

GENERAL TERMS AND CONDITIONS FOR MAINTENANCE SERVICES OF DC AVIATION GMBH

0. Definitions and Abbreviations

- 0.1 Component: Devices, modules or individual parts of an aircraft, including engine or flight, cabin equipment or emergency equipment. They are always identified by an part number in the maintenance or operational documents issued by the respective aircraft or component design organization.
- 0.2 Customer: A natural or legal person or a partnership with legal personality that concludes or intends to conclude a Customer Agreement.
- 0.3 Customer Agreement: A contract between DCA and the Customer under which DCA agrees to perform the Maintenance Service on one or more Maintenance Object(s) in return for payment by the Customer.
- 0.4 DCA: DC Aviation GmbH
- 0.5 General Terms and Conditions: mean these general terms and conditions for maintenance services of DCA
- 0.6 Maintenance Object: Any Aircraft or Component delivered to DCA by the Customer in relation to which the maintenance Service is to be performed by DCA.
- 0.7 Maintenance Service: One or a combination of the following actions: overhaul, repair, inspection, testing, replacement, modification or rectification of an aircraft, an engine or a Component to be performed by DCA as agreed in the Customer Agreement

1. Scope

- 1.1 The following General Terms and Conditions of DCA in the relevant version at the time of conclusion of the contract are an integral part of any contract for maintenance services between DCA and an entrepreneur Customer unless otherwise agreed between DCA and the Customer in writing.
- 1.2 If the Customer sends DCA its own terms and conditions, they are hereby rejected if they deviate from these General Terms and Conditions to the detriment of DCA.
- 1.3 These General Terms and Conditions of DCA are exclusively applicable even if DCA performs the maintenance services with knowledge of contradictory or deviating general terms and conditions of the Customer.

2. Offers and Price Quotations

- 2.1 The prices quoted in any offer are prices in Euros unless otherwise expressly stated. All prices are quoted as net prices and do not include value added tax, which is to be paid by the Customer in addition to the price in an amount specified by applicable law.
- 2.2 The current applicable prices are stated in DCA's current price list. Price lists are revised by DCA on the first of January of each year. Price changes will become valid within 30 days of DCA having notified the Customer.
- 2.3 Unless otherwise expressly agreed, the prices are quoted EXW of DCA's facility in Stuttgart and the Customer shall bear any costs for freight, packing, export or import charges or any other fees and duties. However, if replacement parts or ground support equipment are purchased, the reference prices therefore include cost of standard packing. If additional and/or non-typical packing material is requested by the Customer, DCA is entitled to charge the Customer for the additional costs in respect thereof.

3. Payment Terms

- 3.1 DCA generally reserves the right to request advance payment.
- 3.2 Invoices are due and payable by wire transfer to DCA's bank account on receipt if nothing else has been agreed upon or stated in the invoice.
- 3.3 All payments shall be made free and clear of any banking charges or expenses.
- 3.4 Until receipt of such advance payment, DCA is not obligated to deliver any services or parts. If DCA has not received the advance payment within ten (10) days of its written demand, DCA is entitled to withdraw from the contract and demand compensation for the non-performance, incurred costs and loss occurred from the Customer.
- 3.5 If the Customer wishes to pay by credit card a 3% surcharge of the invoice amount will apply. Furthermore the Customer will provide all necessary documentation to secure the credit card payment.

4. Retention of Title and Lien

- 4.1 Title to all material and parts supplied by DCA shall remain with DCA until all amounts due between DCA and the Customer have been irrevocably credited to DCA's account.
- 4.2 The Customer hereby agrees that DCA shall have a contractual lien on any aircraft, part, documentation or other tangible item owned by the Customer and delivered to DCA for the performance of maintenance services in order to secure payment of all amounts owed by the Customer to DCA.
- 4.3 In case any due invoice is outstanding, DCA is entitled, in its absolute discretion, to do any of the following: (i) claim a contractual lien on the Customer's aircraft, part, documentation or other tangible item in its possession (ii) claim a contractual right of retention on the Customer's aircraft, part, documentation or other tangible item in its possession; and/or (iii) immediately stop the performance of any further services until all outstanding payments from the Customer to DCA have been irrevocably credited to DCA's account.

5. No set off

- 5.1 The Customer shall not be entitled to set off any amount except with a claim undisputed by DCA or adjudicated in an unappealable court order.

6. TAT and Excusable Delay

- 6.1 DCA is only bound by any turn around time (TAT) if expressly confirmed by DCA in writing.
- 6.2 The TAT for carrying out any repair and/or maintenance work commences when all of the following has taken place: (i) DCA's receipt of the aircraft and, if applicable, other parts to be supplied by the Customer as well as all required data and documentation; (ii) the parties approval of the work scope; and (iii) performance of the receiving inspection by DCA.
- 6.3 DCA shall not be liable for any delay or failure in performance of its obligations under any agreement, if such failure is caused by an act of God, acts of public enemy, war, riot, insurrection, fire, flood, explosion, earthquake, serious accidents, epidemics, quarantine, any act of government that would have an adverse effect on the performance of work hereunder, strike, labour disputes causing cessation, slow-down or interruption of work, general hindrance in transportation, late deliveries of any replacement part from a manufacturer or vendor, inability to procure any material or part after due and timely diligence, any regulation affecting directly or indirectly the aircraft or maintenance thereof or materials, parts or facilities, late delivery by the Customer of the aircraft, the work package or any other technical documentation, the Customer supplying incorrect or incomplete technical documentation or work package, any non-routine aircraft maintenance, including but not limited to major or excessive defects exceeding reasonable limits, the Customer not responding to a request of DCA within 24 hours or such other time as reasonably requested by DCA, late supply of materials by the Customer, material supplied by the Customer not accompanied with proper documentation, material supplied by the Customer in insufficient quantity or quality, any additional request of the Customer after the work package has been agreed, any delay caused by an aviation authority, any 1:1 exchange, lease, sale or loan offer for required material is not accepted by the Customer, any incompatibility of a service bulletin with the condition of the Aircraft, any other non-conformity of the documents supplied by the Customer with the actual condition of the Aircraft, any delay or non-performance of maintenance services due to outstanding payments by the Customer to DCA or any other cause beyond the reasonable control of DCA.

7. Shipping and Transportation

- 7.1 The Customer shall deliver the aircraft, its documentation and additional parts provided by it to DCA's facility in Stuttgart, DDP (INCOTERMS 2010). After completion of the respective maintenance services the aircraft will be put at the disposal of the Customer for collection EXW (INCOTERMS 2010) DCA's facility in Stuttgart.
- 7.2 The Customer shall bear all risks and expenses for any transportation of the aircraft or any part provided by the Customer to and the return from DCA's facility (including but not limited to insurance, customs clearances, packing (except as set forth in 2.3), suitable containers and other necessary covers to protect the respective item from damage during transportation).

8. Subcontracting

- 8.1 DCA shall be entitled to subcontract individual tasks to another EASA Part 145 or Part 21 organisation approved for the respective work, provided such subcontracted organisation is of the same quality standard as DCA, the procedures of DCA's MOE are followed and such subcontracting is in compliance with Part 145.A.75. Subcontracting of a complete maintenance check of an aircraft or a complete workshop maintenance overhaul of an engine or engine module is subject to the Customer's acceptance.

9. Replacement of Parts

- 9.1 If DCA has determined that the condition of a part removed from the aircraft is such that it is beyond economic repair, DCA is entitled to replace such part and the Customer shall pay the price for the replacement part.

- 9.2 If nothing else has been agreed upon, DCA shall be entitled to either replace a defective part with a new part or to EASA Form 1, a FAA Form 8130-3, a Transport Canada Form One or a Brazilian Civil Aviation Authority SEGVOO 003.

- 9.3 Upon DCA having replaced a part, ownership to the removed part shall vest in DCA.

- 9.4 DCA shall safeguard that all materials, parts and components installed during performance of its services meet the approved data/standard, are provided with appropriate documentation, are in satisfactory condition for fitment and certified by a Certificate of Conformity, an EASA Form 1, a FAA Form 8130-3 a Transport Canada Form One or a Brazilian Civil Aviation Authority SEGVOO 003. Accordingly DCA shall be entitled to reject a part provided by the Customer or a third party, if it does not comply with such requirements.

- 9.5 If DCA has provided a loan part to the Customer that loan part shall be returned to DCA by the Customer within ten (10) days of receipt of the repaired or replacement part. If the loan part is not returned to DCA within that period, DCA is entitled to charge a fee for late return in the amount of at least €100 (in words: one hundred Euros) per day or such higher amount that equals the cost incurred by DCA and evidenced to the Customer due to such late return. If the loan part has not been received by DCA within twenty five (25) days, DCA is entitled to charge the Customer the full purchase price for the loan part.

10. Acceptance of Services upon Completion

- 10.1 At redelivery the Customer shall sign and provide to DCA a written document of acceptance which confirms that the agreed services have been completed in accordance with the respective maintenance agreement or state any objections that the Customer may have. In the event that the aforementioned signed document is not provided to DCA prior to or upon redelivery of the aircraft, the services shall be deemed to have been completed as agreed.

- 10.2 The Customer shall not be entitled to reject the aircraft for insignificant defects that have no effect on the airworthiness of the aircraft.

- 10.3 The Customer shall inspect and collect the aircraft within one (1) week of being notified by DCA that the services have been completed. If the Customer does not collect the aircraft within that time period, the Customer shall reimburse DCA for all costs incurred by DCA in relation to the aircraft not being collected in time, including but not limited to costs for storage, parking and insurance.

11. Warranty for Defects

- 11.1 DCA warrants that all maintenance services rendered will be free from defects in workmanship. DCA's liability for defects under warranty is limited to rectification of such defect or delivery of a replacement part at DCA's sole discretion.

- 11.2 The warranty given by DCA does not apply to defects caused by any of the following: (i) normal wear and tear; (ii) the aircraft not being operated, handled or stored by the Customer in accordance with the respective manufacturer's recommendations or the requirements of applicable law or the requirements of the aviation authority of the country where the aircraft is registered; (iii) the defective part having been serviced, repaired, overhauled, maintained or modified by anyone other than DCA or its subcontractors; (iv) any provisional repair; or (v) any parts not manufactured or incorporated by DCA provided that DCA will assign to the Customer the assignable warranty that DCA has obtained from its suppliers.

- 11.3 Notices of defects regarding apparent defects or transportation damages are to be given immediately in writing, but at the latest within a preclusive period of two weeks from delivery or acceptance; apparent defects that cannot be detected within this period in spite of a careful examination are to be notified in writing immediately, but at the latest within two weeks after determination of the defect, and within a preclusive period of a year from the delivery or acceptance. The Customer shall notify DCA in writing with reasonable detail of such defect. If the Customer has noticed such defect already during the redelivery process, the Customer shall reserve his rights under warranty when accepting the aircraft for redelivery; otherwise he is not entitled to raise a warranty claim for such defect later on.

- 11.4 The Customer shall return the defective part to DCA's facilities at the Customer's own expense and risk. If a defect arises on a non-removable part of an aircraft, the parties shall agree an arrangement by which such defect shall be remedied.

- 11.5 DCA shall not be obligated to perform any warranty work, if any invoices issued by DCA to the Customer are outstanding.

- 11.6 A defect is only subject to warranty of DCA, if it arises within twelve (12) months or within 800 (in words: eight hundred) flight hours after redelivery of the aircraft, whichever may occur first.

- 11.7 The above warranty is in lieu of and the Customer waives all other warranties, obligations and liabilities (express or implied) of DCA arising by law or otherwise with respect to or relating to all services performed and all materials supplied by DCA.

12. Liability Indemnification and Insurance

- 12.1 The Customer shall indemnify and hold harmless DCA, its affiliates, and any of their legal successors, assignees, directors, officers, employees, agents, servants and/or subcontractors ("DCA Indemnités") on demand from any claim in connection with the performance of the services by DCA except if it was caused by DCA's negligence or wilful misconduct.

- 12.2 DCA is not liable for damages (other than personal injury and death) caused by its (simple) negligence. This limitation does not apply in case a material contract obligation has been breached by DCA's negligence; a material contract obligation exists, if compliance with such obligation is essential for the performance of the transaction as agreed in the contract and the customer usually relies on such compliance; in such case DCA's liability is limited to contract typical and foreseeable property damages caused by DCA's (simple) negligence.

- 12.3 Under no circumstances will DCA be liable for any indirect, incidental or consequential damages such as but not limited to loss of profit, or loss of revenue.

- 12.4 During the performance of the services by DCA, the Customer shall maintain hull insurance coverage for the aircraft and the spare parts and aviation legal liability insurances.

- 12.5 The hull insurances shall provide for a waiver of the insurers' rights of recourse/subrogation against the DCA Indemnités and the DCA Indemnités shall be included as co-insured under the aviation third party legal liability insurance and such insurance shall (i) contain a standard clause as to cross liability or the severability of interest among parties appearing as additional insured to the effect that each assured shall have the same protection as would have been the case had the policy been issued individually to each of them; (ii) contain a provision that the policy is primary without a right of contribution and the liability of the insurance will not be effected by any other insurance of which any additional insured has the benefit so as to reduce the amount payable to the additional insured under such policy; (iii) provide that the insurers waive any right of set off, counterclaim or other deduction against the additional insured; (iv) provide that coverage afforded to the additional insured under such policy shall not be invalidated by any act or omission (including misrepresentation and non-disclosure) of the Customer which results in a breach of any term, condition or warranty of the policy provided that such additional insured has not caused, contributed to or knowingly condoned said act or omission.

- 12.6 The Customer shall provide to DCA an insurance certificate covering the insurance terms set forth above prior to each delivery of an aircraft for services to DCA.

13. Data Protection

- 13.1 The Customer agrees that DCA will store and process personal data provided by the Customer for DCA's purposes in order to carry out the services agreed with the Customer.

14. Jurisdiction

- 14.1 The exclusive place of jurisdiction shall be with the courts of Stuttgart, Federal Republic of Germany. Nothing in the preceding sentence shall limit the right of DCA to bring proceedings against the Customer in connection with these General Terms and Conditions in any other court of competent jurisdiction.

15. Applicable Law

- 15.1 These General Terms and Conditions shall in all respects be governed by, and construed in accordance with the laws of the Federal Republic of Germany except for the Hague Convention of 1st July 1964 involving Uniform Laws and the International Sale of Goods and the United Nation Convention on Contracts for the International Sale of Goods (CISG) of 11th April 1980.

- 15.2 In the event of a conflict between the English legal meaning of the wording and the German legal meaning of the wording of these General Terms and Conditions or any parts thereof, the German legal meaning shall prevail.

16. Severability

- 16.1 If any provision of these General Terms and Conditions is or becomes invalid, void or unenforceable, the other provisions of these General Terms and Conditions shall not be affected thereby and the parties agree to replace any invalid, void or unenforceable provision by a valid and enforceable provision which has a content that is as similar as possible to the invalid, void or unenforceable provision.