty, in particular claims for damages, become time-barred after one (1) year. By derogation from sentence 1, the statutory limitation periods apply to the following claims of the customer:

a) claims under the German Product Liability Law, as well as claims based on damage caused by an injury to life, limb or health or a breach of material rights or duties under the agreement,

b) claims based on damage caused by an intentional or grossly negligent breach of duty by us or any person employed by us in the performance of our obligations, c) claims based on damage caused by the fraudulent concealment of a defect.

#### **X. Export control**

1. The customer must comply with all applicable domestic and foreign export compliance requirements, including the applicable US export laws and regulations (e.g., ITAR, EAR and OFAC sanctions regulations). At our request, the customer must present the authorizations that are required in accordance with the applicable export laws and regulations without undue delay.

2. The customer is obliged to notify us about the beneficial owner and operator of the aircraft when submitting the offer and immediately notify us of any changes to these persons.

3. Compliance with delivery periods agreed may depend on the release and/or granting of authorizations by the competent authority. The delivery period agreed shall be extended by the period required for such processes.



4. Where the required export and shipment authorizations are not granted at all or in time, or where the order or delivery conflicts with customs law, foreign trade law or embargo law regulations, we are entitled to rescind the contract. In this event, the customer is not entitled to any claim for damages.

5. The customer guarantees that the aircraft and / or separately sold spare parts will only be used in the civil aviation and will not be passed on to third parties who are on a sanction list of the EU, USA and UK or not without receiving the necessary export permit from the responsible party Authorities in these countries. A re-export of spare parts for use in Russia within the meaning of Article 12g para. 1 Regulation (EU) No. 883/2014 is expressly prohibited.

#### **XI. Global Anti-Corruption Laws and Treaties**

The Business partner and/or the customer agrees, represents and warrants to comply with any and all existing and future national and international anti-corruption laws and treaties, such as, but not limited to, the United Nations Convention against Corruption (UNCAC), the Organization for Economic Cooperation and Development Convention on Combating Bribery of Foreign Officials in International Business Transactions, Organization of American States' Inter-American Convention Against Corruption, the United States Foreign Corrupt Practices Act (FCPA), other United States laws prohibiting private corruption, the European Union Bribery Act, the Bribery Act of the United Kingdom (Bribery Act), the German Criminal Code e.g. taking and giving bribes in commercial practice, sec. 299 German Criminal Code, as well as giving bribes and granting benefits to public officials, sec. 334, 333 German Criminal Code as well as similar laws of Contractor's country and other nations - hereinafter referred to as "Global Anti-Corruption Laws and Treaties".

Furthermore the ACC Columbia – Code of Ethics published on our website is accepted and accomplished.

#### **XII. Place of jurisdiction, place of performance and governing law**

1. Where the customer is a businessman or a legal entity under public law, the exclusive place of jurisdiction for all disputes arising under or relating to the agreement is Hannover, Germany. This also applies in cases where the customer does not have a place of general jurisdiction in Germany or moves its residence or usual abode to a foreign country after the execution of the agreement or where its residence or usual abode is unknown at the time when the action is brought. This does not affect the international jurisdiction of additional courts pursuant to the Montreal/Warsaw Convention, where applicable.

2. The place of performance for all obligations owed by the parties under this agreement is our registered office.

3. This agreement shall be governed by the law of the Federal Republic of Germany. The Hague Convention of 01/07/1964 on Uniform Laws for the International Sale of Goods and the United Nations Convention of 11/04/1980 on Contracts for the International Sale of Goods (CISG) do not apply.

4. The English version of these General Terms and Conditions is only provided for informational purposes. In cases of doubt the German version and its legal meaning shall prevail.

#### **XIII. Final provisions**

If individual provisions or parts thereof are invalid, this shall not affect the validity of the remaining provisions.



Christian Kinitz



Nils Janßen