

1. Interpretation

For the purposes of these Terms and Conditions of Sale and Supply :

“Buyer” means the person, firm or company which places an order for purchase of Products and/or Services as identified in any such order or Proposal as the case may be.

“Conditions” means these terms and conditions of sale and supply as from time to time varied by the Supplier.

“Contract” means the agreement between the Supplier and the Buyer with respect to the Purchase of Products or Services evidenced by the Suppliers acceptance of a Purchase Order or Proposal raised by Buyer for such Products or Services. Each such agreement is subject to the Terms and Conditions unless specifically agreed otherwise in writing between the Supplier and Buyer.

“Products” means goods supplied or agreed to be supplied by the Supplier to the Buyer under a Contract.

“Proposal” means a proposal document signed by the Supplier and the Buyer describing Services to be provided to or for the Buyer, subject to these Terms and Conditions.

“Purchase Order” means an order for Products provided by Buyer to Supplier in accordance with these Terms and Conditions.

“Services” means any services which the Supplier has agreed to provide to or for the Buyer under any Contract, as more fully described in the relevant Proposal.

“Supplier” means DEA Aviation Limited whose registered office is at Retford (Gamston) Airport, Retford, Nottinghamshire, DN22 0NL, United Kingdom, or any of its affiliates as named in any quotation or Proposal.

2. Basis of Sale:

THESE TERMS AND CONDITIONS SHALL TAKE PRECEDENCE OVER ANY AMENDED OR ALTERNATIVE TERMS AND CONDITIONS WHICH APPEAR IN THE BUYER’S PURCHASE ORDER OR IN ANY DOCUMENTS INCORPORATED BY REFERENCE IN THE BUYER’S PURCHASE ORDER.

No term or condition of the Buyer’s order additional to or different from these Terms and Conditions shall become part of any Contract unless explicitly agreed to in writing by the Supplier. Retention by the Buyer of any Products delivered by the Supplier, receipt by the Buyer of any Services performed by the Supplier or payment by the Buyer of any invoice rendered hereunder, shall be conclusively deemed acceptance of these Terms and Conditions. The Supplier’s failure to object to any provision contained in any communication from the Buyer shall not be construed as a waiver of these Terms and Conditions nor as an acceptance of any such provision.

3. Quotations:

Prices, specifications and delivery dates for Products and Services referenced in the Supplier’s quotations and other documentation are for information only and shall not be binding until referenced in a Buyer’s Purchase Order and such Purchase Order has been accepted by the Supplier.. Quotations terminate if the Buyer does not place a Purchase Order with the Supplier within 30 days.

4. Purchase Orders:

By submitting a Purchase Order to the Supplier, the Buyer agrees to be subject to these Terms and Conditions in their entirety. All orders must be bona fide commitments showing definite prices and quantities and mutually agreed delivery dates.

5. Prices and Taxes:

The prices for Products and Services shall be the price quoted by the Supplier to the Buyer in a quotation or Proposal as applicable or, in either case, as otherwise agreed between the parties in writing. Prices do not include taxes, transport charges, insurance and export and/or import charges or duties including without limitation sales, value added tax, use or excise taxes, applicable to the Products sold and or Services supplied under any Contract. The Supplier may at its discretion add a provision to the price to cover such taxes or other charges and such provisions will be paid by the Buyer unless the Buyer provides an appropriate proof of tax exemption or otherwise agreed in writing. Unless otherwise agreed in writing, the Buyer shall be liable to pay the Supplier's charges for transport, packaging, insurance and export and/or import clearance.

6. Shipment and Delivery:

6.1 The Supplier shall deliver or arrange for delivery of Products ExWorks (EXW Incoterms 2020) Supplier's premises at Gamston Airport or other delivery point agreed between the parties. Unless otherwise agreed in writing the dates for delivery of Products referenced in a Purchase Order are approximate only and time for delivery is not of the essence.

6.2 The Supplier reserves the right to make delivery of Products by instalments and to tender a separate invoice in respect of each instalment. When delivery is to be by instalments or the Supplier exercises its right to deliver by instalments or if there is delay in the delivery of any one or more instalments for whatever reason the Buyer shall not be entitled to treat the Contract as a whole as repudiated.

7. Risk and Passing of Title:

Title to, and risk of loss and damage to, the Products shall pass to the Buyer on delivery in accordance with Section 6. Any claims for loss, damage or misdelivery shall be filed with the carrier and notified to Supplier within 5 days of the date of delivery.

8. Services:

8.1 The Supplier shall provide Services in accordance with these Terms and Conditions and the relevant Proposal.

8.2 The Buyer shall, upon the Supplier's reasonable request and otherwise as required, provide the Supplier with all necessary information and materials to enable the Supplier to provide Services in accordance with the relevant Contract. The Buyer will be responsible for the completeness and accuracy of all such information and materials provided, and will ensure that it is and remains entitled to provide the same to the Supplier for use in connection with provision of the Services.

9. Terms of Payment:

9.1 Each delivery of Products shall be a separate transaction and the Buyer will be invoiced on delivery. The Supplier shall be entitled to invoice the Buyer, in respect of Services, monthly in advance. Terms of payment shall be net thirty (30) days from date of invoice.

9.2 All amounts due under a Contract shall be paid in full by the Buyer without deduction, withholding, set-off or counterclaim for any reason whatsoever, whether arising in contract, tort (including negligence), breach of statutory duty or otherwise, save as may be required by law.

9.3 The Supplier may, in its sole discretion, determine at any time that the Buyer's financial condition requires full or partial payment in advance or the provision of security for payment by the Buyer in a form satisfactory to the Supplier.

9.4 If the Buyer fails to make any payment when due then, without prejudice to any other rights and remedies available to the Supplier, the Supplier shall (at its option) be entitled: (i) to treat the Contract as repudiated by the Buyer, to suspend or cancel further delivery of Products and/or the provision of Services or any part thereof under that Contract or any other Contract between them and claim damages and/or receive reasonable cancellation fees; (ii) to affirm the Contract and claim damages from the Buyer; and (iii) to recover, in addition to the payment, interest on the unpaid amount (both before and after judgement) at the rate of 8% per annum above Barclays Bank's prevailing base lending rate from time to time, until payment in full is made. Such interest shall be calculated daily.

10. Products:

10.1 The Supplier may modify the specification of the Product provided the modifications do not adversely affect the performance of the Products. In addition, the Supplier may furnish suitable substitutes for materials unobtainable because of priorities or regulations established by government authority, or non-availability of materials from its suppliers.

10.2 All descriptions, illustrations and any other information relating to the Products contained in the Supplier's catalogues, brochures, price lists, advertising material and any sales or other particulars or literature are made by way of general description, are approximate only and for the general guidance and information of the Buyer. They shall not constitute warranties or representations by the Supplier nor shall they form part of any Contract.

11. Warranties:

11.1 The Supplier will to the extent available and permissible transfer or assign to the Buyer the benefit of any warranty remaining valid as provided by the original manufacturer or supplier of the Product. The transfer or assignment of such warranty benefit will be limited to the extent permissible and to the warranty period remaining on the Product and the applicable limitations relating to that warranty.

The Supplier will upon, request of Buyer, provide details of the extent of any such warranty. Supplier will provide reasonable assistance to Buyer to make a claim on a warranty as described above in the event of a defect arising in the Product.

11.2 The Supplier warrants that it shall perform the Services substantially in accordance with the Proposal and with reasonable skill and care.

11.3 Services which do not conform with the warranty under Section 11.2 and which are notified to the Supplier within 10 days of the Buyer becoming aware of the same, and in any event no later than 2 months after the date on which the Services were performed, shall, if the Supplier agrees they were non-conforming, be re-performed as soon as reasonably practicable after the Supplier's receipt of notice of the non-conforming Services. If the Supplier fails to rectify any deficient performance of the Services, the Buyer's sole remedy shall be reimbursement of that portion of the fees attributable to the Services concerned.

11.4 If the Buyer fails to pay when due any portion of any payment due from the Buyer to the Supplier under a Contract or otherwise, all warranties and remedies granted under this Section may, at the Supplier's option, be terminated.

11.5 The foregoing warranties are exclusive and in lieu of all other warranties, terms and conditions, express or implied by statute, common law or otherwise, to the extent permitted by law, including without limitation warranties of quality or fitness for a particular purpose. The Supplier's sole and exclusive liability, and the Buyer's sole and exclusive remedy, for breach of the warranties in this Section 11 shall be as set forth in Section 11.1 and 11.3 hereof.

12. Liability:

12.1 Nothing in these Terms and Conditions excludes or limits either party's liability for (i) death or personal injury caused by that party's negligence, (ii) fraud or fraudulent misrepresentation; or (iii) any other liability that cannot be restricted by law.

12.2 Subject to Section 12.1, the Supplier shall be under no liability to the Buyer for any loss of profit, loss of income, loss of use, loss of business, loss of revenue, loss of goodwill, or for any indirect or consequential loss or damage of any kind, in each case howsoever arising, whether such loss or damage was foreseeable or in the contemplation of the parties and whether arising in tort (including negligence), contract or otherwise.

12.3 Subject to Section 12.1 and 12.2, in relation to Products, the Supplier's maximum aggregate liability under or in connection with the supply, non-supply or purported supply of Products under any Contract, whether arising in contract, tort (including negligence) or otherwise, shall in no event exceed 10 % of the total amount payable by the Buyer in respect of Products under that Contract.

12.4 Subject to Section 12.1 and 12.2, in relation to Services, the Supplier's maximum aggregate liability under or in connection with the supply, non-supply or purported supply of Services under any Contract, whether arising in contract, tort (including negligence) or otherwise, shall in no event exceed 10% of the total amount actually received by the Buyer from the Customer in respect of Services under that Contract and, in respect of Services continuing beyond one year, shall in no event exceed in any year 10% of the total amount actually received by the Buyer from the Customer in respect of Services in that year.

12.5 Any claim arising out of or in connection with a Contract must be commenced against the Supplier within three years of (i) delivery of the Products, or (ii) provision of the Services (as applicable), giving rise to the claim, and Supplier shall have no liability to the Buyer under or in connection with any claim commenced after such time.

13. Intellectual Property Rights:

13.1 Notwithstanding delivery of and the passing of title in any Products and subject to Section 13.3, nothing in these Terms and Conditions or any Contract shall have the effect of granting or transferring to, or vesting in, the Buyer any intellectual property rights in or to any Products and/or Services.

13.2 Buyer acknowledges and agrees that all property, copyright and other intellectual property rights in any work or tangible deliverable item arising from or created, produced or developed by the Supplier under or in the course of provision of any Services (the "Works"), wherever in the world enforceable, including without limitations all right title and interest in and to the Services and all documents, data, drawings, specifications, articles, sketches, drawings, reports, inventions, improvements, modifications, discoveries, tools, scripts and other items relating thereto shall immediately upon creation or performance vest in and shall be and remain the sole and exclusive property of the Supplier and the Buyer shall acquire no right, title or interest in or to the same except as expressly stated in these Terms and Conditions.

13.3 The Supplier grants to the Buyer a non-exclusive, non-transferable licence to use such of the Works as are necessary, and to the extent necessary, for the Buyer to obtain and utilise the intended benefit of the Services.

13.4 If any claim is made against the Buyer that the Products or Services infringe the patent, copyright or other rights subsisting in the UK of any third party, the Supplier shall indemnify the Buyer against all losses, damages, costs and expenses awarded against, or incurred by, the Buyer in connection with the claim or paid, or agreed to be paid, by the Buyer in settlement of the claim provided that: (i) the Supplier is given full control of any proceedings or negotiations in connection with any such claim; (ii) the Buyer shall give the Supplier all reasonable assistance for the purposes of any such proceedings or negotiations; (iii) except pursuant to a final award, the Buyer shall not pay or accept any such claim, or compromise any such proceedings without the consent of the Supplier; (iv) the Buyer shall do nothing which would or might vitiate any insurance policy or cover which the Buyer may have in relation to such infringement and shall use its best endeavours to recover any sums due thereunder and this indemnity shall not apply to the extent that the Buyer recovers any sums under any such policy or cover; (v) the Supplier shall be entitled to the benefit of, and the Buyer shall accordingly account to the Supplier for, all damages and costs (if any) awarded in favour of the Buyer which are payable by, or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim; and (vi) without prejudice to any duty of the Buyer at common law, the Supplier shall be entitled to require the Buyer to take such steps as the Supplier may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which the Supplier is liable to indemnify the Buyer under this Section 13.4, which steps may include (at the Supplier's option) accepting from the Supplier non-infringing, modified or replacement Products or Services.

13.5 The Supplier shall have no obligation or liability under Section 13.4 insofar as the infringement arises from: (i) any additions or modifications made to the Products and/or Services in question, otherwise than by the Supplier or with its prior written consent; (ii) any information provided by the Buyer to the Supplier including without limitation any specification; (iii) performance by the Supplier of any work required to any Products, or performance of any Services, in compliance with the Buyer's requirements or specification; (iv) a combination with or an addition to equipment not manufactured or developed by the Supplier; or (v) the use of Products beyond that scope established by the Supplier or approved in writing by the Supplier.

13.6 Without prejudice to Section 12.1, this Section 13 states the entire liability of the Supplier and the exclusive remedy of the Buyer with respect to any alleged infringement of intellectual property rights belonging to a third party arising out of or in connection with the performance of any Contract. This Section 13 shall be subject to the limits of liability in Sections 12.2, 12.3 and 12.4.

14. Force Majeure:

Notwithstanding anything to the contrary in these Terms and Conditions, the Supplier shall not be liable to the Buyer for any loss or damage which may be suffered by the Buyer as a direct or indirect result of the supply of Products or Services being prevented, delayed or rendered uneconomic by reason of circumstances or events beyond the Supplier's reasonable control. If due to such circumstances or events the Supplier has insufficient stocks to meet all its commitments the Supplier may apportion available stocks between its customers at its sole discretion.

15. Confidential Information:

Each party undertakes to keep confidential, not use for its own purposes and not without the prior written consent of the other party disclose to any third party, any information of a confidential nature belonging or relating to the other party which may become known to it unless such information is or becomes public knowledge (other than by breach of this Section) or is required to be disclosed by order of a competent authority.

16. Cancellation, Rescheduling and Termination:

16.1 Purchase Orders for Products accepted by the Supplier may be cancelled or rescheduled by the Buyer only with the written consent of the Supplier (which consent the Supplier may withhold for any reason) and the Buyer shall indemnify the Supplier against the cost of all labour and materials used in connection with the Purchase Order so cancelled or varied and against all loss, damage cost, charges and expenses suffered or incurred by the Supplier as a result of that cancellation or variation.

16.2 Contracts for Services shall commence on the commencement date identified in the relevant Proposal and, subject to earlier termination in accordance with Section 16.3 or 16.4, shall continue in force for the term as prescribed in such Proposal and thereafter for any renewal period (if any) set out in the Proposal and thereafter without limit of period unless or until terminated in accordance with Section 16.3 or 16.4.

16.3 Either party may terminate a Contract for Services immediately at any time by written notice to the other party if the other party commits a material breach of the Contract for Services which is incapable of remedy or which it fails to remedy within thirty days (30) of receiving written notice requiring it to be remedied.

16.4 Supplier may terminate a Contract for Services by giving ninety (90) written notice to Buyer.

16.5 Upon termination or expiry of any Contract for Services, each party shall, except to the extent permitted or required to exercise or perform its continuing rights, or obligations hereunder, return to the other party all property of the other party then in its possession, custody or control and shall not retain any copies of the same.

16.6 Termination of any Contract in accordance with these Terms and Conditions shall not affect the accrued rights or liabilities of the parties at the date of termination.

17. Insolvency of the Buyer:

If: (i) the Buyer becomes insolvent, has a receiver, administrative receiver, administrator or manager appointed of the whole or any part of its assets or business, makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt or an order or resolution is made for its dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction) or carries out or undergoes any analogous act or proceedings under an applicable foreign law; or (ii) the Buyer ceases, or threatens to cease to carry on business then, without prejudice to any other right or remedy available to the Supplier, the Supplier may treat any Contract as repudiated and/or withhold any further supply of Products and/or Services without any liability to the Buyer and, if any Products and/or Services have been supplied but not paid for, the price or fees shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

18. Anti-Bribery

18.1 Buyer will comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including, but not limited to: Local and national laws in the territories in which it operates, The UK Bribery Act 2010, The US Foreign Corrupt Practices Act 1977, The UN Convention Against Corruption.

18.2 Buyer shall (i) have in place its own policies and procedures to ensure compliance with this Section, (ii) ensure that all parties with which it is associated or who are providing goods or services relating to any contract governed by these Terms and Conditions (including subcontractors, agents, consultants and other intermediaries) are aware of and comply with the requirements of this Section, (iii) maintain complete and accurate records of all transactions and payments related to any Contract and, on reasonable request, disclose details of those transactions and payments to the Supplier, (iv) on reasonable request confirm in writing to the Supplier that it has complied with the requirements of this Section, and (v) immediately inform the Supplier if it suspects or becomes aware of any breach of this Section by one of its employees, subcontractors, agents, consultants or other intermediaries and provide detailed information about the breach.

18.3 If Buyer breaches this Section 18, the Supplier shall have the right to terminate any Contract without notice and with immediate effect and will be in no way liable to Supplier in respect of such termination for payment of damages or any other form of compensation.

19. General

19.1 The Contract and any non-contractual obligations arising out of or in connection with it, shall be governed by and construed in all respects in accordance with the laws of England, and the English courts shall have exclusive jurisdiction in all matters relating to the Contract (whether of a contractual or tortious nature or otherwise).

19.2 Failure by the Supplier to exercise or enforce any rights hereunder shall not be deemed to be a waiver of any such right nor operate so as to bear the exercise or enforcement thereof any time or times thereafter.

19.3 If any provision or part of a provision of these Terms and Conditions is or is held by any court of competent jurisdiction to be unenforceable or invalid, such unenforceability or invalidity shall not affect the enforceability of any other provision.

19.4 The Buyer may not assign, transfer, novate or otherwise dispose of all or any of its rights or delegate any of its obligations thereunder, in whole or in part, without the prior written consent of the Supplier.

19.5 These Terms and Conditions and the relevant Contract constitutes the entire agreement and understanding between the parties with respect to its subject matter and supersedes any prior agreement, understanding or arrangement between the parties, whether oral or in writing. No representation, undertaking or promise shall be taken to have been given or implied from anything said or written in negotiations between the parties prior to the date of any Contract except as expressly stated in that Contract. The Buyer shall not have any remedy in respect of any untrue statement made by the Supplier upon which the Buyer relied in entering into a Contract (unless such untrue statement was made fraudulently or was as to a fundamental matter including a matter fundamental to the Supplier's ability to perform its obligations under the Contract) and the Buyer's only remedies shall be for breach of contract as provided for in these Terms and Conditions. Misrepresentations as to fundamental matters shall be subject to the terms of Section 12.

19.6 Variation to any Contract must be in writing and signed by the authorised representatives of the parties.

19.7 All notices given under these Terms and Conditions shall be sent to the address of the other party set forth in the quotation or to such other address as such party may designate from time to time by such notice. Notice shall be regarded as properly given if sent in writing and shall be deemed to have been served on delivery if sent by hand, 2 days after despatched if sent by post, and on confirmation of transmission, if sent by facsimile.

19.8 Regardless of any disclosure made by Buyer to Supplier of the ultimate destination of Products, Buyer shall not export either directly or indirectly any Product or any system incorporating said product either in contravention of any law, statute or regulation or without first obtaining all required licenses and permits from all relevant government agencies or departments of the Buyer's country and the United States, including the United States Departments of Commerce and Treasury.