

## TERMS OF BUSINESS

### 1. Definitions

In these Terms the following expressions have the following meanings:-

“**By Return**” means that full payment for the Work and any other amounts owing by the Customer to the Company is due from the customer to the Company not later than five working days following the date of the invoice.

“**Company**” means Bournemouth Aviation Limited and includes its officers, employees’ and agents’.

“**Consequential Loss**” includes, but is not limited to, loss of revenue, cost of capital, claims for service interruptions or failure of supply, costs and expenses incurred in connection with labour, overheads, transportation or substitute facilities or supply sources.

“**Contract**” means the contract of which these terms form part.

“**Customer**” means the person, body or firm corporate to whom any quotation is addressed or by whom an order is placed.

“**Data**” means drawings, specifications, plans, publications, manuals, materials, technical data, documents and information.

“**Force Majeure**” means matters beyond the Company’s control which includes (but is not limited to), acts of God, war, riots, civil commotions, strikes, lock-outs, trade disputes, fires, sickness or injury to any of the Company’s employees, breakdowns, interruption of transport, governmental action, delays in supply to the Company of materials or services required for the carrying out of the Work.

“**Goods**” means any goods to be supplied under the Contract and includes any of them or any part of them.

“**Loan**” means an arrangement entered into between the Company and the Customer under which the Company provides goods or property to the Customer which the Customer agrees to return at an agreed time

“**Loaned Equipment**” means any goods which the Company agrees to loan to the Customer.

“**Net Monthly Account**” means full payment for the Work and any other amounts owing by the Customer to the Company is due from the Customer to the Company not later than the last day of the calendar month following the date of the invoice.

“**Terms**” mean these Terms of Business

“**Work**” shall mean such work and services as are described or referred to in any Contract accepted by the Company.

### 2. General

- 2.1 Quotations issued by the Company are not offers capable of acceptance so as to make a binding contract. All orders placed with the Company require the Company’s acceptance in writing before any contract arises.
- 2.2 These Terms apply to every Contract which the Company enters into and will prevail over:-
  - 2.2.1 any prior representations
  - 2.2.2 any inconsistent terms or conditions contained or referred to in the Customer’s order, or in correspondence or elsewhere, or implied by law, trade custom or practice or course of dealing unless specifically agreed in writing by a Director of the Company. Any purported provisions to the contrary are excluded.
- 2.3 The headings in these Terms are for ease of reference only and shall not affect the construction of any Contract.
- 2.4 Quotations are given on the basis of any description of goods or services, including Data supplied to the Company by the Customer or anyone acting on the Customer’s behalf and on the basis that it is accurate.
- 2.5 Quotations are valid (unless stated otherwise) for 30 days from their date unless previously withdrawn by the Company.

### 3. Prices and Payment

- 3.1 The Contract price is based on the costs of materials, labour, sub-contracts, transport, taxes, duties and currency exchange rates ruling at the date of the Company’s quotation. The Company reserves the right to amend the Contract price to take account of any variations in such costs or the imposition of any new taxes or duties occurring from whatever cause before delivery of the Goods and or completion of the Work
- 3.2 The Contract price is unaffected by invoice errors
- 3.3 All prices are exclusive of statutory fees (including but without limitation fees payable to any regulatory authority department in respect of modifications or certifications of airworthiness or otherwise) customs duties, government taxes (including but without limitation Value Added Tax) and out of pocket expenses and disbursements incurred in connection with the Work (including but without limitation charges by manufacturers and suppliers of equipment and technical information) and travelling and liaison costs (including but without limitation labour costs and travelling time) whether or not envisaged at the time of quotation.
- 3.4.1 Unless otherwise stated in the quotation or 3.4.2 applies full payment for the Work and any other amounts owing by the Customer to the Company is due from the Customer to the Company not later than 10 days from the date of the invoice.
  - 3.4.2.1 If the term “Net Monthly Account” is specified on the quotation provided to the Customer then this term will apply in place of paragraph 3.4 above and will have the meaning and effect set out in clause 1.
  - 3.4.2.2 If the term “By Return” is specified on the quotation provided to the Customer then this term will apply in place of paragraph 3.4 above and will have the meaning and effect set out in clause 1.
- 3.5 Despite paragraph 3.4 the Company may require the Customer at any time to make payments on payments and the Customer will pay the amounts required to the Company with 7 days of such requirements being notified.
- 3.6 If the Customer defaults in making any payment to the Company, the Company, may without prejudice to any other rights which it may have:-
  - suspend the Work and/or withhold delivery of it and retain the Data without liability for any loss or consequential loss to the Customer; and/or
  - cancel the order and contract
- 3.7 Payment of anything outstanding to the Company from the Customer, costs incurred to date including reasonable storage costs and loss of profits on those costs must be made immediately on cancellation or termination of this contract whether cancelled by the Company in accordance with 3.6 above or otherwise.

- 3.8 If a Customer does not pay the Company in accordance with these Terms then interest together with any fee prescribed by the Late Payment of Commercial Debts (Interest) Act 1998, Late Payment of Commercial Debts Regulations 2002 or any re-enactment of either of them will be charged on overdue accounts from the invoice date until payment
- 3.9 If the Customer defaults in accepting delivery of or paying for the Goods, the Company reserves the right to re-sell the Goods or any of them to a third party without giving notice to the Customer of the Company’s intention to re-sell.

### 4. Lien

The Company will (without prejudice to any other remedy available to it) have in respect of all unpaid debts due from the Customer a general lien on all property of the Customer in the Company’s possession for whatever purpose and whether worked upon or not and be entitled on the expiration of not less than 7 days’ notice in writing to the Customer to dispose of such property and to apply the proceeds towards the satisfaction of such debts. The Company will be under no obligations regarding the manner of sale and will be under no duty to obtain the best price possible.

### 5. Provision of Information

- 5.1 The Customer at its own expense will provide and/or cause to be provided to the Company all Data necessary or expedient for the Company to carry out the Work at the same time that the purchase order is issued to the Company for the Work.
- 5.2 If the Data is inaccurate incomplete or out of date the Company will not be liable for any resultant loss or damage whether direct or indirect and the Customer will pay the Company the cost of all Work carried out together with overheads and other costs and loss of profits relating thereto incurred or sustained by the Company.
- 5.3 The Company will:-
  - be responsible for the safe-keeping of the Data;
  - following completion of the Work and subject to receipt of a written request from the Customer not later than 6 months after delivery of the Work return the Data to the Customer. This provision does not restrict the Company from retaining Data required to be retained for the purpose of fulfilling its obligations as a design authority or as the Company considers it reasonable requires to for any other purpose. The Company will continue to safeguard any such Data retained; and
  - not wilfully divulge any information contained in the Data which is not within the public domain to any other party provided always that the Company may do so without the prior consent of the Customer to the extent necessary for the proper execution of the Work and in connection with any sub-contracting pursuant to Clause 8 below.
- 5.4 The Customer’s Goods (including any Intellectual Property Rights) will at all times remain at the Customer’s risk.
- 5.5 The Company is not responsible for the practicality, efficacy, safety, copyright or use of any Data, designs or specifications which the Customer or any third party under the Customer’s directions gives the Company pursuant to the contract
- 5.6 If the Customer varies any aspect of design or specification the Company reserves the right to alter the contract price and/or terms of payment.
- 5.7 If the Regulatory Authority delays the Work for any reason or request additional work to be performed to meet certification requirements the Company will not be liable for any resultant loss or damage or delays whether direct or indirect and the Customer will reimburse the Company the cost of all additional Work carried out together with overheads and other costs and loss of profits relating thereto incurred or sustained by the Company.
- 5.8 Any design changes made at the request of the Customer or anyone acting on the Customers behalf during or following completion of the Work that does not have an airworthiness implication (to be determined by the Company) the Customer will reimburse the Company the costs of all additional Work carried out together with overheads and other costs and loss of profits relating thereto incurred or sustained by the Company.

### 6. Delivery

- 6.1 The Company will endeavour to deliver the Goods and/or carry out the Work within the time agreed and if no time is agreed within a reasonable time, but in no circumstances will the Company be liable for loss or damage of any kind whatsoever caused directly or indirectly by any delay in the delivery of the Goods and/or carrying out of the Works, not unless such delay exceeds 180 days will any delay entitle the Customer to terminate or rescind the Contract.
- 6.2 The Company may make delivery by instalments and/or perform the Work in stages.
- 6.3 No claim for damage will be considered unless the Company is given notice in writing within 7 days of delivery. In the absence of such notice the Customer will be deemed to have accepted the Goods and/or Work. No claim for non-delivery will be considered unless the Company is given notice in writing within 21 days of the date of the Company’s invoice. Any claim for damage, shortages or non-delivery must also be notified to the carriers by the Customer in the manner and within the appropriate time limit prescribed by them.
- 6.4 If the Customer fails to give the appropriate notice under Clause 6.3 the Customer’s claim will be deemed to have been waived and will be absolutely barred.
- 6.5 Time is not of the essence in the Company’s performance of the Contract unless specifically stated otherwise.
- 6.6 Delivery and Packaging of the Goods from the Company to the Customer is at the Customer expense and will be invoiced separately at cost unless specifically stated otherwise.

### 7. Force Majeure, Delay and Cancellation

If the Company’s performance of the Contract is cancelled or delayed by the:-

- 7.1 Customer it will indemnify the Company for the Company’s loss of profits and, when relevant, pay the Company the price in accordance with 3.4; or
- 7.2 Company because of Force Majeure it will not be liable but the Customer will remain subject to these terms.

### 8. Sub-contractors

The Company may without prior reference to the Customer sub-contract all or any part of the Work to any other person, body, firm or body corporate.

### 9. Warranty

- 9.1 Unless 9.2 applies the Company will remedy any defect in the Work without charge if such defect is caused wholly by the Company’s negligence so long as it becomes apparent within 60 days from the date of the delivery or completion of the Work to the Customer and the Customer has given full particulars in writing of the defect to the Company within 14 days of discovery of the defect.

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9.2 The Company's obligations under 9.1 will not apply where:-

- 9.2.1 Goods have been altered or subjected to misuse or unauthorised repair; or
- 9.2.2 Goods have been improperly assembled (unless the Company carried out such assembly); or
- 9.2.3 Customer has failed to observe any of the maintenance requirements documented in the Maintenance or other applicable manual; or
- 9.2.4 Customer has failed to observe the statutory guidelines on the level of maintenance it may carry out itself without recourse to professional maintenance; or
- 9.2.5 Customer is in breach of this or any other contract made with the Company
- 9.2.6 Any Goods replaced will belong to the Company.

### 10. Risk

The risk of damage to or loss of the Goods will pass to the Customer on delivery.

### 11. Property in the Goods

11.1 Despite delivery and the passing of risk, property in and title to the Goods will remain with the Company until the Company has received payment of the full price of:-

- 11.1.1 all Goods the subject of the Contract and
  - 11.1.2 all other Goods supplied by the Company to the Customer under any other contract.
- Payment of the full price includes, without limitation, the amount of any interest or other sum payable under the terms of this and all other Contracts between the Company and the Customer.

11.2 The Company may take proceedings for recovery of the price of the Goods even if property in them has not passed.

11.3 Until property in the Goods passes to the Customer:-

11.3.1 the Customer must hold the Goods as the Company's fiduciary agent and bailee and ensure that the Goods are identifiable from those of the Customer and third parties and are properly stored, protected, insured and identified as the Company's property.

11.3.2 the Company may require the Customer forthwith to deliver the Goods to the Company at the Customer's expense and, if the Customer fails to do so, may immediately enter any premises of the Customer (or of any third party to the extent that the Customer may permit the Company to enter them) where the Goods are stored and remove the Goods.

11.3.3 the Customer may not pledge or in any way charge by way of security any of the Goods which remain the property of the Company.

11.4 If despite 11.3.1 and 11.3.2 the Customer sells the Goods or any part of them (whether or not with other goods) in the ordinary course of its business, the Customer will transfer its rights to recover the selling price from the third party concerned to the Company if it is still outstanding and immediately notify the third party.

11.5 If the price or any part of it is outstanding the Company may dispose of Goods in its possession:-

11.5.1 if the Goods are liable to perish or deteriorate at its discretion as soon as it has taken reasonable steps to bring its intentions to the Customer's notice.

11.5.2 in any other case seven days after giving written notice to the Customer.

11.6 If 11.5 applies:-

11.6.1 the Company will:-

11.6.1.1 apply the proceeds of a sale to reduce or pay off the amount outstanding from the Customer.

11.6.1.2 account to the Customer for any balance remaining after deducting all costs including legal fees of and incidental to the sale or disposal.

11.6.1.3 have no other liability to the Customer for the disposal.

11.6.2 If the proceeds of sale after deduction of the costs referred to at 11.6.1.2 are insufficient to cover the full amount owing by the Customer to the Company then the Customer will remain liable to the Company for the shortfall.

11.7 If the Customer contravenes 11.3 or 11.4 all amounts which the Customer owes to the Company will become due and payable forthwith and the Company may pursue any other rights or remedies to which it is lawfully entitled.

### 12. Manufacturers' Guarantees

If any Goods supplied by the Company to the Customer which are manufactured by a third party prove defective the Company will at the request and cost of the Customer pass to the Customer so far as it is able to do so the benefit of any guarantee which the Company has.

### 13. Exclusion of Liability

13.1 Clauses 9 and 12 are in lieu of any condition, warranty or other term, as to description, condition, quality or fitness for any particular purpose which may otherwise be implied by statute, common law, custom or trade or otherwise which are expressly excluded.

13.2 Save as expressly provided in Conditions 9 and 12, the Company will not be liable (other than for personal injury or death resulting from the negligence of the Company) in connection with the Work or any Goods supplied by the Company.

13.3 The Company will not be liable for any Consequential Loss or damage arising in connection with the Work or any Goods supplied by the Company.

If paragraphs 13.2 and 13.3 above are held not to apply to any Contract then the total liability of the Company will not exceed the price of the Goods or services giving rise to the claim.

### 14. Indemnity

The Customer will indemnify the Company against any claim brought by any third party in respect of the Work or Goods.

### 15. Patents

The Customer will indemnify the Company against any action taken against it in relation to any intellectual property right or breach of confidence resulting from the Work.

### 16. Copyright

Intellectual property rights in the Work produced by the Company belong to the Company. The Company may retain copies of the Work and use it for any purpose it wishes. The Customer will not disclose the Work (or any part of it) to any other party (except for the Customer's regulatory authority) without the Company's written consent.

### 17. Cancellation

The Customer may not cancel or suspend any order which has been accepted by the Company except with the Company's specific written agreement and by indemnifying the Company against all losses.

### 18. Termination

If the Customer commits any breach of the Contract or becomes insolvent or enters into a composition or arrangement with its creditors or being a body corporate has a receiver or similar appointed over any part of its undertaking or assets or passes a resolution for winding up or a court makes an order to that effect or if the Customer commits an act of bankruptcy or have a receiving order made against it, the Company (without prejudice to any of its other rights) may terminate the Contract immediately. The Company will in this event be entitled to demand all monies owing to it and be entitled to retain all Data as security for such monies owing to it.

### 19. Forbearance

The Company's failure to enforce any of these Terms is not a waiver of any of the Company's rights.

### 20. Storage

If the Customer fails to take delivery of the Goods and/or redelivery of the Customer's Goods when they are ready for delivery the Company may:

- 20.1 store them itself; or
- 20.2 have them stored by third parties on such terms as the Company thinks fit at the Customer's cost. The cost together with any additional insurance or double handling charges will be added to and form part of the price for the Goods and/or the Works.

### 21. Export

Where the Goods are to be exported and/or the Works are to be supplied to the Customer outside the United Kingdom:-

- 21.1 The Uniform Laws on International Sales Act 1967 will not apply to the contract.
- 21.2 Payment will be in Pounds Sterling, Euros or US Dollars. The Customer will make payment by bank credit transfer to the Company's nominate bank at least ten days prior to the anticipated shipment date of the Goods and / or supply date of the Works and shall cover the full price of the Goods and / or Works (including applicable taxes and shipping charges). All bank charges and other expenses in relation to the bank credit transfer will be for the Customer account.
- 21.3 The Goods will be sold FOB or CIF at the option of the Company and the Company will be under no obligation to give the Customer notice as specified in Section 32(3) of the Sale of Goods Act 1979.

### 22. Loaned Equipment

- 22.1 Any Loaned Equipment belongs to the Company and title will not be affected in any way.
- 22.2 The Customer will hold the Loaned Equipment in a fiduciary capacity, will not destroy any identifying mark on them or their packaging. The Customer will keep them separate from any other goods and will not loan the equipment to any other person, company or otherwise or otherwise permit the Loaned Equipment to leave its possession.
- 22.3 The Customer will at all times when in possession of the Loaned Equipment take reasonable care of it and use all reasonable endeavours to ensure that the Equipment is not damaged.
- 22.4 The Customer is required to ensure that it has in place a policy of insurance which covers any loss or damage to the Loaned Equipment whilst in the possession of the Customer. For the purposes of this Term, the Company will indicate on any agreement for Loaned Equipment the value which must be covered by the policy of insurance and the Customer must ensure that the full value specified is insured prior to taking possession of the Loaned Equipment.
- 22.5 If any loss or damage occurs to the Loaned Equipment whilst in the Customer's possession, the Customer will reimburse the Company all losses including to the value of the equipment, costs and loss of profits.
- 22.6 The Loaned Equipment is only to be used for the purpose specified in the agreement between the Company and the Customer.
- 22.7 The Customer must at its cost return the Loaned Equipment on demand to the Company. If the Customer fails to do so then the Company may at any time after 7 days enter the Customer's premises to take possession of the Loaned Equipment and remove them (and the Customer grants to the Company an irrevocable licence to do so).
- 22.8 Loaned Equipment must be returned immediately if the Customer becomes insolvent or enters into a composition or arrangement with its creditors or being a body corporate has a receiver or similar official appointed over any part of its undertaking or assets or shall pass a resolution for winding up or a court shall make a bankruptcy order or have a receiving order made against it or otherwise is subject to any attempt at execution or distress. If the Customer fails to do so then the Company may at any time enter the Customer's premises to take possession of the Loaned Equipment and remove them (and the Customer grants to the Company an irrevocable licence to do so).
- 22.9 The Company shall be under no liability (other than in respect of personal injury or death resulting from the negligence of the Company) arising out of or in connection with any Loaned Equipment supplied by the Company.
- 22.10 The Company will not be liable for any consequential loss or damage arising out of or in connection with any Loaned Equipment supplied by the Company.

### 23. Governing Law and Jurisdiction

The Contract will be subject to English Law and the non-exclusive jurisdiction of the English Courts. If the Customer has not provided the Company in writing with a UK address for service of documents it irrevocably appoints the Commercial Attaché at the Consulate in London of the State in which its principal business activities are carried on as its agent for service of any notice.