

Zimex Aviation Ltd.

General Terms and Conditions (GTC) for Maintenance and Repair Orders

- 1. General**
 - 1.1 Unless otherwise agreed in writing, these GTC shall be binding for all Customer Work Orders.
 - 1.2 Any terms and conditions stipulated by the Customer shall not be valid, even if ZIMEX has not objected thereto explicitly.
 - 1.3 These GTC shall apply exclusively to all services performed by ZIMEX. Offers submitted by ZIMEX shall be without obligation. Customer's Work Orders shall become binding only on written confirmation by ZIMEX. Modifications to the provisions contained herein shall be valid only, if explicitly agreed by an authorized representative of ZIMEX in writing.
- 2. Scope of Services**
 - 2.1 ZIMEX shall only perform maintenance and repair work, if Customer has placed a Work Order with ZIMEX, based on ZIMEX's quotation, and signed by an authorized representative of the Customer, and with confirmation that Customer has read, understood and accepted the then current GTC.
 - 2.2 ZIMEX shall perform maintenance and repair work on aircraft and components including procurement of spare parts and equipment as necessary, in accordance with Customer Work Orders accepted by ZIMEX in writing.
 - 2.3 Customer commits to make available the aircraft or components to ZIMEX for the work commencement date as agreed in the Work Order. ZIMEX reserves the right to re-schedule Customer Work Orders, if the commencement date is not met by the Customer.
 - 2.4 ZIMEX may subcontract the services in any part or in total, if contracted as per Part 145.A.70 (EASA Part-145), and with subcontractors included in ZIMEX's MOE as per Part 145.A.75, without the Customer's prior consent.
 - 2.5 ZIMEX shall carry out at the Customer's cost and expense any unforeseen maintenance and repair works which are required in order to maintain the airworthiness of the aircraft, and in compliance with Part 145.A.50. ZIMEX shall bring such new defects or incomplete maintenance to the attention of the customer to obtain agreement to rectify the defects or to complete missing elements.
 - 2.6 If ZIMEX identifies other repair work, which does not affect the airworthiness of the aircraft, ZIMEX shall inform the Customer immediately in writing of the extent of such work, including cost estimate and expected additional down time. Such work must be approved by the Customer in writing before its commencement. If the Customer decides not to perform the proposed work ZIMEX shall be exempt from any and all liability for any possible damage resulting from the omission of such repair work.
 - 2.7 Customer shall provide all employees and subcontractors of ZIMEX free and safe access to his aircraft.
 - 2.8 Customer authorizes ZIMEX to perform run-ups and test flights with licensed and qualified personnel, as deemed necessary by ZIMEX.
- 3. Customer Supplied Material**
 - 3.1 It is at ZIMEX's discretion to accept and to install Customer supplied material. ZIMEX has the right to add a handling charge for the administrative processing and incoming inspection. Customer shall provide complete documentation and certificates with such material. ZIMEX does not accept any liability for Customer supplied material, including any consequential damages which may occur as a result of any discrepancy, malfunction, or failure of such material.
- 4. Replaced Parts and Equipment**
 - 4.1 All items replaced by ZIMEX during repair or maintenance work shall be retained by ZIMEX for sixty (60) days for disposition instructions from Customer. Thereafter remaining items shall become the property of ZIMEX.
- 5. Aircraft Downtime / Turn Times**
 - 5.1 Aircraft and component maintenance and repair turn times stated by ZIMEX shall be provisional and serve as general information unless they have been explicitly declared as binding by ZIMEX in writing.
 - 5.2 ZIMEX shall notify Customer as early as possible of any delay in delivery or completion of Work Orders, and ZIMEX shall agree with Customer a reasonable adjustment of the completion date.
- 6. Delay and Failure to Perform**
 - 6.1 ZIMEX cannot be held responsible for any failure or delay in Performance resulting from causes beyond ZIMEX's reasonable control. These may include, but are not limited to, events such as acts of government, court orders, civil unrest, sabotage, adverse weather conditions, labour trouble, and shortage of materials or services. ZIMEX shall notify Customer of such events and will endeavour to avoid or remove the cause and resume performance with minimum delay.
- 7. Transportation**
 - 7.1 Customer shall deliver the aircraft, or components, parts or equipment at its sole risk and expense to ZIMEX's facility.
 - 7.2 Re-delivery of components, parts or equipment will be effected ex works (EXW Incoterms 2000), excluding packing material.
 - 7.3 If Customer fails to pick up his aircraft or component later than two (2) calendar days following ZIMEX's notification of completion, the risk of damage to or loss of Customer's aircraft or component shall pass to Customer and Customer shall pay a reasonable storage fee, notwithstanding any further claims of ZIMEX.
- 8. Technical Documentation**
 - 8.1 Customer shall supply all current documentation and all applicable safety and other regulations, required for the performance of the agreed services by ZIMEX.
 - 8.2 ZIMEX shall prepare written Work Reports specifying all works performed and parts replaced, repaired or exchanged.
- 9. Warranty**
 - 9.1 ZIMEX warrants that maintenance and repair works carried out by it shall be free from any defects in workmanship for a period of thirty(30) days after the completion of maintenance and/or repair work on the aircraft but in no event exceeding fifty (50) flight hours.
 - 9.2 The warranty of ZIMEX shall expire if (i) the Customer does not inform ZIMEX in writing within eight (8) days from the discovery of the defect, (ii) the Customer does not give ZIMEX immediate access to the aircraft in order to inspect such defect, (iii) the Customer or a third party appointed by the Customer have tried to repair the defect without the prior inspection and authorization by ZIMEX, (iv) the Customer has not taken all precautions to prevent an aggravation of the defect, (v) the Customer does not comply with instructions given by ZIMEX, or (vi) the aircraft is not operated in accordance with all applicable operating directions.
 - 9.3 In case that any defect results from faulty workmanship of maintenance and/or repair work performed by ZIMEX, the sole remedy available to the Customer shall be the immediate remedy of such defect by ZIMEX by repairing and/or replacing any defective parts and/or workmanship in its own facilities at no cost for the Customer.
 - 9.4 If the repair or replacement of defective parts cannot be carried out in the facilities of ZIMEX the Customer shall bear all costs and expenses incurred in connection with the travel of ZIMEX personnel, transportation of spare parts, return of defective parts etc
 - 9.6 In case of defects on equipment and spare parts which are used in the maintenance or repair of the aircraft, as well as for services performed by third parties, ZIMEX will assign to Customer its own rights and claims (if any) against the manufacturer, supplier or vendor
 - 9.7 Excluded from this warranty of ZIMEX are all deficiencies which cannot be proved to have their origin in bad material used, faulty processes or poor workmanship, by ZIMEX, and which have their origin in other causes beyond the control of ZIMEX. Warranty claims may not be assigned or otherwise be transferred by the Customer.

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10. Limitation of Liability / Indemnification

- 10.1 The liability of ZIMEX, including without limitation for damage to or loss of the aircraft, its components, parts or equipment, shall be limited to the gross negligence or willful misconduct of ZIMEX, its personnel, agents and subcontractors. Furthermore, as far as permitted by mandatory law, ZIMEX shall not be liable for non-foreseeable damages which are not typical for the respective type of Work Order, nor for any indirect, consequential or incidental damages whatsoever, such as loss of profit, loss of orders, loss of use or production, inoperability of the aircraft, nor for any other occurrences or damages.
- 10.2 Customer shall indemnify and hold harmless ZIMEX, its personnel, agents and subcontractors from any claims, including third party claims, unless such claim is caused by the gross negligence or willful misconduct of ZIMEX, its personnel, agents and/or subcontractors.
- 10.3 Except for the obligations expressly undertaken by ZIMEX in these GTC, Customer hereby waives and releases all rights, claims and remedies with respect to any and all liabilities and warranties, express, implied or statutory. In particular, the Customer shall not have any claim for any price reduction, termination of contract, etc.
- 10.4 In no event shall ZIMEX be liable towards the Customer for any damage to, or loss of, goods and/or personnel arising from acts of war, hi-jacking, terrorist acts and other perils.

11. Insurance

- 11.1 Customer agrees to effect and maintain in full force and to provide ZIMEX on request with a certificate of the following insurances:
- Hull All Risks Insurance as well as a Risk All Property Insurance containing a waiver of subrogation and a waiver of any transfer of rights of recourse, in favor of ZIMEX, its personnel and its subcontractors. The coverage shall include war and terror risks while under the care and custody of ZIMEX, as well as damage to or loss of the aircraft during flight tests carried out by ZIMEX.
 - Comprehensive Legal Liability Insurance (including aircraft third party liability insurance) including ZIMEX, its personnel and its subcontractors as additional insured parties.
- 11.2 If Customer has ordered services from ZIMEX on behalf of a third party, Customer guarantees that such third party effects and maintains the above stated insurance coverage.

12. Prices

- 12.1 Unless otherwise stated, prices offered by ZIMEX are estimates only for budgetary purposes, and will be invoiced as per actuals, depending on the final work scope performed.
- 12.2 Fixed prices that have been agreed upon by the parties in writing shall only be adjusted if and to the extent that (i) the prices and/or exchange rates for any required spare parts, customs duties or other charges related thereto are increased, and/or (ii) any other reasons beyond the reasonable control of ZIMEX.
- 12.3 All ZIMEX prices are quoted on a net basis ex works ZIMEX. Any and all charges such as but not limited to freight charges, insurance, certification and acceptance fees, taxes, levies, customs duties and similar charges imposed in connection with services performed hereunder shall be borne by the Customer.
- 12.4 Depending on Customer's individual credit limit, ZIMEX may request pre-payment before commencing the work, and/or down payments depending work in process. Further down payments may become due for additional work identified during work in process. Furthermore ZIMEX reserves the right to request full payment of the final invoice prior to delivery of the completed aircraft or component. The payment terms as stated in ZIMEX's quote or agreed otherwise in writing apply.

13. Payment

- 13.1 Invoices of ZIMEX are due and immediately payable without any deduction. Unless otherwise agreed in writing, Customer shall make advance payments as agreed with the Work Order without delay. All costs of money transfer, especially fees charged by a bank, shall be paid by Customer.

- 13.2 ZIMEX is entitled to charge interest for late payment. Interest shall be at the rate of two (2) percentage points above the rate for unsecured short term loans offered by UBS, Zurich valid at the due date.
- 13.3 Complaints regarding invoices must be made not later than thirty (30) days after the invoice has been submitted. Afterwards, any such complaints will be excluded. Any such dispute shall not affect Customer's obligation to immediate payment of the undisputed parts of ZIMEX's invoice. Such dispute deductions are only accepted up to a maximum of 10% of the total invoice value.
- 13.4 Customer is not entitled to set off any claims against ZIMEX's claims and credit balance.
- 13.5 Customer herewith irrevocably authorizes ZIMEX to collect any sums due via a Clearing House.

14. Force Majeure

- 14.1 Either party shall be released from the performance of its obligations under the work order to the extent and for so long as the performance is impeded by reason of Force Majeure. The party claiming that an event of Force Majeure has occurred shall give prompt notice of the commencement and cessation of any such event. For the purposes of this clause the expression "Force Majeure" means, but shall not be limited to, labour dispute, fire, mobilization, seizure of the aircraft, embargo, insurrection, lack of means of transport, restriction of the use of energy, bankruptcy or delay of a subcontractor, and generally any circumstances which are beyond the control of the parties and hinder performance by one party of its obligations hereunder. If an event of Force Majeure continues for a period exceeding three months either party shall be entitled to terminate the order by notice in writing without incurring any further liability.

15. Termination of Orders

- 15.1 ZIMEX may terminate Customer orders at any time by written notice, if Customer commences winding-up, becomes insolvent, commits any act of bankruptcy or if a receiver, trustee or custodian is appointed of the Customer property. On termination ZIMEX will have no further obligation to the Customer under the order, and the Customer will reimburse ZIMEX's termination cost including a reasonable allowance for profit.

16. Securities

- 16.1 ZIMEX reserves its ownership rights on all parts supplied or installed until full payment of all invoices under the respective contract has been made.
- 16.2 Until full payment of the price for the respective order is made, ZIMEX is entitled to a right of retention on the subject matter which was delivered to ZIMEX to perform its services. This right to retention will be also established to secure any ZIMEX claims from previous orders or from the total business relationship. In case of non-payment by Customer, both parties agree herewith that ZIMEX shall have a contractual lien on the subject matter delivered to ZIMEX to perform its services in addition to the right of retention. This contractual lien will be also established to secure any ZIMEX claims from previous orders or from the total business relationship.

17. Law and Arbitration

- 17.1 The parties agree upon the exclusive jurisdiction of the Court of Arbitration of AEROSUISSE, the principal association of the Swiss Aviation Industry with head offices in Bern. The arbitration award shall be final and binding and directly enforceable in any competent court.
- 17.2 These GTC, all Work Orders and contractual agreements between Customer and ZIMEX shall be governed by and interpreted in accordance with the laws of Switzerland; the Convention on the International Sale of Goods (CISG) shall not apply.
- 17.3 In case individual provisions of these GTC shall be or become invalid, the validity of the remaining clauses of the GTC will not be affected thereby.