

Standard Conditions of Trading

1. INTRODUCTION

1.1 In these conditions (the "Conditions"), Harrods Aviation Limited is referred to as "HA" and "the Customer" means any person, firm or body corporate buying or offering to buy goods and services from HA. Further, "Indemnified Parties" means HA, its agents, sub-contractors and its and their respective employees, officers and directors; the "Authority" means the Civil Aviation Authority of the United Kingdom or such other authority as may be agreed in writing.

1.2 **THE CUSTOMER'S ATTENTION IS DRAWN PARTICULARLY TO CLAUSE 5 WHICH EXCLUDES OR LIMITS HA'S LIABILITY.**

2. GENERAL

2.1 These Conditions shall apply to all contracts for the sale of goods or the supply of services by HA to the Customer and no additions or alterations or terms inconsistent herewith shall have effect unless expressly accepted in writing by an authorised representative of HA. These conditions shall prevail over any terms and/or conditions in the Customer's order or any other document or communication issued by the Customer or implied by trade usage, custom, practice or course of dealing except where specifically agreed in writing by an authorised representative of HA. Any purported provision to the contrary is hereby excluded or extinguished.

2.2 Subject to clause 2.3, no variation of these Conditions shall be binding unless agreed in writing between authorised representatives of HA and the Customer.

2.3 HA 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 HA's price lists, estimates and quotations do not constitute offers made by HA and, in any event, HA may at its absolute discretion refuse to accept any order. Each separate order shall constitute a separate contract between HA and the Customer.

3.2 Quotations given by HA shall be valid for 30 days only. HA reserves the right to withdraw or revise the same without notice to the Customer.

3.3 Where prices have been quoted to the Customer, HA shall have the right on reasonable notice to vary the prices quoted to reflect any increase in cost to HA 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 HA adequate information, instructions, special tools or materials expressly required.

3.4 All prices are exclusive of any applicable value added tax and other taxes, duties, fees and impositions, which the Customer shall be additionally liable to pay to HA.

3.5 If during the provision of services it becomes apparent that additional work not initially agreed to be provided by HA is necessary, HA 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 require the additional work to be undertaken, HA may invoice in respect of the services completed and reassemble and package any of the Customer's property in HA's possession for delivery to the Customer.

4. TERMS OF PAYMENT

4.1 Payment shall be made by cheque, 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 HA. 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 HA 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 HA's other remedies, if the Customer fails to make payment in accordance with the terms of this Clause 3, HA 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 2% per annum above the minimum lending rate of HSBC Plc 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 to HA at the address on the face of the invoice.

4.4 In the event of the Customer becoming insolvent, or entering into receivership, liquidation or an arrangement with its creditors, all amounts outstanding will become immediately due.

4.5 HA may, if it considers it reasonably prudent to do so, by written notice to the Customer, revoke any credit granted to the Customer and require payment on account and/or payment in advance, and all such payments shall be payable on demand.

5. WARRANTY AND 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 HA 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 rotatable 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.

5.3 Unless otherwise agreed in writing if the Customer establishes to HA's reasonable satisfaction within one month or 30 flying hours, whichever is the sooner, following delivery (the "Warranty Period") that, fair wear and tear excepted, HA has failed to comply with Clause 5.2 above in relation to the goods or services, HA 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 (the "Warranty"). Where betterment results from HA's remedial action, HA will be permitted to invoice the Customer in respect of the value of such betterment at HA's standard charges.

5.4 Claims by the Customer under the Warranty will be subject to receipt by HA (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 HA of the goods to be remedied within 7 days of discovery of a claimed defect.

5.5 The Customer shall in any case accept and pay at the contract rate for all goods which conform to the contract specification.

5.6 HA shall not be liable for any economic loss suffered by the Customer as a result of the failure of any goods or services to conform to the contract specification or failure to take reasonable care and skill in the performance of the services in accordance with Clause 5.2.1.

5.7 HA does not warrant that the goods are fit for any particular purpose of the Customer.

5.8 Save as provided for in this Clause 5 HA 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. Additionally, the General Product Safety Regulations 1994 shall not apply to any goods supplied for repair or reconditioning before use.

5.9 The Warranty shall not apply in respect of

5.9.1 any prior work, maintenance, refurbishment or rectification carried out by any party other than HA; or

5.9.2 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 HA.

5.10 In carrying out any of its obligations, HA shall not be liable to the Customer for any damage caused to any aircraft by HA or the Indemnified Parties unless such damage is caused by the wilful default of HA or the Indemnified Parties.

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

5.11.1 HA 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

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

5.12 The provisions of this Clause 5 and of Clause 8.1 are in lieu of all other rights of the Customer against HA in relation to the services which HA performs without any representation concerning them and all such representations, terms, conditions and warranties, whether relating to the capacity, age, quality, description, state, conditions, operation or use, fitness for purposes, quality suitability, standard of workmanship, or as to the affect of the passage of time from 20th Century AD to 21st Century AD or the occurrence of the Year 2000AD on the serviceability, performance, capacity, state, condition of use of any items of equipment component, material or spare parts provided by HA in the performance of the services but obtained from third parties or otherwise are hereby excluded and/or waived by the Customer and save as provided herein, HA shall not be liable in negligence of any other tort, in contract, statute or otherwise at law to the Customer at any time for any loss or damage to the Aircraft, or any items or accessories thereon, or to any property of the Customer arising out of the performance or non-performance of the services and the subsequent use of the Aircraft thereafter. The obligations and liability of HA under the Warranty shall be in lieu of and shall expressly exclude any other liability to the Customer or to any other person for direct or, 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.

5.13 For the avoidance of doubt, in the event that HA should undertake a repair for the Customer which is not covered by Clause 5.3 hereof but which the Customer feels should be covered by a warranty, the Customer shall be required on completion of the repair work to pay in full for all parts supplied and work undertaken by HA pending outcome of the claim from the manufacturer and/or HA.

5.14 Nothing in these Conditions shall exclude or restrict any legal liability of HA for death or personal injury resulting from the negligence of HA or restricts any of HA'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 HA is dealing with a consumer his or her statutory rights are not affected by these Conditions.

6. DELIVERY

6.1 Any quoted delivery or completion date is HA's best estimate and not a contractual commitment. HA fulfils its obligation to deliver when it makes the goods available to the Customer or the Customer's agent for collection at HA's premises. At the request of the Customer and at the Customer's expense, HA will arrange for the carriage of goods to a location other than HA's premises and/or apply for any permits or approvals specified by the Customer, but HA 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 HA 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 HA's negligence.

6.2 Risk in the goods shall pass to the Customer upon delivery at HA'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 HA giving written notice that they are ready for collection, HA 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 HA.

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 HA to the Customer shall remain with HA until full payment has been received by HA 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 HA 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 HA of the whereabouts of the goods and give HA, its employees and agents free access to them.

7.3 If HA gives the Customer written notice that HA has reasonable grounds for believing that any of the events set out in Clause 13 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 HA 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 HA shall be immediately re-delivered to HA or surrendered to HA.
- 7.4 As bailor of the goods, HA, 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, HA 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, HA's title in the goods shall not be affected by any stipulation or rule of law 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 HA in the performance of services, such parts or components shall become the property of HA to the extent that they are replaced by HA.
- 8. INDEMNITY AND INSURANCE**
- 8.1 Any property placed by the Customer in HA'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 HA accepts no responsibility in respect thereof nor for any loss of damage in respect thereto unless caused by the gross negligence or wilful misconduct of HA or its employees or agents providing they were acting within the scope of their employment.
- 8.2 The Customer authorises HA to disassemble any property supplied to HA by the Customer for the purposes of providing a quote for the supply of goods or services.
- 8.3 HA shall indemnify and keep indemnified the Customer from and against all actions, claims, demands, proceedings, costs, losses and expenses whatsoever (including reasonable legal fees) in respect of any loss of or damage to any property or the death of or personal injury to any officer, employee, agent or invitee of the Customer to the extent that such loss, damage, death or personal injury is caused by the gross negligence or wilful misconduct of HA, its employees, officers, agents or sub-contractors arising out of or in respect of any of the services.
- 8.4 The Customer shall indemnify and keep the Indemnified Parties indemnified from and against all actions, claims, demands, proceedings, costs, losses, damages and expenses whatsoever (including legal fees) in respect of death or personal injury to, or loss or damage to any property belonging to any person or persons, except to the extent that such loss, damage, death or personal injury is caused by the gross negligence or wilful misconduct of HA, and where a loss falls to be borne as a risk insured by the Customer, the Customer, shall arrange for its insurers to waive any rights or recourse against HA only to the extent of this indemnity.
- 8.5 The Customer shall, on demand, provide evidence acceptable to HA that it has in full force and effect insurance in amounts and on terms acceptable to HA 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 HA. Such insurance must include:
- aviation third party and passenger legal liability; and
 - all risks (including war risks) in respect of loss or damage to the hull whilst flying or on the ground.
- 8.6 HA shall maintain hangar keepers' and third party liability insurances in respect of HA's potential liabilities to its Customers or any third party arising out of the performance of its obligations under this Agreement. HA, 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 HA to the extent of any sum recovered by the Customer pursuant to such insurance.
- 9. LIEN**
- 9.1 HA shall have a lien over any aircraft, the aircraft documents and over all other property left by the Customer with HA for all amounts and liabilities whatsoever from time to time due or to become due to HA under this Agreement or under any other agreement with the Customer whether under an order or otherwise howsoever to the effect that such lien shall arise in respect of any work the subject of a separate payment forming part of the prices for goods or services payable by the Customer and irrespective of whether or not any work on the goods or services has been completed by or on behalf of HA and irrespective of whether or not prices under any order have been invoiced. Until provided otherwise, HA shall be entitled to assume that any property delivered to HA by the Customer is the property of the Customer and the Customer will indemnify HA against all losses, damages, cost and expenses of whatsoever nature arising by or as a consequence of such not being the case.
- 9.2 HA shall be entitled to payment of all costs and expenses incurred by it in exercising any lien including but without limitation storage charges.
- 9.3 If for any reason the Customer fails to pay any sum owing to HA on the due date for payment then HA shall, if such amount or amounts are still unpaid at the expiry date of 30 days notice to the Customer, be entitled without further notice to sell all or any of the Customer's property in its possession and to apply the proceeds of sale in or towards satisfaction of all sums of money together with all costs and expenses including storage, legal and professional costs and fees incurred in effecting the sale. Any such sale or re-sale by HA may be upon such conditions and at such prices as HA shall consider reasonable and the Customer shall pay to HA on demand any shortfall between the amount realised by such sales and amounts due to HA as aforesaid. HA shall account to the Customer for any excess immediately upon settlement of the amounts due.
- 10. TIME FOR PERFORMANCE**
- 10.1 HA 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, HA 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 in respect of this Agreement (except pursuant to Clause 4.2).
- 10.2 In the event that by reasons of any of the events referred to in Clause 10.1 HA is only able to partially complete any order, HA shall be entitled to payment in accordance with Clause 4 in respect of such of the services which have been performed, on a *quantum meruit* basis.
- 11. GOODS**
- In the event that goods are supplied by HA (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.
- 12. CANCELLATION**
- The Customer may not cancel any order without the written consent of an authorised representative of HA, which, if given, unless otherwise agreed in writing, shall be deemed to be on the express condition that the Customer shall indemnify HA against all expenses, losses, damage, claims or actions arising out of such cancellation.
- 13. FINANCIAL CONDITION OF THE CUSTOMER**
- 13.1 If the events in (a) to (g) listed below occur, all sums outstanding to HA shall become immediately due and payable and HA 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 HA against all costs incurred by HA in connection with such contracts until their discharge.
- The Customer breaches any of its obligations to HA; or,
 - the Customer wrongfully stops payment of any debt or is deemed to be unable to pay its debts (within the meaning of Section 123 of the Insolvency Act 1986); or,
 - 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,
 - 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,
 - the Customer enters into or offers to enter into any arrangements or composition for the benefit of its creditors; or,
 - 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,
 - provisions equivalent to (c), (d), (e) or (f) in any other system of law apply to the Customer.
- 13.2 If a contract for services or goods is terminated under Clause 13.1, the Customer shall pay HA 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 HA may retain the Customer's goods pending payment of all of the Customer's invoices in full.
- 14. PROPERTY**
- 14.1 The Customer warrants that any design or instructions furnished by it shall not cause HA to infringe any letters patent or other intellectual property right.
- 14.2 The sale of any goods does not convey to the Customer any licence or right to use any of HA's intellectual property which might form part of such goods except to the extent that it is actually embodied in the goods.
- 15. SUB-CONTRACTING**
- HA shall be entitled to sub-contract or assign all or any of its obligations hereunder without prior notice to or consent of the Customer.
- 16. GENERAL**
- 16.1 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 transmissions followed by mailing of such transmissions to the party to whom such notice is being given at its last known address and any receipt issued by the postal authorities shall be conclusive evidence of the fact and date of posting of any such notice. 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 on the date of transmission provided that confirmation of delivery shall have been received by the sending party.
- 16.2 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. This Condition 16.2 does not affect any right or remedy of any person which exists or is available otherwise than under that Act.
- 16.3 No waiver by HA 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.
- 16.4 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.
- 16.5 The Customer warrants in its dealing with HA 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).
- 16.5 This Agreement shall be governed by the laws of England and the Customer hereby submits to the jurisdiction of the English Courts save that HA shall retain the right to bring proceedings against the Customer in any other court which has jurisdiction.