

1 APPLICATION

- 1.1 These general terms and conditions (**General Terms**): apply to and govern all of the Services supplied by ExecuJet MRO Services New Zealand Ltd to Customer and any Parts supplied by ExecuJet in the course of providing the Services.
- 1.2 The only terms and conditions which are binding upon ExecuJet relating to the supply by ExecuJet of the Services to Customer (including any Parts supplied in the course of providing the Services) are: those set out in these General Terms or otherwise agreed to in writing and signed by ExecuJet; and those which are imposed by law and which cannot be lawfully excluded. To the maximum extent permitted by law all other conditions, terms and warranties are excluded. Unless otherwise expressly agreed in writing by ExecuJet, these General Terms replace any terms contained in any document issued by Customer and any terms in any document issued by Customer do not apply.

2 DEFINITIONS

- 2.1 In these General Terms, unless a contrary intention appears:

Additional Costs has the meaning given in clause 7.4;

Agreement means: the agreement between ExecuJet and Customer consisting of the terms set out in the Aircraft Work Authorisation, these General Terms; and any other terms agreed in writing and signed by the Parties relating to the Aircraft Work Authorisation; or where applicable, any maintenance services agreement between ExecuJet and Customer which expressly incorporates these General Terms;

Aircraft means the aircraft described in the Agreement and upon which ExecuJet may perform the Services, including all of its engines, airframes, auxiliary power units, fitted components, and equipment used or installed on the Aircraft and documentation;

Aircraft Hangarage Services means the storage by ExecuJet of the Aircraft in the Hangar; the positioning of the Aircraft in and out of the Hangar to an allocated parking bay;

Aircraft Work Authorisation means the authorisation form or purchase order setting out, among other things, the Services to be performed by ExecuJet in respect of a particular Aircraft and the proposed charges for performing the Services;

Business Day means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act is to be performed or a payment is to be made;

Confidential Information has the meaning given in clause 24.5;

Consequential Loss has the meaning given in clause 15.3;

Customer means the natural or legal person engaging ExecuJet to provide the Services and for whom ExecuJet has agreed to provide the Services;

Dispute has the meaning given in clause 23.1;

Exchange and Return Policies has the meaning given in clause 7.1;

ExecuJet means ExecuJet MRO Services New Zealand Ltd NZBN 9429041369265;

Facility means the ExecuJet maintenance facility located in New Zealand as determined or notified by ExecuJet;

Indemnified Parties means ExecuJet, ExecuJet MRO Services New Zealand Ltd NZBN 9429041369265 and their Related Bodies Corporate, Subsidiaries, Holding Companies, agents and sub-contractors and their respective employees, officers and directors, successors and assigns;

Input Date means the date on which any Services are scheduled to commence, and the Aircraft has been delivered to the Facility and made available to ExecuJet, as agreed;

Insolvency Event has the meaning given in clause 21.3;

Parties means collectively ExecuJet and Customer;

Parts means the spare parts, goods, materials, equipment, accessories and any other items or consumables utilized or installed by ExecuJet in performing the Services;

Party means individually ExecuJet and/or Customer as applicable;

Re-Delivery Date means the time and date on which Services are completed and the Aircraft or Part is made available to Customer for re-delivery;

Related Body Corporate, Subsidiary and Holding Company each has the meaning given in section 9 of the Corporations Act 2001;

Relevant Period means the period commencing the Input Date and ending on the Re-Delivery Date;

Services means any services agreed to be performed by ExecuJet for the Customer including, Aircraft maintenance services;

Taxes means any and all sales, use, business, gross income, personal property, transfer, fuel, leasing, value added, excise, gross receipts, franchise, stamp, income, levies, imposts, withholdings or other fees, taxes or duties of any nature, together with any penalties, fines, charges or interest payable in relation to such amounts;

Third Party Contract has the meaning given in clause 7.1ii;

Warranty has the meaning given in clause 14; and

Warranty Period has the meaning given in clause 14.

3 SERVICES

ExecuJet agrees to provide the Services to the Customer at the applicable Facility or at such other location agreed between the Parties.

4 QUOTATIONS

- 4.1 Quotations issued by ExecuJet are estimates only.
- 4.2 Quotations issued by ExecuJet and accepted by Customer and any orders submitted by Customer to ExecuJet will not be binding on ExecuJet unless and until confirmed and agreed in writing by ExecuJet.
- 4.3 ExecuJet:
- 4.4 shall not under any circumstances be limited to recovering from Customer the amount indicated in a quotation; and
- 4.5 may claim and recover from Customer and Customer must pay all amounts payable by Customer to ExecuJet under the Agreement

5 AIRCRAFT WORK AUTHORISATION

- 5.1 Each valid Aircraft Work Authorisation signed or agreed in writing by ExecuJet and signed or agreed in writing by Customer constitutes a separate agreement for the supply of the Services on these General Terms.

5.2 SCOPE AND AUTHORITY

ExecuJet may, but is not obliged, in its sole and absolute discretion, to:

- i. perform any additional or alternative work on, or supply any Parts required for, or fit such Parts to, the Aircraft to ensure the airworthiness of the Aircraft, notwithstanding that the same may not be reflected on or referred to in any Aircraft Work Authorization provided by ExecuJet to Customer, and
- ii. carry out any modifications, alterations, maintenance, checks and the like on the Aircraft which are required or recommended by the manufacturer or supplier of such Aircraft; and
- iii. refer, or delegate any work to any other person or company.

5.3 SUBCONTRACTING

ExecuJet may not subcontract the whole or part of any particular Services without the prior written consent of the Customer, subject always to ExecuJet adhering to the applicable civil aviation maintenance regulations and providing the Customer with relevant information when so requested.

6 CHARGES AND PRICES

- 6.1 ExecuJet shall charge Customer for the Services and Parts at the rates or the amounts agreed between the Parties.
- 6.2 Where no charge or fee has been agreed in advance, ExecuJet's then current fee or rates charged by ExecuJet for such Services or Parts applies.
- 6.3 ExecuJet's prices, fees and charges are not subject to any discounts unless expressly agreed in writing by ExecuJet.
- 6.4 Subject to clause 4, unless otherwise stated in writing, all quotations are valid for fourteen days only.
- 6.5 All Parts supplied or fitted in terms of or pursuant to a confirmed Aircraft Work Authorization are supplied net of any inbound freight charges. Such charges will be invoiced separately.
- 6.6 Where the whole or any portion of any quoted price is either directly or indirectly affected by variations in the exchange rate, including but not limited to, currency devaluations, an increase or decrease in the price of the Services or Parts occasioned by any such variations and devaluations shall be for Customer's account. In the case of imported Parts, the exchange rate applicable to the price of such Parts shall be the official exchange rate current at the time the part is receipted into ExecuJet's inventory system.
- 6.7 Except otherwise specified in writing, prices are exclusive of all duties, taxes, customs fees and tariffs. Prices are not taking into account the possible impact (on parts and/or subcontracted services) of duties, taxes, customs fees and tariffs that any country may apply at the time of parts order. See "12. Goods and Services Tax and other Taxes" for treatment of duties, taxes, customs fees, and tariffs not included in listed prices.

7 EXCHANGE, CORE UNITS and UNUSED PARTS

- 7.1 Customer must at all times:
 - i. strictly comply (time being of the essence) with ExecuJet's or the supplier's policies and procedures, including Part or item return timeframes or deadlines (as notified by ExecuJet or the supplier from time to time) relating to ordering, exchanging and returning (as applicable): removed ("core") Parts or items; and unused ("non-core") Parts or items (**Exchange and Return Policies**); and
 - ii. comply with the terms of any agreement entered into between Customer and an original manufacturer or supplier of Parts or items required for performing the Services (**Third Party Contract**).

- 7.2 If a Part or item is ordered by or on behalf of Customer from a supplier on an "exchange basis" the removed ("core") unit must be returned to the supplier or ExecuJet in accordance with the applicable Exchange and Return Policies.

- 7.3 Unless otherwise permitted under the Exchange and Return Policies, Customer must not return any ordered (unused "non-Core") Part or item ordered on an exchange basis to the supplier or ExecuJet without the supplier's or ExecuJet's (as applicable) prior written consent. Customer must pay to the supplier or if required by ExecuJet, reimburse ExecuJet for all of the freight and export costs incurred in connection with returning any Parts or items to the supplier.

- 7.4 Additional fees, penalties, charges, legal costs and other costs (including additional freight and export costs and in some cases the full cost of a Part or item ordered on an exchange basis) (**Additional Costs**) may be payable by Customer if:
 - i. any removed ("core") Part or item is deemed by ExecuJet or the supplier to be irreparable;
 - ii. the cost of repairing any removed ("core") Part or item is more than originally assumed or estimated;
 - iii. Customer fails to comply with any Third-Party Contract; or
 - iv. Customer fails to comply with the Exchange and Return Policies, including by failing return any removed ("core") or unused Part or item within the required timeframe or within the timeframe notified by ExecuJet,

- 7.5 Customer must pay any Additional Costs (as defined above) to ExecuJet, or where required by ExecuJet, to the supplier.

8 PAYMENT TERMS

- 8.1 Customer must pay all amounts payable under the Agreement on the due date for payment without set off or counterclaim and free and clear of and without deduction for or on account of any present or future Taxes, charges, levies, imposts, duties.
- 8.2 If Customer is compelled by law to make the deduction Customer will ensure that the deduction does not exceed the minimum legal liability therefore and Customer shall pay to ExecuJet such additional amounts as may be necessary to ensure that ExecuJet receives a net amount equal to the full amount that would have been received had the payment not been made subject to such.
- 8.3 Unless otherwise agreed in writing by ExecuJet, Customer must pay all amounts due to ExecuJet under or pursuant to these General Terms for the Services (including any Parts and other consumables (including oils, fluids and hardware) supplied or used by ExecuJet in providing the Services) on presentation of ExecuJet's invoice.
- 8.4 Upon written application by the Customer, ExecuJet may in its sole discretion decide to grant Customer a credit facility in terms of which payment by Customer shall be on such terms and subject to such rate of interest as ExecuJet may decide. The approval of any such credit facility shall only be binding on ExecuJet if documented in writing and signed by an authorised representative of ExecuJet. Until such time as a credit facility is in place, payment shall be made by Credit Card or Telegraphic Transfer immediately on receipt of the Invoice.
- 8.5 In the event of it being agreed that payment shall be effected by letter of credit, the letter of credit shall be irrevocable, be made out in favour of ExecuJet, and be valid for a period of six months. Such letter of credit shall further be payable at sight and expressly provide that partial shipments are acceptable. The letter of credit shall further reflect ExecuJet's bankers thereon.

- 8.6 Time is of the essence in respect of Customer's obligation to pay for the Services supplied by ExecuJet to Customer.
- 8.7 Customer must pay interest to ExecuJet at the prime rate of interest offered by ExecuJet's bankers from time to time per month, on all overdue amounts. Interest accrues on a daily basis from the date on which payment was due to the date on which payment is made of the outstanding amount in full.
- 8.8 Customer must pay the costs of all telegraphic transfer and bank charges incurred in connection with the supply of the Services.
- 8.9 The Client shall ensure that any payments are made only to the official bank account specified in the invoice issued via ExecuJet MRO Services Australia verified communication channels. Payment made to unauthorized parties due to phishing, fraud, spoofing or any online scams shall not discharge the Client's payment obligation unless such fraud results from gross negligence by ExecuJet MRO Services Australia.
- 9 DELAY**
- ExecuJet will not be responsible for and shall have no liability of any kind (including liability for Consequential Loss) arising from, as a consequence of, or in connection with any delay in returning the Aircraft to service after providing the Services.
- 10 OWNERSHIP**
- Title to and ownership of all Parts supplied by ExecuJet or fitted to an Aircraft in the course of providing the Services remains vested in ExecuJet until payment in full for such Parts has been paid by Customer and received by ExecuJet, notwithstanding delivery of the Aircraft to Customer to which such Parts have been fitted.
- 11 EXPORT LICENCES AND EXPORT CONTROL**
- 11.1 If all or any Parts required for the Services are to be imported the acquisition of such Parts will be subject to all requisite export licences and other licences, permits and authorizations being granted by the country concerned.
- 11.2 The Customer must at its cost comply with the provisions and requirements of all export or import control laws, regulations or obligations imposed by and as amended from time to time of New Zealand, and any other applicable country.
- 11.3 The Customer indemnifies and holds harmless ExecuJet from and against any and all claims, losses, damages, expenses, costs, demands, liabilities and proceedings suffered or incurred by ExecuJet and arising from or in respect of Customer's failure to comply with any of the provisions and requirements specified in clause 11.2.
- 12 GOODS AND SERVICES TAX AND OTHER TAXES**
- 12.1 In this clause 12:
- i. GST means GST as defined in *Goods and Services Tax Act 1985* or any replacement or other relevant legislation and regulations;
 - ii. any reference to GST payable by a Party includes any corresponding GST payable by the representative member of any GST group of which that Party is a member; and
 - iii. any reference to an input tax credit entitlement by a Party includes any corresponding input tax credit entitlement by the representative member of any GST group of which that Party is a member.
- 12.2 Unless GST is expressly included, the consideration to be paid or provided under any other clause of the Agreement for any supply made under or in connection with the

Agreement does not include GST. To the extent that any supply made under or in connection with the Agreement is a taxable supply, the GST exclusive consideration to be paid or provided for that taxable supply is increased by the amount of any GST payable in respect of that taxable supply and that amount must be paid at the same time as the GST exclusive consideration is to be paid or provided. A Party's right to payment under clause 12.2 is subject to a valid tax invoice being delivered by the supplier to the recipient of the taxable supply.

- 12.3 To the extent that a Party is required to reimburse or indemnify another Party for a loss, cost or expense incurred by that other Party, that loss, cost or expense does not include any amount in respect of GST for which that other Party is entitled to claim an input tax credit. To the extent that any consideration payable to a Party under the Agreement is determined by reference to a cost incurred by a Party, or to a price, value, sales, revenue or similar amount, the GST exclusive amount of that cost, price, value, sales, revenue or similar amount must be used.

- 13 Any other Taxes (other than those assessed upon or chargeable by reference to income or profits), duties, tariffs, or other impositions or levies imposed by competent fiscal or taxation authorities upon any charge, matter or thing arising by reason of the supply of the Services or Parts to Customer (including, without limitation, value added tax) shall be chargeable to Customer. For the avoidance of doubt, such duties, taxes, custom fees and tariffs charged to parts and/or services purchased by ExecuJet will be recharged to ExecuJet's customers. WARRANTIES AS TO CAPACITY**

- 13.1 In addition to and despite all other warranties, express or implied, in the Agreement, Customer warrants that:
- i. it is empowered to enter into the Agreement and to do all things that will be required by the Agreement; and
 - ii. all things have been done or will be done as may be necessary to render the Agreement legally enforceable in accordance with its terms and fully valid and binding on it.

14 WARRANTY AND LIABILITY

- 14.1 ExecuJet warrants that the Services performed by ExecuJet for Customer will be free from defective workmanship for twelve (12) months from the Re-Delivery Date of that Aircraft by ExecuJet, whichever is the earlier (**Warranty Period**).
- 14.2 For Aircraft paint work ExecuJet warrants (**Paint Warranty**) that the Services carried out for the customer shall be free from defective workmanship for three (3) months or one hundred (100) flight hours of the Re-Delivery Date whichever is earlier (**Paint Warranty Period**).
- 14.3 If it is established to ExecuJet's satisfaction a failure has occurred due to a breach of the warranty referred to in clause 14.1 (**Warranty**) by ExecuJet during the Warranty Period due to ExecuJet's defective workmanship:
- i. ExecuJet will, at ExecuJet's option: (a) repair or replace the defective Parts where the Part is defective due to the breach of warranty; and/or (b) perform the Services that are the subject of the breach of warranty again to the extent necessary to remedy the defective workmanship at no cost to Customer; and
 - ii. ExecuJet's liability for breach of the Warranty will be limited to repairing or replacing the defective Parts / or performing the relevant Services again in accordance with this clause 14.1.

- 14.4 In order to make a Warranty claim Customer must:
- i. notify ExecuJet in writing within five (5) days of discovering the failure or defect or the need for repairs, replacements or corrections or within five (5) days of the date on which Customer ought to have become aware of that need having regard to the relevant facts and circumstances; and
 - ii. give ExecuJet access to the Aircraft as soon as reasonably practicable after the defect or failure was discovered in order to assess the defect or failure.
- 14.5 The Warranty does not apply if any one or more of the following applies:
- i. Customer has not taken all precautions to prevent an aggravation of the damage;
 - ii. the failure or defect is attributable to a latent defect, rust, corrosion, the entry of any foreign materials, lightning or bird strike or normal wear and tear;
 - iii. the repaired Aircraft has been modified, installed, maintained or repaired other than by ExecuJet in a manner which, in ExecuJet's sole discretion, is or was likely to adversely affect its operation or which has caused the failure or defect;
 - iv. Customer or a third party appointed by Customer has attempted to repair the defect or failure without the prior inspection and authorization of ExecuJet;
 - v. the repaired Aircraft or Parts have not at all times been maintained, serviced or operated strictly in accordance with: the manufacturer's maintenance and service bulletins instructions or manuals (including the component maintenance manual); the Aircraft's flight manual; and any other applicable instructions or specifications; including the instructions of ExecuJet;
 - vi. the repaired Aircraft shall have failed either directly or indirectly, as a result of misuse, negligence or accident other than by ExecuJet itself; or
 - vii. Customer fails to notify ExecuJet in writing within five (5) days of discovering the failure or defect or the need for repairs, replacements or corrections or within five (5) days of the date on which Customer ought to have become aware of that need having regard to the relevant facts and circumstances.
- 14.6 ExecuJet's obligations under the Warranty are expressly limited to the costs of labour and materials required to replace or repair the defect at ExecuJet's maintenance facilities or a mutually agreed location.
- 14.7 The Aircraft, engine or component to be repaired or serviced under the Warranty must be returned to ExecuJet for rectification with transport charges prepaid and on the basis that ExecuJet does not assume and Customer must pay the cost of returning the Aircraft, engine or component to Customer.
- 14.8 If it is necessary to perform the work arising from the Warranty at a location other than the Facility (as defined above), ExecuJet's liability will be limited to the lesser of:
- i. the reasonable cost of direct labour and Parts required to complete such work; and
 - ii. where (at Customer's request) the work is carried out other than at ExecuJet's Facility the cost that would have been incurred if ExecuJet had done the works. If the Aircraft or Part is required to be moved from its current location to the place where the Warranty work is to be carried out, then such transportation costs will be at Customer's expense.
- 14.9 If ExecuJet repairs or replaces any part under this Warranty the warranty in respect of the Services relating to the repaired or replaced Part shall be extended for the Warranty Period. The extension does not apply to any other Parts.
- 14.10 ExecuJet does not give any warranty Part or accessory to the Aircraft unless otherwise agreed in writing by ExecuJet.
- 14.11 ExecuJet shall not be in any way liable or responsible to Customer under this warranty clause in the event any monies due or owing hereunder has not been paid by Customer to ExecuJet on its due date.
- 15 LIMITATION OF LIABILITY and INDEMNITY**
- 15.1 The only conditions, guarantees and warranties which are binding on ExecuJet relating to the Services supplied by ExecuJet, the Aircraft or Parts repaired or maintained by ExecuJet or the agreement are those (if any) required to be binding by statute and which cannot be excluded and those expressly set out in the agreement. To the maximum extent permitted by law ExecuJet will not be liable under any other conditions, terms, guarantees or warranties and all other conditions, terms, guarantees and warranties of any kind (whether express or implied) are excluded or waived by Customer.
- 15.2 ExecuJet shall not be liable and excludes all liability for: any loss or destruction of or damage to the Aircraft, Aircraft engine, Aircraft equipment or accessory; the contents or any part of the Aircraft; or Customer's property; or the injury to or death of any person howsoever arising and from any cause whatsoever, including by fire, theft, or accident, and whether or not such loss, damage, destruction, injury or death is caused:
- i. while Aircraft, Aircraft engine, Aircraft equipment or accessory; the contents or any part of the Aircraft; or Customer's property was: in ExecuJet's possession; in ExecuJet's hangars; left in the open, parked, being taxied or test flown; or undergoing inspection, repair or maintenance; or
 - ii. by the supply to Customer of any Services or Parts.
- except to the extent set out in clause 14 (Warranty and Liability) or directly caused by ExecuJet's wilful misconduct and gross negligence.
- 15.3 Without in any way limiting or affecting the generality of clause 15.2, neither ExecuJet nor any other Indemnified Party shall, under any circumstances whatsoever incur or have any liability for any: loss of: profits, data; reputation, business, business opportunities (including opportunities to enter into or complete arrangements or contracts with third parties), anticipated savings, contracts, or goodwill; corruption of data; increased or wasted overheads or expenses; and any other economic, special, indirect or consequential damages or losses of whatsoever nature and howsoever caused; whether in contract (including under any indemnity or warranty), in tort (including negligence), in equity, under statute or otherwise and whether due to any wrongful or negligent act or omission by ExecuJet or any of its directors, servants, officers, employees, agents, representatives or invitees or not (**Consequential Loss**).
- 15.4 To the fullest extent permitted by law, Customer indemnifies ExecuJet and any other Indemnified Party against: all losses incurred by ExecuJet or any other Indemnified Party; all liabilities incurred by ExecuJet or any other Indemnified Party; and all costs actually payable by ExecuJet or any other Indemnified Party to its own legal representatives (whether or not under a costs agreement) and other expenses incurred by ExecuJet in connection with a demand, action, arbitration or other proceeding (including mediation, compromise, out of court settlement or appeal); howsoever arising in connection with:

- i. loss of or damage to any property (including, the Aircraft and Customer's property), except to the extent directly caused by ExecuJet's wilful misconduct and gross negligence;
- ii. death of or injury to persons including but not limited to Customer's employees, officers and directors, customers, passengers, agents and sub-contractors, except to the extent directly caused by ExecuJet's wilful misconduct and gross negligence;
- iii. any infringement of third-party rights including patents trademarks, trade names, copyright or other intellectual property rights, arising from the performance or provision of the Services including any rights vested in information supplied by Customer for use by ExecuJet in performing the Services;
- iv. any act or omission of Customer, its employees, officers and directors (including personnel of Customer's agents and sub-contractors), and any third parties; arising out of or in connection with or in consequence of the performance of the Services;
- v. any failure by Customer to comply with clause 7, including the Exchange and Return Policies; or
- vi. all claims for Taxes arising from the provision of the Services, which result from Customer's failure to properly import into or export from New Zealand the Aircraft or Part.

15.5 ExecuJet holds the rights under these General Terms expressed to be for the benefit of any other Indemnified Party as agent of and trustee for such Indemnified Party, and such Indemnified Party must be treated to this extent as a party to the Agreement.

16 OBLIGATIONS OF CUSTOMER

16.1 The Customer warrants that during the Relevant Period, as at the Input Date and at all material times:

- i. it has or shall obtain all relevant approvals to allow the Aircraft to be delivered to ExecuJet for the performance of the Services; and
- ii. the current condition and all defects in the Aircraft which should be reasonably known to the Customer are notified to ExecuJet.
- iii. the Customer acknowledges and accepts all risks arising from unforeseen changes in circumstances occurring after the date of the order, including (but not limited to) circumstances that increase the performance cost. Such changes shall not relieve the Customer of any obligations under this agreement."

16.2 At the Customer's sole risk and expense, the Customer undertakes to ExecuJet that it shall:

- i. maintain responsibility for maintenance management control of the Aircraft;
- ii. respond with timely decisions on all matters or queries of whatsoever nature as and when referred to it by ExecuJet during the Relevant Period;
- iii. prior to the Aircraft being delivered, provide ExecuJet with access to the airworthiness; and
- iv. comply with all applicable Customs and Excise requirements for the delivery of the Aircraft and Parts or for the performance of the Services prior to delivery of the Aircraft or Parts to ExecuJet for the provision of the Services.

17 INSURANCE

17.1 Except as provided in this clause below, Customer will be responsible for any insurance for the Aircraft.

17.2 Customer undertakes to obtain and maintain in full force and effect during the Warranty Period insurance on terms

acceptable to ExecuJet in respect of the Aircraft, Parts, goods, property and personnel including:

- i. Aircraft third party, passenger legal liability insurance for a limit of liability of at least USD50 million in respect of any one occurrence;
- ii. War and allied perils liability (per AVN52E) for a limit of liability of at least USD50 million (or such other amount as agreed by ExecuJet in writing) in the annual aggregate;
- iii. Hull all risks and war risks of loss or damage whilst flying and on the ground; and
- iv. All risks of loss or damage to Parts, goods, and Customer's property not attached to or forming part of an Aircraft.

17.3 Unless otherwise agreed in writing by ExecuJet, the insurance procured by Customer in accordance with clause 17.2 shall:

- i. expressly accept the terms of clause 15 (Limitation of Liability and Indemnity);
- ii. provide for insurers to waive any and all rights of subrogation against the Indemnified Parties;
- iii. name ExecuJet as additional insured for its respective rights and interests subject to a severability of interest clause and shall provide:

- (a) that the Indemnified Parties shall not be prejudiced by any breach of warranty or other act or omissions by Customer which may render a claim by Customer under the policy void or voidable; and
- (b) such insurance shall be first to react and primary to any other similar cover already held by the Indemnified Parties.

17.4 Evidence of the insurance required by Customer under this clause shall be provided by Customer to ExecuJet upon ExecuJet's request

17.5 ExecuJet warrants that it shall maintain during the Relevant Period, hangar keepers and aircraft product liability Insurance evidence of which shall be provided to Customer upon Customer's reasonable request.

18 FORCE MAJEURE

ExecuJet will not have any liability or be deemed to be in breach of the Agreement for any delay in performance or failure to perform or part performance only of any of its obligations due to any cause beyond its reasonable control, including any of the following: strike, lock-out, ban or other industrial action or disturbance; sabotage, vandalism, terrorism, civil commotion, riot, invasion, war, threat of or preparation for war, explosion, or fire; storm, flood, subsidence, epidemic, natural physical disaster, or adverse weather conditions; national emergency; impossibility or denial of the use of a port, airport or station facilities or railway, shipping, aircraft, motor transport or any other method of transport; shortage of labour, transportation, fuel, power or plant, machinery, equipment, Parts or material; breakdown of machinery, plant, equipment or facilities; law, rule or regulation of any government or governmental agency, executive or administrative order or act of general or particular application; act or policy of any state or government or any other authority having jurisdiction over either Party; a supplier failing to deliver any Parts required to perform the Services; government or any other boycott or sanction or embargo directed at ExecuJet, New Zealand, its government, nationals or any person connected with New Zealand; or other event outside ExecuJet's reasonable control.

19 LIEN AND PLEDGE

19.1 Customer acknowledges and agrees that all Aircraft, Aircraft engines, Parts and accessories which come into the

possession of or under the control of ExecuJet and whether or not they are in ExecuJet's possession shall be subject to a special and general lien and pledge for all amounts due by Customer to ExecuJet in respect of work being done; Services rendered and Parts supplied or fitted; and for all amounts which Customer now owes or may at any time become owing to ExecuJet under any agreement between ExecuJet and Customer. If Customer does not pay ExecuJet within thirty days after due date, then subject to the provisions of clause 21 and without limiting ExecuJet's other rights and remedies, ExecuJet will not release the Aircraft to Customer.

20 HANGARAGE/STORAGE

If the Customer fails to comply with any of these General Terms or the Agreement or to accept delivery of the Aircraft, Aircraft engine, Parts or accessory concerned within 14 (fourteen) days after being called upon by ExecuJet to so do, Customer shall be required to reimburse ExecuJet for any hangarage fees, or rental and storage charges incurred by ExecuJet.

21 TERMINATION

- 21.1 Without prejudice to any other rights ExecuJet may have, ExecuJet may terminate the Agreement, or any incomplete part of the Agreement or suspend the provision of the Services, if Customer commits a breach of any of the General Terms of such agreement (including the failure by Customer to take delivery of the goods) and fails to remedy such breach having been given 14 (fourteen) days' written notice to do so by ExecuJet or an Insolvency Event occurs in relation to Customer.
- 21.2 On termination of any agreement or any uncompleted part thereof for any reason whatsoever.
- i. The amounts then owed, whether due or not by either Party in terms of any agreement shall become due and immediately payable.
 - ii. ExecuJet may retake possession of any Parts or other items in respect of which ownership has not passed to Customer.
 - iii. ExecuJet shall be entitled to cancel any further deliveries in terms of any agreement with Customer.
- 21.3 For the purposes of clause 21.1, **Insolvency Event** means the happening of any one or more of the following events:
- i. an application is made to a court for an order or an order is made that a body corporate be wound up or that a liquidator or provisional liquidator be appointed to a body corporate; a body corporate: enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them; resolves to wind itself up or otherwise dissolve itself, or gives notice of intention to do so, or is otherwise wound up or dissolves; is unable to pay its debts as they fall due or is or states that it is insolvent or is treated as or presumed insolvent under any applicable legislation; or takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation;
 - ii. a receiver, receiver and manager, trustee, administrator or similar official is appointed over any or all of the assets or undertaking of a body corporate;
 - iii. any of the following liquidation events occur in relation to Customer: provisional liquidation, administration, receivership, compromise, arrangement, amalgamation, reconstruction, winding up, dissolution, assignment for the benefit of creditors, arrangement or compromise with creditors, bankruptcy or death; and

- iv. anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction;

22 PROCEEDINGS AND DEFAULT COSTS

- 22.1 Customer or its representative consents to the jurisdiction of the Courts of New Zealand for the purpose of any action or other legal proceedings which ExecuJet or its cessionary may institute against Customer.
- 22.2 ExecuJet or its cessionary shall be entitled to recover from Customer all legal expenses, hangarage fees, rental or storage charges and all other fees and charges incurred by it with attorneys or collection agents, whether legal action has been instituted or not provided such expenses, have been incurred in consequence of a default by Customer or breach of the Agreement.

23 DISPUTES

- 23.1 If any dispute, controversy or claim arises in connection with, or relating to the Agreement, these General Terms or the services provided pursuant to this Agreement (including any question regarding the Agreement's existence, validity or termination)(**Dispute**), a party to the Dispute must give to the other Party a notice specifying the Dispute, what action the Party requires to remedy or resolve the Dispute and requiring its resolution under this clause 17 (**Notice of Dispute**). A senior representative of each Party must confer within 7 days after the Notice of Dispute is given to try to resolve the dispute in good faith.
- 23.2 If the Dispute is not resolved within 30 days after the Notice of Dispute is given to the other party or parties then either party may refer the Dispute to and require the Dispute to be resolved by arbitration in accordance with the ACICA Arbitration Rules. If a party refers a Dispute to arbitration pursuant to this clause 23 then:
- i. *the Dispute must be resolved by arbitration in accordance with the ACICA Arbitration Rules;*
 - ii. *the seat of arbitration shall be Wellington, New Zealand;*
 - iii. *the language of the arbitration shall be English; and*
 - iv. *the number of arbitrators shall be one.*

24 CONFIDENTIALITY

- 24.1 The Parties must at all times:
- i. keep the other Party's Confidential Information confidential;
 - ii. not publish, disclose or circulate to any person a Party's Confidential Information except to the extent: permitted, or necessary to comply with its obligations under the Agreement; or necessary for the purpose of legal proceedings relating to the Agreement; and
 - iii. only disclose the Confidential Information to its employees, contractors, agents, legal and financial advisors on a need to know basis for the purposes of complying with the Agreement and only after making them aware of the confidential nature of the information.
- 24.2 The obligations of the Parties under this clause 24 will survive and continue after the discontinuance or termination of the Agreement or the contractual relationship between the Parties or any part of the same and be binding on authorised assignees and successors in title.
- 24.3 This clause 24 does not apply to any information which:
- i. is publicly available at the date of the Agreement;

- ii. becomes publicly available subsequent to the date of the Agreement (other than as a result of the wrongful disclosure by a Party or disclosure in breach of the Agreement); or
 - iii. is required to be disclosed by any law, statute or statutory authority.
- 24.4 On termination of the Agreement or earlier on any reasonable request by the disclosing Party: the recipient must promptly return to the disclosing Party or (if required by the disclosing Party) destroy any or all copies of Confidential Information in its possession or control; and cease using the Confidential Information. Despite any provision to the contrary if a Party is required by law to retain or use the Confidential Information then it may retain copies of or use the Confidential Information to the extent necessary to comply with its obligations under any applicable laws.
- 24.5 In the Agreement **Confidential Information** means:
- i. all propriety information of Party becoming available or coming into the possession or knowledge of the other Party under or in relation to the Agreement, including a Party's performance under the Agreement;
 - ii. in the case of ExecuJet: the fees, charges and labour rates payable by Customer under these General Terms or the Agreement or other commercial terms relating to these General Terms; and all information relating to the business and financial affairs of ExecuJet or any Indemnified Party and all technical data, pricing and charges information, pricing and charges strategies and discounts, know how, trade secrets, engineering or other data, designs, specifications, processes and formulae; and
 - iii. all information which is marked "confidential" or ought reasonably to be known by the recipient to be confidential; and
 - iv. any information that would at law be considered secret or confidential information of a Party.

25 NOTICES

- 25.1 A notice or other communication connected with the Agreement (**Notice**) has no legal effect unless it is in writing.
- 25.2 In addition to any other method of service provided by law, the Notice may be:
- i. sent by prepaid priority post to the address of the addressee set out in the Agreement or subsequently notified;
 - ii. sent by email to the email address (if any) of the addressee notified set out in clause 25.4, or subsequently notified; or
 - iii. delivered at the address of the addressee set out in the Agreement or subsequently notified.
- 25.3 If the Notice is sent or delivered in a manner provided by clause 25.2, it must be treated as given to and received by the Party to which it is addressed:
- i. if sent by post, on the 3rd Business Day (at the address to which it is posted) after posting; E
 - ii. if sent by email before 5pm on a Business Day at the place of receipt, on the day it is sent and otherwise on the next Business Day at the place of receipt; or
 - iii. if otherwise delivered before 5pm on a Business Day at the place of delivery, upon delivery, and otherwise on the next Business Day at the place of delivery.

25.4 ExecuJet's email address is:
newzealand@execujet-mro.com

26 MODERN SLAVERY, ANTI-CORRUPTION, AND

SUPPLIER PRINCIPLES

- 26.1 **Modern Slavery Laws** means the *Modern Slavery Act 2018* (Cth), the *Modern Slavery Act 2018* (NSW), the *Modern Slavery Act 2015* (UK) and any relevant regulations or ancillary legislation published in respect of the above or any similar modern slavery legislation in another jurisdiction of which the Company is required to comply.
- 26.2 **Modern Slavery Offence** means:
- i. any offence set out in section 1 or section 2 of the Modern Slavery Act 2015 (UK);
 - ii. any conduct which would constitute 'modern slavery' under the *Modern Slavery Act 2018* (Cth); and
 - iii. any other conduct or practices which amount to an offence under any of the Modern Slavery Laws.
- 26.3 **Anti-Corruption**
- i. ExecuJet must not give or offer to give (directly or indirectly) to any person any bribe, gift, gratuity or other thing of value, which would or could be construed as a corrupt practice, as an inducement or reward:
 - (a) for doing or forbearing to do any action in relation to the agreement; or
 - (b) for showing or for forbearing to show any favour or disfavour to any person in relation to the agreement.
 - ii. However, nothing in this clause is intended to limit or affect any lawful inducements or rewards to ExecuJet's employees, agents and subcontractors that could not reasonably be construed as involving corrupt practices.
- 26.4 **Modern Slavery**
- 26.4.1 Contractor acknowledges and warrants
- ExecuJet acknowledges that the Customer has obligations to comply with Modern Slavery Laws, and represents and warrants to the Customer that, at the date of entering into this agreement, ExecuJet:
- i. has no knowledge of any Modern Slavery Offence currently occurring within its organisation, business or supply chain; and
 - ii. takes and must continue to take reasonable steps to identify the risk of, and prevent the occurrence of, Modern Slavery Offences within its organisation, business or supply chain.
- 26.4.2 Contractor subcontracting
- i. Without limiting clause 26.4, ExecuJet represents and warrants to the Customer that in relation to any services or goods procured from, or subcontracted or outsourced to, third parties for the provision of the Services, ExecuJet has taken, or will, prior to procuring, subcontracting or outsourcing any such services or goods from or to a third party, take, and must continue throughout the duration of ExecuJet's supply obligations to the Customer to take all reasonable steps to confirm that such third party is not engaging in Modern Slavery Offences.
- 26.4.3 ExecuJet must notify Customer
- ExecuJet must notify the Customer in writing as soon as practicable and no later than 10 Business Days after becoming aware of any Modern Slavery Offence (or of any charges laid or orders made in relation to a Modern Slavery Offence) within its organisation, business or supply chain.
- 26.4.4 Self-assessment questionnaire
- If requested by the Customer, ExecuJet must, subject to any existing confidentiality requirements

and any relevant law, take all reasonable steps to provide the Customer with any information, reports or documents in relation to any Modern Slavery Offence or any risk of a Modern Slavery Offence within ExecuJet's organisation, business or supply chain, including if required the completion of a self-assessment questionnaire.

26.4.5 Reliance

ExecuJet acknowledges that the Customer has entered into the agreement in reliance on the representations and warranties given under this clause 26.4.

26.5 The Customer's Supplier Principles

The Customer upholds high standards of business integrity and seeks to work with contractors and suppliers who are aligned to their values and who are socially responsible. The Customer will develop and strengthen relationships with contractors and suppliers who are committed to the principles set out below.

26.5.1 Business Integrity

- i. Contractors and suppliers must comply with all applicable laws and regulations including modern slavery laws, anti-bribery and anti-corruption laws.
- ii. Contractors and suppliers should have strong corporate governance and not tolerate, permit or engage in bribery corruption or unethical practices.
- iii. Contractors and suppliers must behave ethically, support fair competition and be socially responsible. Conflicts of interest must be avoided.

26.5.2 Social Performance

- i. Contractors and suppliers respect their neighbours and contribute to the societies in which they operate.
- ii. Contractors and suppliers will conduct their activities in a manner that respects human rights as set out in the UN Universal Declaration of Human Rights.
- iii. Contractors and suppliers will ensure that they:
 - (a) Do not use child labour;
 - (b) Do not use forced or compulsory labour;
 - (c) Comply with all applicable laws and regulations on freedom of association and collective bargaining;
 - (d) Do not tolerate discrimination, harassment or retaliation or abuse in the workplace;
 - (e) Provide a safe and secure and healthy workplace;
 - (f) Provide wages and benefits that meet or exceed the national legal standards and comply with all applicable laws and regulations on wages, benefits, working hours and employment conditions; and
 - (g) Promote an inclusive culture in which diversity is accepted and promoted.

26.5.3 Promotion and whistleblowing

- i. Contractors and suppliers should:
 - (a) Provide workers with a dedicated whistleblowing mechanism where grievances related to below topics can be logged confidentially; and
 - (b) Promote these principles within their business.
- ExecuJet accepts the Customer's Supplier Principles and

that the obligation to comply with the Customer's Supplier Principles forms part of this agreement.

27 GENERAL

27.1 (*Entire Agreement*) The Agreement: is the entire agreement and understanding between the parties on everything connected with the subject matter of the Agreement; and supersedes any prior agreement, statements, representations or understanding on anything connected with that subject matter.

27.2 (*Severability*) If one or more of these General Terms are not enforceable for any reason whatsoever, the remaining conditions shall continue in force and effect.

27.3 (*Waiver*) No failure or delay to exercise a power or right by a Party under these General Terms or any other provision of the Agreement operates as a waiver of that power or right. The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right. A waiver is not effective unless it is in writing. Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

27.4 (*Governing law*) The law of New Zealand governs the Agreement. The Parties submit to the non-exclusive jurisdiction of the courts of New Zealand.

27.5 (*Variation*) An amendment or variation to the Agreement is not effective unless it is in writing and signed by the Parties.

27.6 (*Costs*) Each Party must pay its own costs and outlays connected with the negotiation, preparation and execution of the Agreement.

27.7 (*Further assurance*) Each Party must promptly at its own cost do all things (including executing and if necessary, delivering all documents) necessary or desirable to give full effect to the Agreement.

27.8 (*No joint venture*) The Agreement does not create or evidence a partnership or joint venture.

27.9 (*Assignment*) Customer may not assign or otherwise transfer or deal with the Agreement except with the prior written consent of ExecuJet.

27.10 (*Continuing obligations*) All of the rights and obligations of each Party to these General Terms which are expressed to survive termination of the Agreement, or which by their nature or context must survive termination of the Agreement, will survive the termination of the Agreement.

27.11 (*Inconsistency*) If there is any inconsistency between the terms of Aircraft Work Authorisation Proposal/Quotation and these General Terms then the General Terms prevail to the extent of the inconsistency.

27.12 (*Interpretation*) In these General Terms, unless the contrary intention appears:

- i. Reference to:
 - (a) one gender includes the others; the singular includes the plural and the plural includes the singular; a person includes a body corporate; a party includes the party's executors, administrators, successors and permitted assigns;
 - (b) a thing includes the whole and each part of it separately;
 - (c) a statute, regulation, code or other law or a provision of any of them includes: any amendment or replacement of it; and another regulation or other statutory instrument made under it, or made under it as amended or replaced; and
 - (d) dollars means New Zealand dollars unless otherwise stated.
- ii. "Including" and similar expressions are not words of limitation.

- iii. Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning. Headings and any table of contents or index are for convenience only and do not form part of the Agreement or affect its interpretation. A provision of these General Terms or the Agreement must not be construed to the disadvantage of a Party merely because that Party was responsible for the preparation of the Agreement or the inclusion of the provision in the Agreement.
- iv. If a Party consists of more than 1 person, the Agreement binds each of them separately and any 2 or more of them jointly. An obligation, representation or warranty in favour of more than 1 person is for the benefit of them separately and jointly. A Party which is a trustee is bound both personally and in its capacity as a trustee.