

General Terms and Conditions for Supplies and Maintenance Services in aviation by RUAG Aviation Malaysia Sdn Bhd (“RUAG”) (“GTC SMS MY”)

1. Scope and validity

- 1.1 These GTC SMS MY provide for the conclusion, content and performance of contracts for the supply of components, equipment, parts and material (“Parts”) as well as for maintenance, repair and overhaul including upgrade, life cycle support and similar or related services (“MRO”) by RUAG (all together hereinafter referred to as “Maintenance”).
- 1.2 These GTC SMS MY shall be considered accepted if the customer of such Maintenance (“Customer”) orders from RUAG and reference is made to them in the offer or in the order confirmation. General Terms and Conditions of the Customer are explicitly excluded.
- 1.3 These GTC SMS MY, together with all relevant documentation such as offers, estimates or quotations (including referenced documents) from RUAG, and all accepted orders placed by the Customer for RUAG’s Parts and MRO constitute the contract (“Contract”) between RUAG and the Customer. The application of these GTC SMS MY may only be varied by agreement in writing between the Parties.
- 1.4 The Contract contains the entire agreement between the parties with respect to the Maintenance and supersedes all prior agreements and understandings between the Parties for such Maintenance.
- 1.5 Should any provision of the Contract be deemed incomplete, legally invalid or unenforceable, such provision may be severed from the Contract and be replaced by as closely an equivalent effective provision as possible. The remaining terms of the Contract shall remain in full force and effect.

2. Offer and order

- 2.1 An offer submitted by RUAG is valid during the period specified in the offer. If there is no respective information, RUAG’s offer remains open for acceptance by the Customer by placing an order within 30 calendar days from the date of the offer. The offer may be subject to amendment or alteration at any time by RUAG prior to RUAG’s acceptance of an order by the Customer.
- 2.2 If the order of the Customer deviates from RUAG’s offer or order confirmation, the offer, or the order confirmation respectively, applies, unless the Customer raises an objection immediately after receipt.
- 2.3 Orders are binding only if they are placed in writing or subsequently confirmed in writing. Electronic orders and confirmations are considered equivalent.

3. Scope of Maintenance

- 3.1 Unless otherwise agreed in writing,
 - a) services cover preventive Maintenance to safeguard operational reliability and corrective Maintenance (fixing defects so that normal operability is resumed) through repair or replacement of defective components or installation of technical upgrades. The ownership of any part which is replaced shall, unless otherwise agreed, be acquired by RUAG upon its removal;
 - b) software services shall include the remedy of errors as well as the elimination of faults in programs. Subject to other agreement in writing case by case, the remuneration for the Maintenance of the software shall not include the integration of new functions and the corresponding user rights.
- 3.2 If requested, RUAG shall provide support to diagnose the cause of a fault resulting from the interaction of several systems or components. If the fault was not caused by hardware or software for which RUAG is responsible, the Customer shall be billed separately for this service.
- 3.3 At Customer’s request the following services shall be rendered by RUAG for separate remuneration:

- a) The implementation of any necessary software adaptations for operational, database and carrier systems that are modified.
- b) The remedy of errors that are caused by circumstances for which Customer or third parties are responsible.

- 3.4 RUAG shall be entitled but under no obligation to replace a part either by an Exchange Part or an Outright Part.

4. Enlisting of subcontractors

RUAG reserves the right to sub-contract the provision of Maintenance or parts thereof to any other party or person or corporation as it may determine in its sole discretion. In such case, RUAG remains responsible to the Customer for the provision of the Maintenance by such third party.

5. Remuneration

- 5.1 The amount of remuneration is to compensate RUAG for the Maintenance agreed upon in the Contract. Unless expressly otherwise agreed, it is due net, without packaging and without deductions. It excludes sales tax or any other tax, duty, levy or the like which may be added to the remuneration by the Customer.
- 5.2 The parties shall agree on the MRO to be performed on:
 - a) a flat rate basis; and/or
 - b) a time and material basis.

MRO provided on a time and material basis shall be charged at the man-hour rate in force at RUAG’s working place at the time upon conclusion of the Contract.
- 5.3 RUAG may increase the remuneration for the Maintenance to take effect at the beginning of the following calendar year, as long as:
 - a) it reasonably justifies the increase upon prior notice to Customer, and
 - b) Customer does not refuse the increase within 10 calendar days from receipt of the notice.

- 5.4 In case Maintenance has to be provided outside the agreed working place, prices do not include related expenses of RUAG.

- 5.5 The value for a removed part, replaced by an Exchange Part, will only be taken into account in case a later reconditioning into an operable part is possible at economically reasonable expenses. In respect thereof, invoicing is subject to correction.

- 5.6 In accordance with the provision in clause 2.1 hereunder, RUAG explicitly reserves the right at any time prior to accepting an order to alter, with notice in writing to the Customer, the purchase price of the Maintenance due to the increase of the current rate and cost of materials and labour, freight and cartage, insurance, foreign exchange and customs tariff.

6. Terms of payment

- 6.1 Unless otherwise agreed between the parties, all payments are due in full, payable to RUAG within 60 calendar days from the invoice date without any deduction.
- 6.2 RUAG may demand a reasonable advance payment upon placement of an order.
- 6.3 Customer’s objections against an invoice of RUAG shall be raised in writing within two weeks after its receipt, otherwise the invoice shall be deemed fully approved by Customer.
- 6.4 All payments must be received by the due date, even if the Maintenance is delayed for reasons, for which RUAG is not responsible, or if insignificant parts are missing or slight corrections are necessary.

6.5 Should the Customer fail to pay for the Maintenance within the time frame specified in article 6.1 hereunder, RUAG may:

- i) impose a service charge on the unpaid balance at the lower of 1 % per month (i.e. 12 % per annum), or the maximum rate permitted by law, from the due date until the invoice and all service charges thereon have been paid in full. If allowed by applicable law, Customer shall also pay on demand any costs incurred by RUAG (including reasonable attorney's fees and legal expenses) in connection with the collection of any amounts due from Customer to RUAG which are not paid as agreed herein;
- ii) refuse to make any further deliveries under the Contract until the amount due has been fully paid; and/or
- iii) treat the failure of the Customer to make payments as a repudiation of the Contract by the Customer if the amount due remains unpaid after providing 7 calendar days notice to the Customer of such breach and an opportunity to rectify the breach. Such repudiation shall entitle RUAG to elect, without prejudice to any other rights of RUAG, to terminate the Contract in whole or in part (including any order or part thereof) and, in either case, to recover damages for the breach of the Contract.

6.6 The Customer is not entitled to withhold any payment as set off, counterclaim or retention unless the terms and conditions of such set off or the retention are agreed to in writing by RUAG prior to the provision of the Maintenance.

7. Transfer and retention of title

7.1 The property and title in the Parts remain with RUAG until all payments and claims owed to RUAG for the Maintenance and all other monies owed to RUAG by Customer from the contractual relationship have been fully paid.

7.2 Customer shall, for the term of the retention of title, thoroughly keep the Parts under RUAG's retention of title, maintain them, insure and protect them against fire, water, damage and all other risk, as well as take all reasonable measures to secure RUAG's title. Sale, treatment, processing, mixing, pledging, chattel mortgaging or any other act of disposal of the Parts are permitted solely with prior written approval by RUAG. In case any Parts under RUAG's retention of title are drawn upon by a third party (e.g. by seizure), Customer shall advise such third party about the retention of title, and immediately notify RUAG of such event.

8. Right of retention and lien

RUAG has a right of retention and a contractual lien over the aircraft and all Parts of which RUAG has taken possession under any contract with the Customer, until all payments and claims owed to RUAG for the Maintenance and all other monies owed to RUAG by Customer from the business relationship have been fully paid. In case such lien should require additional legal action for its validity, Customer shall fully cooperate to have such actions executed.

9. Delivery times and default of delivery

9.1 Ground time, time of performance and delivery dates shall only be binding if agreed on in writing and if:

- a) Maintenance to be provided is clearly defined, and
- b) the aircraft or Part to be maintained is placed at RUAG's disposal at the agreed time, and if
- c) Customer has paid all amounts due under the relevant order.

9.2 Delivery times are considered adhered to if, prior to their expiration, the Maintenance agreed upon has been provided by RUAG. RUAG is entitled to deliver the Maintenance in advance of the delivery schedule if required. Partial Maintenance delivery shall be permitted provided Customer suffers no disproportional disadvantage thereof.

9.3 RUAG shall be entitled to extend the agreed ground time and/or time of performance or delivery in case:

- a) Customer requests performance of additional services; or
- b) defects on airframe, systems, engines or components have been discovered and have to be rectified; or

- c) any additional services are required to maintain and/or restore aircraft's airworthiness; or
- d) components, parts and documents requested by RUAG on time from Customer or any third party are delayed, incomplete or not delivered; or
- e) aircraft is being delivered late or not in accordance with the terms and conditions set out in the Contract; or
- f) Customer's default of any other contractual obligation.

9.4 If RUAG cannot comply with a delivery time for reasons for which it is not responsible (e.g. due to unfulfilled obligation to co-operate of the Customer or the fault of third parties), it is extended appropriately.

9.5 If the parties have agreed upon an exact deadline for Maintenance, and in case RUAG does not meet the deadlines so fixed, RUAG comes into default without further ado; in any other cases after a written reminder by the Customer granting a reasonable respite.

10. Force Majeure

10.1 RUAG shall not be held responsible for failure to perform or delay in performing any of its contractual obligations if such failure or delay is due to unforeseeable events beyond their reasonable control ("Force Majeure"), including but not limited to acts of God, war, insurrection, epidemics, sabotage, labour disputes, strikes, lock-outs, shortages of labour, interruption or delays in transportation, fire, explosion, equipment or machinery breakdown, failure or delays of RUAG's source of supply, shortage in material or energy, acts, orders or priorities of any aviation authority or government (e.g. non-issuance of an export license or non-approval of service deliveries as well as the withdrawal of such an export authorization), embargo and any other cause whether arising from natural causes, human agency or anything beyond the reasonable control of RUAG.

10.2 RUAG shall notify in writing Customer within two weeks following the occurrence of any event of Force Majeure citing this clause in said notice and shall supply all relevant information about its effects on the performance of its contractual obligations.

10.3 Unless otherwise agreed to in writing between the parties, if RUAG is unable to perform the Contract because of Force Majeure, RUAG is temporarily excused from performance while the incident of Force Majeure is occurring and shall perform as soon as reasonably possible after the incident ends. The duration of the incident of Force Majeure shall be added to the time of performance granted to RUAG. RUAG shall not be subject to damage claims.

10.4 In case the duration of Force Majeure exceeds six months, the parties will have the right to terminate this contractual relationship immediately. Contractual obligations performed up to such date of termination shall be remunerated. If the purchase price has been paid by the Customer in full, RUAG will refund the purchase price less the accrued cost and expenses of the contractual obligations.

11. Place of performance

11.1 Unless otherwise agreed, the premises of RUAG are the place of performance.

11.2 With the delivery at the place of performance risk is transferred to the Customer.

12. Inspection and acceptance

12.1 In case acceptance of Maintenance is required by law, Customer shall inspect deliverables on his own cost and start this inspection promptly upon receipt of a notification of acceptance readiness, the „Certificate of Release to Service“ (CRS), an EASA Form One, a Certificate of Conformity (CoC) or equivalent, as applicable and whichever received earlier. Customer may not refuse to declare acceptance for defects by which the operability of the deliverables in question is not affected or in-significantly affected. If during the acceptance inspection major defects are detected, acceptance is postponed. RUAG remedies detected defects and notifies the Customer of a new acceptance date.

12.2 In case Customer fails to start the inspection within 14 calendar days upon receipt of a notification of acceptance readiness or of the CRS, an EASA Form One, a CoC or equivalent, as applicable and whichever received earlier,

acceptance shall be deemed to have been declared without reservation. Acceptance shall be deemed to have been declared without reservation in any case when Customer puts into operation, without reservation, the deliverable, in particular when such object, to Customer's knowledge, is removed from RUAG's premises for other purpose than local testflight.

12.3 The provisions above shall not affect the risk for Customer to get in default already prior to expiry of the aforementioned period. The responsibility for technical condition and precaution, and, if applicable, for sustaining airworthiness of the object in question, as well as the risk of damage to the object shall, without further declarations, pass on to Customer, at the latest, as soon as the period pursuant to Art. 12.2 is expired or in case Customer leaves the object on RUAG's premises after having accepted it; in such cases RUAG shall solely be liable for damages or destruction of the object when caused willfully or grossly negligently by RUAG. RUAG may charge the Customer a fee for any efforts or expenses due to reasonable care and storage of the aircraft or Parts. However, RUAG shall not be under any obligation to care and store the aircraft in case of Customer default.

13. Warranty

13.1 RUAG warrants that Maintenance provided:

- a) is performed in a competent and diligent manner in accordance with industry standards relevant to authorized providers of such services,
- b) is free of defects in material and workmanship, and
- c) conforms to all mutually agreed contractual requirements.

13.2 For MRO and Parts of RUAG, claims due to defects shall be subject to a limitation period of 90 calendar days, 150 flight hours, or 100 cycles of the aircraft, whichever occurs first, following the completion or, if required, the CRS, EASA Form One, CoC or equivalent as applicable. However, for parts and services supplied by third parties the remaining supplier warranty shall be passed on to the Customer.

13.3 RUAG's warranty may not be assigned in favour of any third party; and no third party may receive the benefit of RUAG's warranty which shall be for the benefit of the Customer only.

13.4 All implied terms, conditions or warranties as to the description or the satisfactory quality of the Parts or their fitness for any purpose whatsoever are, to the fullest extent permitted by law, hereby excluded.

13.5 Defects shall be reported to RUAG in writing promptly after Customer becomes aware of them, at the latest within 10 calendar days after discovery.

13.6 In case Customer is entitled to elimination of a defect, RUAG can choose between remediation and replacement. Other claims of the Customer are expressly excluded. RUAG will only rectify the defects provided the defect is not the result of any alteration undertaken by any party, other than RUAG. Customer shall not be entitled to any additional indemnification whatsoever. In case the aircraft or Parts are not at RUAG's working place at the time a defect is reported, RUAG shall be entitled to appoint any working place where the defect will be rectified. RUAG shall be entitled to have the defect rectified by a third party.

13.7 The warranty shall exclude defects due to normal wear and tear or the aircraft or Parts not being operated, handled or stored by the Customer in accordance with manufacturer's recommendations or in accordance with the flight manual or applicable authority requirements or other causes RUAG is not responsible for.

13.8 RUAG assumes no liability of whatever nature to the Customer relating to defects in Parts procured from third parties which have been installed by RUAG. However, RUAG will use its best endeavours to obtain from its suppliers of Parts any warranties and shall assign, if possible, such warranties to the Customer.

13.9 Handling of "Third Party – Manufacturer Warranties"

If RUAG handles warranty claims for Customer toward third parties (e.g. manufacturers), Customer's obligation to first remunerate RUAG's efforts shall

remain unaffected thereby. Payments, if any, made by such third party will then be reimbursed to Customer.

13.10 The express warranties and express representations of RUAG set forth in these GTC SMS MY are in lieu of, and RUAG disclaims, any and all other warranties, conditions or representations (express or implied, oral or written), with respect to the maintenance hereunder, including any and all implied warranties or conditions of title, noninfringement, merchantability, fitness or suitability for any particular purpose, whether alleged to arise by law, by reason of custom or usage in the trade. RUAG hereby expressly disclaims any warranty or representation to any person other than Customer.

13.11 Any warranty work carried out by the Customer or any third party as agreed in writing with RUAG shall not be reimbursed at a rate higher than RUAG's rates, and in such event RUAG is not responsible for any aircraft positioning costs, or freight charges which may incur.

14. Limitation of Liability

14.1 Notwithstanding anything else contained in the Contract to the contrary, RUAG shall not be liable (to the fullest extent permitted at law) whether by way of indemnity, guarantee, or by reason of any breach of contract, or of statutory duty or by reason of tort (including but not limited to negligence) or any other legal principle or doctrine for:

- i. Any consequential, indirect, special, punitive or exemplary damages;
- ii. Any loss of profits, loss of use, loss of revenue or loss of anticipated savings or for any financial or economic loss (whether direct or indirect) or for any consequential or indirect loss or damage whatsoever; or
- iii. Any other amount in aggregate with any other liability (being any past, present or future liability) to which this article applies, that exceeds the aggregate value of the respective purchase order made under these GTC SMS MY.

14.2 Otherwise, where it is permitted at law to do so the remedies in article 13 hereunder will apply.

14.3 All claims for loss or damage shall be made by notice in writing to RUAG specifying the breach and the loss suffered by the Customer, given no later six (6) months from the date the breach occurred or the date the loss was suffered, whichever is later.

15. Indemnity

The Customer shall keep RUAG indemnified against all costs, claims, demands, expenses and liabilities of any nature, including, without prejudice to the generality of the foregoing, claims of death, personal injury, damage to property and consequential loss (including loss of profit) which may be made against the Customer or which the Customer may sustain, pay or incur as a result of or in connection with the manufacture, sale, export, import or use of the goods or provision of the services unless such costs, claims, demands, expenses or liabilities are directly and solely attributable to any breach of the Contract or guarantee by, or negligence of, RUAG or its duly authorised employee or agent.

16. Licenses and export regulations

16.1 Insofar the Customer provides goods for the performance by RUAG, the Customer keeps informed at all times about national and international export regulations (e.g. ITAR) and notifies RUAG immediately in writing, if the goods provided are subject to these provisions in whole or in part. The Customer complies with all applicable export regulations and discloses to RUAG all relevant information for this purpose.

16.2 Unless expressly otherwise agreed in writing, the Customer takes all measures required to obtain the official license needed for the provision of Maintenance. RUAG provides the Customer with appropriate support.

16.3 Where applicable for goods provided by the Customer for the performance, Customer shall provide, no later than at the time of acceptance of the contract, the following minimum information:

- The customs tariff numbers of the country of consignment, and the countries of origin of all goods.

- For controlled goods, the relevant national export control numbers must be indicated and, if the goods and/or services are subject to U.S. export regulations, the U.S. Export Control Classification Numbers (ECCN) or classification numbers of the International Traffic in Arms Regulations (ITAR) must be specified.
- Proofs of preferential origin as well as conformity declarations and marks of the country of consignment or destination are to be submitted without being requested; certificates of origin upon request.

17. Emerging intellectual property rights

- 17.1 Intellectual property rights (copyrights, patent rights etc.) that are created during the performance of the Contract, particularly on works, concepts, hardware and individual software including source code, program description in written or machine-readable form specially developed by RUAG belong to RUAG.
- 17.2 The Customer has a non-transferable and non-exclusive right to use the emerging intellectual property rights within the purpose of the Contract. In case of software this right includes the use on the hardware as agreed and their successor systems. For a changed operating system or higher performance class the modification and extension of the right of use requires the approval of RUAG.
- 17.3 Both parties are entitled to use and dispose of ideas, procedures and methods which are not protected by law, but without being under the obligation to disclose them.

18. Pre-Existing intellectual property rights

- 18.1 Pre-Existing intellectual property rights (copyrights, patent rights etc.) remain with RUAG or third parties.
- 18.2 The Customer is granted a non-exclusive and non-transferable right to use the pre-existing intellectual property rights for the agreed purpose in the Contract.
- 18.3 If RUAG supplies any Maintenance in accordance with the Customer's specifications or using the Customer's goods, the Customer shall indemnify RUAG from and against all actions, claims, demands, costs, expenses and liabilities arising in connection with any alleged or actual infringement of the intellectual property rights of a third party.

19. Infringement of intellectual property rights

- 19.1 RUAG shall contest at its own cost and risk any third party claims arising from infringement of intellectual property rights. The Customer informs RUAG immediately in writing about claims of third parties due to infringement of intangible property rights. He lets RUAG conduct a possible trial and take care of the measures and instructions for a settlement in court or out of court. In case of a trial the Customer shall consult RUAG immediately. If necessary, he takes first damage-reducing measures.
- 19.2 Under these conditions RUAG assumes the costs accruing to and damages paid by the Customer. In case of a settlement out of court RUAG makes the agreed payment to third parties only if it has approved it beforehand.

20. Confidentiality

- 20.1 Both parties shall treat in strict confidence all information which is neither generally known nor generally accessible, and shall use it only for the purpose of fulfilling the concluded Contract. The parties shall ensure the confidential treatment of all information relating to the Contract by their personnel and consulted specialists. In case of doubt, all information is to be treated confidentially.
- 20.2 Confidential information of a party does not include information which:
- was already known to the other party, before it was made accessible by the disclosing party;
 - is or becomes generally known without the other party's responsibility;
 - was disclosed to the other party by a third party without any transfer restriction;

- was developed by the other party itself without using or referring to the confidential information of the protected party;
- has to be disclosed based on a legally binding decision of a law court, administrative or other authority. In this case the party under the obligation to disclose shall inform the other party immediately about the decision and consider protective measures the other party may want to implement.

20.3 This obligation of confidentiality already exists prior to the conclusion of the Contract and remains valid for a period of 3 years after termination of the contractual relationship.

20.4 A party must not disclose any confidential information to a third party without the prior written approval of the other party to the Contract. If the approval is given, the obligations of confidentiality are to be transferred to the receiving third party.

20.5 Notwithstanding article 20.4 hereunder, RUAG may disclose confidential information to the companies of the RUAG Group, particularly the RUAG Holding AG as well as its subsidiaries, and enlisted specialists (lawyers, auditors, experts). Furthermore the parties hereby give explicit approval that confidential information may be disclosed to the aircraft's owner, operator, responsible Continuing Airworthiness Management Organization and/or Aviation Authority, as applicable.

20.6 Advertising and publications about specific services in connection with the contractual relationship require the written approval of the other party. Without the written approval of RUAG, the Customer may not advertise the fact that a cooperation between the parties exists or existed, and may not give RUAG as a reference.

21. Data protection

Each party may have access to personal data (for example names, functions, business units, contact details and communication data) relating to the other party's employees, representatives, consultants, agents, contractors and other personnel ("Personnel"; "Personnel Data") in relation with the contract that is subject to these GTC SMS MY. The parties agree that they act as independent controllers in relation with such Personnel Data unless otherwise agreed expressly by the parties. Personnel Data may be processed only in accordance with applicable law, applying appropriate security measures (e.g. technical and organizational measures, etc.), and only in order to enter into and perform the contract and compatible purposes including but not limited to order and payment processing, tolls, taxes and import/export management, customer relationship management, business accounting and general administrative purposes. Each party undertakes to inform its own Personnel about the processing of Personnel Data by the other party, in accordance with applicable law. Additional details about RUAG's data processing are set out in RUAG's privacy notices (see www.ruag.com/en/privacy).

22. Compliance

22.1 The parties shall comply with applicable legal standards, particularly with the competition and antitrust laws, industrial safety and child protection provisions (e.g. regarding conflict commodities), the prohibition of human trafficking and with the core conventions of the International Labor Organisation, as well with the provision against counterfeits or for the protection of the environment and of health (e.g. guidelines like REACH and RoHS). The contractual partner complies with the current code of conduct for business partners of RUAG, which he will be handed upon request.

22.2 The parties commit themselves not to directly or indirectly make any payment, gift or other commitment to any person in a manner contrary to applicable law, or accept financial or other favours, if in return the giving party expects an unjustified advantage or is rewarded. The parties also commit themselves to comply with the U.S. Foreign Corrupt Practices Act and the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions concluded within the OECD on 17 December 1997 also in private business transactions.

22.3 The parties shall require their personnel, subcontractors, subsuppliers and other third parties enlisted for the fulfillment of the Contract to comply with this article.

23. Assignment and pledging

23.1 The contractual relationship or rights and duties therefrom may be assigned or pledged only upon the prior written approval of the other party which approval shall not be unreasonably withheld.

23.2 Notwithstanding article 23.1 hereunder, RUAG may assign rights and obligations from the contractual relationship to another company from the RUAG Group at any time.

23.3 Customer may not assign or pledge any claims arising from the contractual relationship without the express prior written approval of RUAG.

23.4 No waiver by a party with respect to any breach or default or of any right or remedy shall be deemed to constitute a continuing waiver of any other breach or default or of any other right or remedy, unless such waiver is expressed in writing by the party to be bound thereby.

24. Applicable law and jurisdiction

24.1 The contractual relationship between the parties shall be governed by Malaysian Law, excluding its rules on conflicts of law.

24.2 Place of jurisdiction shall be the domicile of RUAG.