

1. Introduction

In these conditions (the “conditions”), the definitions that follow shall apply:

“DAEL” means Dunhill Aviation Engineering Ltd

“Authority” means the Civil Aviation Authority

“Customer” means any person, firm or body corporate buying or goods and services from DAEL

“Warranty” means the warranties set out in clauses 5.2 and 5.2.6.

“Goods” means the goods (or any part of them) set out in the order

“Order” means the customer’s request for the supply of goods and/or services as set out in DAEL’s quotation or otherwise a contract for the supply of goods or services.

“Services” means the services to be carried out by DAEL as detailed in the order.

2. General

2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions. The Order shall only be deemed to be accepted when DAEL issues written acceptance of the Order at which point, and on which date the Contract shall come into existence.

2.2 These Conditions shall apply to each and any Contract and no additions or alterations or terms inconsistent herewith shall have effect unless expressly accepted in writing by an Authorised Representative of DAEL.

2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.4 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of DAEL which is not set out in the Contract.

2.5 Subject to clause 2.6, no variation of these Conditions shall be binding unless agreed in writing between authorised representatives of DAEL and the Customer.

2.6 DAEL reserves the right to revise these Conditions from time to time on giving to the Customer reasonable advance notice of the changes and a copy of the revised terms.

3. Prices

3.1 The price for Goods and/or Services shall be the price set out in the order or quotation given in advance of work commencing and/or goods being delivered.

3.2 Quotations given by DAEL shall be valid for 30 days only save that DAEL shall have the right to vary the prices quoted to reflect any increase in cost to DAEL due to any factor beyond its control including, without limitation, any foreign exchange fluctuation or currency regulation; alteration of duties; significant increase in the costs of labour, materials or other costs of providing services; change in delivery dates or quantities of goods requested by the Customer; delay caused by any instructions of the Customer; or failure of the Customer to provide to DAEL adequate information, instructions, special tools or materials expressly required or requested.

3.3 Where prices have been quoted to the Customer, DAEL shall have the right on reasonable notice to vary the prices quoted to reflect any increase in cost to DAEL due to any factor beyond its control including, without limitation, any foreign exchange fluctuation or currency regulation; alteration of duties; significant increase in the costs of labour, materials or other costs of providing services; change in delivery dates or quantities of goods requested by the Customer; delay caused by any instructions of the Customer; or failure of the Customer to provide to DAEL adequate information, instructions, special tools or materials expressly required.

3.4 Where an increase is proposed by DAEL in accordance with Clause 3.3 above, this shall be communicated to the Customer in writing by DAEL and acceptance of the increase must be confirmed by the Customer in writing to DAEL before work is commenced.

3.5 Unless stated to the contrary all prices are exclusive of any value added tax and other taxes, duties, fees and impositions, which the Customer shall be additionally liable to pay to DAEL, if applicable.

3.6 If after the issue by DAEL of its written acceptance of an Order for the provision of Services it becomes apparent that additional work not initially agreed to be provided by DAEL is necessary, DAEL shall submit a quotation for such work. Acceptance of such quotation in writing by the Customer will constitute a Contract governed by these Conditions. If the Customer does not accept such quotation in writing, DAEL may invoice in respect of the Services completed and reassemble and package any of the Customer’s property in DAEL’s possession for delivery to the Customer, at the Customer’s cost.

4. Terms of Payment

4.1 Payment shall be made by cleared funds, or telegraphic transfer of immediate funds to the account set out in the invoice unless a credit period has been agreed to in writing by DAEL. If the Customer does not have a credit account, payment must be made by wire transfer in advance of aircraft arrival and on production of a proforma invoice or by cash or credit card at the time of aircraft departure.

4.2 Time for payment of sums due to DAEL shall be of the essence. Invoices are due for payment, without any deduction or deferment on account of any dispute, set-off claim or counterclaim. Without prejudice to DAEL’s other remedies, if the Customer fails to make payment in accordance with the terms of this clause 4, DAEL reserves the right to suspend the provision of any services for the duration of such failure to pay and/or add interest to the outstanding balance at the higher of the rate set by law and the rate of 4% per annum above the minimum lending rate of HSBC from time to time in force, accruing daily. If payment is not made by the due date, all monies owing (whether due or not) by the Customer become immediately due.

4.3 Payment shall be made in the relevant currency as set out in the invoice from DAEL.

Standard Terms of Business

4.4 In the event of the Customer becoming insolvent, or entering into administration, receivership, liquidation, bankruptcy, creditors voluntary arrangement or any other arrangement with its creditors which gives DAEL reasonable grounds to doubt the ability of the Customer to pay any money owed to DAEL, all amounts then outstanding and owed by the Customer to DAEL shall become immediately due and payable.

5. Warranty & Liability

5.1 All goods and services are sold without any warranty whatsoever, save as specified in this clause 5.

5.2 Where the services or goods to be provided include any handling or servicing of any aircraft DAEL warrants as follows:

5.2.1 that it will perform the services with reasonable care and skill in accordance with all applicable laws, airworthiness regulations, overhaul manuals, manufacturers' technical instructions, mandatory service bulletins, plus any non-mandatory service bulletins and/or requirements of the Authority;

5.2.2 that the goods will conform to the contract specification;

5.2.3 that it is fully certified and holds the appropriate airworthiness approval;

5.2.4 that it will use reasonable efforts to pass on to the Customer the benefit of any assignable third-party warranties in respect of the services; and

5.2.5 that all materials and spare parts including but not limited to Rotable and repairable components used in relation to the services will be obtained from sources approved by and acceptable to the Authority, and further, that all such parts shall be accompanied by appropriate documentation and/or tags as required by the Authority.

5.2.6 Unless otherwise agreed in writing if the Customer establishes to DAEL's reasonable satisfaction within one month or 30 flying hours (or as otherwise agreed in writing between the Customer and DAEL), whichever is the sooner, following delivery (the "Warranty Period") that, fair wear and tear excepted, DAEL has failed to comply with clause 5.2 above in relation to the goods or services, DAEL shall credit to the Customer the price paid for the goods or services in question; or at its option, repair or replace the goods; or reduce the contract price payable in respect of the goods found not to conform with the contract specification; or perform additional services free of charge.

Claims by the Customer under the Warranty will be subject to receipt by DAEL (at the Customer's cost) of a full report of claimed defects accompanied by any technical records (made up to date with all operating or flying times) and, if the claim involves goods, details of any work carried out on and storage of the goods after delivery, together with delivery to DAEL of the goods.

5.3 DAEL does not warrant that the goods are fit for any particular purpose of the Customer.

5.3.1 Save as provided for in this clause 5 DAEL shall have no liability for any defect in the quality of the goods or their failure to correspond to any description or to be fit for any purpose and all other conditions, warranties, stipulations, and undertakings, whether express or implied by statute or common law are excluded.

5.4 The Warranty shall not apply in respect of

5.4.1 any prior work, maintenance, refurbishment or rectification carried out by any party other than DAEL; or

5.4.2 any aircraft or defective item which has been maintained or operated otherwise than in accordance with approved documentation or the manufacturers' instructions or which has been subject to any accident, abuse or mis-application or use in development or experimental running or subject to interference prior to receipt by DAEL.

5.5 DAEL shall obtain and maintain, at its sole cost and expense, during the term of this Agreement, Aviation General Liability Insurance (including Products and Completed Operations Liability coverage) with a limit of no less than USD 20,000,000 for each occurrence and any other insurance that DAEL is required to maintain by law. Customer confirms that both himself and carriers are aware and agree that all liability of DAEL in connection with this agreement will be limited according to Article 8 of IATA Standard Handling Agreement (IATA SGHA). To the fullest extent permitted by applicable law, any liability by DAEL shall be precluded unless losses, damages or expenses result directly from the negligence or misconduct of DAEL. To the fullest extent permitted under applicable law, DAEL's liability is limited to direct damages and DAEL shall not be liable for any indirect, special or consequential loss or damage.

5.6 DAEL shall have no liability for services performed other than by DAEL nor any equipment, component, material or spare parts provided by DAEL in the performance of the services but obtained from a third party save that:

5.6.1 DAEL shall endeavour to obtain from the supplier of such equipment, component, material or spare parts the best warranty terms reasonably available and where possible to make the benefit of any such warranty available to the Customer; and

5.6.2 if DAEL agrees in writing that the remedy of the defect may be carried out by the Customer or by an alternative maintenance organisation, DAEL's obligation shall be limited to the reimbursement of the direct labour and consumable material costs incurred in performing the work or to DAEL's reasonable estimate of such costs whichever is the lower.

5.7 The obligations and liability of DAEL under the Warranty shall be in lieu of and shall expressly exclude any other liability to the Customer or to any other person for indirect, incidental or consequential loss or damage (including without limitation, delay, detention, loss of revenue, loss of profit or anticipated profits, loss of contracts or loss of hire charges) regardless of whether any claim for such damages shall be based upon or in negligence or any other sort, in contract, statutes or otherwise at law and any other such claim is expressly excluded and/or waived by the Customer.

Standard Terms of Business

5.8 Nothing in these Conditions shall exclude or restrict any legal liability of DAEL for death or personal injury resulting from the negligence of DAEL or restricts any of DAEL's legal obligations arising under Section 12 of the Sale of Goods Act 1979 or under the Consumer Protection Act 1987 or in respect of fraud. Additionally, where DAEL is dealing with a consumer his or her statutory rights, including but not limited to the Consumer Rights Act 2015, are not affected except to the extent permitted by law.

5.9 DAEL will not be held responsible for closures of Southend Airport and it's property reducing ability to fully hangar the aircraft.

6. Delivery

6.1 Any quoted delivery or completion date is DAEL's best estimate and not a contractual commitment. DAEL fulfils its obligation to deliver when it makes the goods available to the Customer or the Customer's agent for collection at DAEL's premises. At the request of the Customer and at the Customer's expense, DAEL will arrange for the carriage of goods to a location other than DAEL's premises and/or apply for any permits or approvals specified by the Customer, but DAEL shall have no liability for any loss or damage to the goods while in transit nor for any act or omission (negligent or otherwise) of any third party in connection with such carriage. Where DAEL performs the transportation, it will, at its option, credit the cost of the relevant goods and/or services or repair or replace the goods if there is any loss or damage during transportation resulting solely from DAEL's negligence.

6.2 Risk in the goods shall pass to the Customer upon delivery at DAEL's premises or, if applicable, on despatch of the goods to the Customer

6.3 If the Customer fails to take delivery of any goods within 7 days of DAEL giving written notice that they are ready for collection, DAEL shall be entitled, at its sole discretion, to store such goods at the Customer's expense and/or to resell all or any part of such goods without prejudice to any other right or remedy of DAEL.

6.4 Where delivery of goods to the Customer is to be by instalment, each instalment shall constitute a separate contract. Any defect or failure in delivery of one or more instalments shall not entitle the Customer to cancel any other instalment.

7. Passing of Property

7.1 Title to the Goods supplied (whether on their own or with or as part of performance of Services and whether separate and identifiable or incorporated in or mixed with other goods) by DAEL to the Customer shall remain with DAEL until full payment has been received by DAEL whereupon the Customer shall take the Goods with full title guarantee and if possession of any Goods has been given to the Customer before title has passed, the Customer shall hold such Goods as bailee and shall store them in such a way as to enable them to be identifiable as property of DAEL and not encumber them in any way until full payment has been made.

7.2 While acting as bailee of any Goods, the Customer shall on demand immediately notify DAEL of the whereabouts of the Goods and give DAEL, its employees and agents free access to them.

7.3 If DAEL gives the Customer written notice that DAEL has reasonable grounds for believing that any of the events set out in Clause 8 below has occurred or is about to occur, or that the Customer is in breach of any of the terms of an agreement incorporating these Conditions or if DAEL considers with reasonable cause that the Goods may be in jeopardy, the Customer's authority to possess the Goods of which it is bailee shall automatically end and all such Goods and any other property of DAEL shall be immediately re-delivered to DAEL or surrendered to DAEL.

7.4 As bailor of the Goods, DAEL, either acting itself or through any agent, shall be entitled to enter upon or into any land, buildings, vehicle or aircraft where the Goods or part of them are situated or reasonably thought to be situated and may re-take possession of them at any time. If the Goods have been fitted to or fixed to an engine, aircraft or equipment of the Customer, DAEL shall have the right to take possession of such engine, aircraft or equipment until the goods have been detached. To the extent permitted in law, DAEL's title in the Goods shall not be affected by any stipulation in any other agreement entered into by the Customer with any third party, relating to the Equipment, that the Goods become part of an engine, an aircraft or equipment.

7.5 In the case of parts or components removed or replaced by DAEL in the performance of Services, such parts or components shall become the property of DAEL to the extent that they are replaced by DAEL.

7.6 In the case that aircraft under maintenance or hangarage at DAEL's property and the customer meets any conditions in Clause 8 of this agreement, the customer allows DAEL exclusive rights to sell the aircraft to recover funds owed.

8. Financial Condition of the Customer

8.1 If the events in (a) to (h) listed below occur, all sums outstanding to DAEL shall become immediately due and payable and DAEL may elect to proceed with the performance of contracts subsisting with the Customer or to treat such contracts as discharged. In the case of the latter, the Customer shall remain liable to indemnify DAEL against all costs incurred by DAEL in connection with such contracts until their discharge.

(a) The Customer breaches any of its obligations to DAEL; or,

(b) the Customer wrongfully stops payment of any debt or suspends, or threatens to suspend, payment of its debts, or is (or is deemed to be) unable to pay its debts as they fall due or admits inability to pay its debts (within the meaning of Section 123 of the Insolvency Act 1986 or any other applicable statutory provision); or,

(c) a receiver, liquidator, trustee, encumbrancer of similar officer is appointed over the whole or any substantial part of the Customer's undertaking, property or assets or if a petition is presented for the appointment of an administrator of the Customer; or,

(d) the security of any of the Customer's secured obligations is enforced or any distress, execution, sequestration or other process is levied or enforced on or taken out against the Customer; or,

(e) the Customer enters into or offers to enter into any arrangements or composition for the benefit of its creditors; or,

(f) the Customer being an individual dies, is declared bankrupt or becomes of unsound mind or a patient for the purposes of any statute referring to mental health; or,

Standard Terms of Business

(g) provisions equivalent to (c), (d), (e) or (f) in any other system of law apply to the Customer.

(h) A minimum of £750.00 parking fees or foreign currency equivalent shall be charged per day until the customer pays all outstanding payments.

8.2 If a contract for services or goods is terminated under clause 12.1, the Customer shall pay DAEL in proportion to the quantity of good and services (and other ordered work) completed at the time of termination together with the cost of all reassembly and packing work necessary to put the Customer's goods (and other property) in a condition suitable for delivery to the Customer. In each instance DAEL may retain the Customer's goods pending payment of all of the Customer's invoices in full.

9. Indemnity & Insurance

9.1 Any property placed by the Customer in DAEL's possession for any purpose whatsoever (whether the same are the property of the Customer or not) shall be entirely at the Customer's risk and DAEL accepts no responsibility in respect thereof nor for any loss of damage in respect thereto unless caused by (i) any intentional or conscious action or decision or inaction with reckless disregard for the consequences of such action or decision or inaction or (ii) wilful misconduct of DAEL or its employees or agents providing they were acting within the scope of their employment.

9.2 The Customer authorises DAEL to disassemble any property supplied to DAEL by the Customer for the purposes of providing a quote for the supply of goods or services.

9.3 The Customer shall maintain, and on demand, provide evidence acceptable to DAEL, that it has in full force and effect insurance in amounts and on terms acceptable to DAEL in respect of the Aircraft and any other items of property or equipment which may from time to time be subject to services provided by DAEL. Such insurance must include:

(i) aviation third party and passenger legal liability; and

(ii) all risks (including war risks) in respect of loss or damage to the hull whilst flying or on the ground, and DAEL, its agents, sub-contractors and its and their respective employees, officers and directors shall not be liable to the Customer to the extent of any loss recovered by the Customer under such insurance, and the Customer agrees to waive any rights of subrogation against DAEL to the extent of any sum recovered by the Customer pursuant to such insurance.

9.4 DAEL shall maintain hangar keepers' and third-party liability insurances in respect of DAEL's potential liabilities to its Customers or any third party arising out of the performance of its obligations under these Conditions.

10. Lien

10.1 All Aircraft, Aircraft engines, Parts and Materials which come into the possession of or under the control of DAEL shall be subject to a special and general lien and pledge for all monies due by the Customer to DAEL in respect of work in progress; Services being rendered; Parts and Materials supplied or fitted; and for every other indebtedness of any nature whatsoever and howsoever arising owed by the Customer at any time.

10.2 The provisions of clause 10.1 hereof shall be in addition to and without prejudice to any other rights which DAEL may have.

10.3 The Parties agree that any lien arising by virtue of this clause 10, or otherwise, may constitute a "non-consensual interest" within the meaning of Chapter X (10) of the Convention on International Interests in Mobile Equipment and the applicable Protocol thereto.

10.4 In the event DAEL exercises a right to retain possession of the Aircraft or any part thereof pursuant to any lien or pledge DAEL shall not be liable to the Customer for any claims, losses or liabilities incurred by the Customer which may arise in connection with the exercise of such right by DAEL.

11. Time for Performance

11.1 DAEL will use all reasonable endeavours to perform the services to any schedule agreed in writing or, if none is stated, within a reasonable period of time. However, DAEL shall not be liable for any failure or delay in the performance of the services if such failure or delay is caused by circumstances beyond its reasonable control (including, without limitation, any delay caused by any act of God, fire, flood, accident, labour dispute, theft, break-in, lightning, insurrection, war, act of terrorism, riot, power failure, the discovery of hazardous material or cargoes or regulation, application, requirements or request of any civil or military authority of the United Kingdom or otherwise whether or not having the force of law) and time shall not be of the essence

11.2 In the event that by reasons of any of the events referred to in clause 11.1 DAEL is only able to partially complete any order, DAEL shall be entitled to payment in accordance with clause 4 in respect of such of the services which have been performed.

12. Goods

In the event that goods are supplied by DAEL (other than aircraft or equipment parts or components), notwithstanding that a sample of the goods may have been exhibited to and inspected by the Customer, it is hereby agreed that such sample was so exhibited and inspected solely to enable the Customer to judge for himself the quality of the bulk and not so as to constitute a sale by sample. The Customer shall take the goods at his own risk as to their corresponding with the said sample or as to their quality condition or sufficiency for any particular purpose.

13. Property

13.1 The Customer warrants that any designs, data, descriptions, instructions, materials and / or any other information of any kind (whether in oral, written, video, graphic or electronic form) furnished by it to DAEL in relation to the supply of the Goods or Services by DAEL under any Contract shall not cause DAEL to infringe any Intellectual Property Rights of any third party.

13.2 The sale of any Goods does not convey or transfer to the Customer any licence or right to use any of DAEL's Intellectual Property Rights which might form part of such Goods except to the extent that it is actually embodied in the Goods.

14. Sub-Contracting

14.1 DAEL is entitled to delegate any of its obligations to sub-contractors. It is understood that, in this case, the Company shall nevertheless be responsible to the Customer for the proper rendering of such services as if they had been performed by DAEL itself.

14.2 DAEL shall not appoint any other person, company, or organisation to provide the Services which DAEL has agreed to provide, except if mutually agreed between the Parties.

14.3 Unless otherwise agreed in writing, the Customer shall not sub-contract any third party to carry out work on the Aircraft whilst the Aircraft is in the Facility.

14.4 The Customer shall be responsible for any additional costs incurred by the Company in connection with any sub-contracted services including, but not limited to, audit costs and quality evaluation costs applied by the sub-contractor.

14.5 In addition, the Customer shall be responsible for any additional costs incurred by DAEL in the event of the Customer specifically requesting that certain services be sub- contracted to a sub-contractor not featured on DAEL's approved vendors listing.

15. General

15.1 Any notice required to be given in compliance with any of these Conditions shall be in writing and shall be served by sending the same (i) by registered post or (ii) facsimile or email transmissions followed by mailing of such transmissions to the party to whom such notice is being given at its last known address. Notice shall be deemed to be delivered and effective as of the date shown on any certified receipt issued by postal authorities if sent by registered mail or if sent by facsimile or email on the date of transmission provided that confirmation of delivery shall have been received by the sending party.

15.2 A person who is not a party to an agreement incorporating these Conditions shall have no rights under the Contracts (Rights of Third Parties) Act 1999 (The "Act") to enforce any term of such agreement save for the Indemnified Parties. This Condition 16.2 does not affect any right or remedy of any person which exists or is available otherwise than under that Act.

15.3 A waiver of any right or remedy by DAEL under these Conditions or at law is only effective if given in writing by an authorised representative of DAEL and no waiver by DAEL in respect of any breach by the Customer of any of these Conditions shall operate as a waiver in respect of any subsequent breach by the Customer of these Conditions.

15.4 If at any time any of these Conditions (or part thereof) hereof is or becomes illegal or void as a consequence of the operation of any law or regulation then the remaining provisions hereof shall remain in full force and effect.

15.5 The Customer warrants in its dealing with DAEL that it is subject to civil and commercial law with respect to its obligations under these Conditions and the transactions contemplated thereby constitute private and commercial acts done for private and commercial purposes and neither the Customer nor any of its assets is entitled to any immunity on the grounds of sovereignty or otherwise from any legal action or proceedings (which shall include, without limitation, suit, attachment prior to judgment, execution or other enforcement).