

Terms and Conditions for the Supply of Equipment

PART A – This Part applies to all Contracts

1. Definitions and Interpretation

1.1 In these Conditions, except where the context does not so permit the following expressions have the following respective meanings:-

- 1.1.1. **"Affiliate"** means, in relation to either party, any legal entity controlling, controlled by or under common control with the party in question.;
- 1.1.2. **"Control"** for such purposes means direct or indirect possession of the power to direct or to control the direction of the management or policies of such party or entity, whether pursuant to the ownership of voting securities, by contract or otherwise;
- 1.1.3. **"Confidential Information"** means any information of any kind and in any form (including, without limitation, information communicated orally), delivered or stored in any medium and relating in any way to the business, products, officers or employees of either party ("the disclosing party") or of any of its Affiliates, and which is provided, directly or indirectly, to the other party ("the receiving party") by the disclosing party or any of its Affiliates or which otherwise comes to the attention of the receiving party as the result of KGAR and the Customer having entered into the Contract;
- 1.1.4. **"Contract"** means any contract for the Sale, Hire or Exchange by KGAR for Equipment;
- 1.1.5. **"Contract Documentation"** means all documents which form part of, constitute or evidence the Contract, including these Conditions and any quotations, offers, Orders, acknowledgements of order, acceptances and specifications of KGAR or the Customer and any documents referred to in any of them;
- 1.1.6. **"Core Value"** means the sum specified as such in the Contract Documentation;
- 1.1.7. **"Customer"** means the person, firm or corporation purchasing or renting the Equipment from, or exchanging the Equipment with (as the case may be) KGAR;
- 1.1.8. **"Delivery Address"** means the address where the Equipment is to be delivered (the expression "delivered" being interpreted in accordance with Condition 24.2), as notified by KGAR to the Customer in writing upon or before the placing of the Order;
- 1.1.9. **"Delivery Date"** means the date on which it is intended that KGAR will deliver the Equipment (the expression "deliver" being interpreted in accordance with Condition 24.2), as specified in the Order subject to Condition 24.1;
- 1.1.10. **"Equipment"** means the whole or any part (as the context permits) of all and any assemblies, components or parts, together with all associated items and documentation, to be supplied by way of sale or rental by KGAR, or by each party to the other by way of exchange (as the case may be) in accordance with the Contract and as identified in the Contract Documentation;
- 1.1.11. **"Exchange"** means an exchange arrangement whereby KGAR supplies the Equipment to the Customer in return for the supply by the Customer of the Exchange Equipment, subject to and in accordance with the Contract;
- 1.1.12. **"Exchange Equipment"** means the equipment supplied by the Customer to KGAR pursuant to an Exchange;
- 1.1.13. **"Exchange Fee"** means the fee payable by the Customer to KGAR in consideration of the Exchange, as specified in the Order;
- 1.1.14. **"Hire"** means the hire by the Customer of the Equipment from KGAR;
- 1.1.15. **"KGAR"** means KG Aircraft Rotables Co., Ltd, whose registered office is at 25/28 North Wall Quay, Dublin 1, Ireland, with company number 324226;

- 1.1.16. **"Order"** means the order placed with KGAR by the Customer for the purchase or rental of Equipment from, or the exchange of Equipment with, KGAR (as the case may be);
- 1.1.17. **"Outright Price"** means, in the case of an Exchange, KGAR's estimate of the cost of replacing the Exchange Equipment, as specified in the Order;
- 1.1.18. **"Price"**, in the case of a sale of the Equipment by KGAR, means the sale price of the Equipment notified or quoted to the Customer or, if no price has been notified to the Customer, the sale price of the Equipment as specified in KGAR's price list current at the date when an Order which complies with the requirements of Condition 3.5 is placed by the Customer;
- 1.1.19. **"Rental"** in the case of a sale of the Equipment by KGAR, means the rental charge for the Equipment notified or quoted to the Customer or, if no rental charge has been notified to the Customer, the rental charge for the Equipment as specified in KGAR's price list current at the date when an Order which complies with the requirements of Condition 3.5 is placed by the Customer;
- 1.1.20. **"Sale"** means the sale of Equipment by KGAR to the Customer;
- 1.1.21. **"Term"**, where the Contract is by way of Hire, means the duration of the Hire as specified in the Order, commencing on the date on which the Equipment is delivered to the Customer (the expression "deliver" being interpreted in accordance with Condition 24.2); and
- 1.1.22. **"Working Day"** means any day which is not a Saturday or Sunday, or bank or public holiday in England and Wales.

1.2 In these Conditions, unless otherwise stated, references to:

- 1.2.1 "the parties" are references to KGAR and the Customer;
- 1.2.2 a "third party" are references to a person who is not a party to the Contract;
- 1.2.3 "persons" include references to individuals, companies, corporations, partnerships and unincorporated associations;
- 1.2.4 the singular shall include the plural and vice versa;
- 1.2.5 any gender includes a reference to all other genders;
- 1.2.6 a "Condition" are references to a condition forming part of these Conditions;
- 1.2.7 "writing" includes facsimile or e-mail and the expression "written" shall be construed accordingly; and
- 1.2.8 a statute, statutory instrument, regulation, order or licence are references to that statute, statutory instrument, regulation, order or licence as substituted, varied or re-enacted from time to time.

1.3 The headings in these Conditions are for convenience only and shall not affect their construction.

1.4 The words "include" and "including" shall be construed as if immediately followed by the words, "without limitation".

2. Status of these Conditions

The Contract shall be governed by these Conditions and all terms and conditions proffered at any time by the Customer are hereby excluded from the Contract.

3. Status of Orders

3.1 Each Order shall be deemed to be an offer by the Customer to purchase, hire or exchange (as the case may be) Equipment subject to these Conditions, and no Order shall be deemed to have been accepted until KGAR accepts the Order in whole or in part by giving notice of acceptance in writing. The Customer shall not be entitled to

- withdraw an Order once submitted except with the express written consent of KGAR.
- 3.2 In the event of inconsistency between any provision of these Conditions and the Order or any other Contract Documentation, these Conditions shall prevail.
- 3.3 Each Order shall form the subject matter of a separate Contract.
- 3.4 The Customer may place an Order by telephone, e-mail, facsimile or in writing. Where an Order is placed in writing, the Customer shall submit it to such address as KGAR shall specify from time to time for that purpose.
- 3.5 The Customer shall ensure that each Order:-
- 3.5.1 specifies the exact Equipment being ordered;
- 3.5.2 where the Order relates to an Exchange, specifies the Equipment to be exchanged, including the part number and serial number of the Customer's Equipment;
- 3.5.3 specifies the method of delivery of the Equipment (including, for the avoidance of doubt, in relation to all items of Equipment to be delivered by either party to the other in the case of an Exchange);
- 3.5.4 in the case of a Sale or a Hire, specifies the address to which KGAR's invoice is to be sent; and
- 3.5.5 specifies a lead time for delivery (in the case of an Exchange, of all items to be delivered by either party to the other) from the date of submission of the Order.
- 3.6 KGAR is under no obligation to accept any Order, and no Order shall be regarded as having been accepted by KGAR, unless expressly accepted by KGAR in accordance with Condition 3.1. Any Order which fails to comply with the requirements of Condition 3.5 is deemed automatically to have been rejected by KGAR.
- 6.1.1 Value Added Tax which shall be due at the rate ruling on the date of KGAR's invoice to the Customer, provided that such invoice is a valid VAT invoice; and
- 6.1.2 all other duties, taxes and impositions on the Equipment or the supply thereof, of whatever kind and howsoever arising.
- 6.2 KGAR shall be entitled to submit its invoice for the Equipment to the address specified for such purpose in the Order at any time following delivery.
- 6.3 The Customer shall pay each invoice submitted by KGAR, in full and without deduction or set-off, on or before the expiry of 30 (thirty) days following the date of the relevant invoice (the final day of such 30-day period being "the due date" for the purposes of the remaining provisions of this Condition 6).
- 6.4 The Customer shall pay for the Equipment by electronic transfer, or such alternative method as KGAR shall specify to such bank account of KGAR as is specified on the relevant invoice.
- 6.5 Interest shall be payable on any amount due from the Customer to KGAR under the Contract and remaining unpaid after the due date at the rate specified in the Late Payment of Commercial Debts (Interest) Act 1998, from the day after the due date until the date of actual payment, whether before or after any judgment.
- 6.6 If the Customer fails to pay in full the Price or any part thereof by the due date (save in the case of a genuine bona fide dispute as to the amount due, and subject to the payment by the Customer of any part of the Price not in dispute), then, without limiting any other remedy of KGAR under the Contract:-
- 6.6.1 KGAR shall be at liberty to suspend all further deliveries of the Equipment or other goods or products of any kind, whether pursuant to the Contract or otherwise, unless and until payment is made; and
- 6.6.2 the Customer's right to possession of the Equipment which is the subject of the invoice in question shall terminate with immediate effect.

PART B – This Part applies only to the Sale of Equipment

4. Sale of Equipment

KGAR agrees to sell, deliver and provide to the Customer, and the Customer agrees to purchase and accept delivery of and pay for, the Equipment on and subject to the terms of the Contract.

5. Title to the Equipment

- 5.1 Title to the Equipment shall pass to the Customer once the Customer has paid for it in full.
- 5.2 Until the Customer has obtained title to the Equipment in accordance with Condition 5.1, the Customer:-
- 5.2.1 shall not remove, deface or obscure any plate, label or other form of marking that identifies the Equipment as being the property of KGAR;
- 5.2.2 shall maintain the Equipment in satisfactory condition and keep it insured in the name of KGAR on an "all risks" basis in an amount of cover equal to its full replacement value;
- 5.2.3 shall produce to KGAR or its representatives for inspection on demand a copy of any policy of insurance entered into or maintained in compliance with the Customer's obligations under Condition 5.2.2 together with copy receipts for the payment of premiums;
- 5.2.4 shall not surrender possession or control of the Equipment to any third party; and
- 5.2.5 hereby grants to KGAR and its representatives an irrevocable licence at any time to enter any premises where the Equipment may be located or board any aircraft on which the Equipment may have been installed (and where the Customer does not own or control such premises or aircraft the Customer hereby undertakes to procure such right) in order to inspect it and, where the Customer's right to possession of the Equipment has terminated pursuant to Condition 6.6.2, to recover it.

6. Price and Payment

- 6.1 The Price is exclusive of:-

PART C – This Part applies only to the Hire of Equipment

7. Hire of Equipment

KGAR agrees to deliver and provide on hire to the Customer, and the Customer agrees to hire, accept delivery of and pay the Rental in relation to, the Equipment on and subject to the terms of the Contract.

8. Title to the Equipment

- 8.1 KGAR shall at all times retain title to the Equipment, and the Customer shall have or acquire no interest of any kind in the equipment save as is expressly provided in these Terms and Conditions.
- 8.2 Without limiting the generality of Condition 8.1, notwithstanding that the Equipment may be affixed or fitted to any aircraft or aircraft assembly, KGAR shall continue to be the owner of it, and the Equipment shall, as between KGAR and the Customer, and their respective successors in title, remain the property of KGAR.
- 8.3 The Customer:-
- 8.3.1 shall not remove, deface or obscure any plate, label or other form of marking that identifies the Equipment as being the property of KGAR;
- 8.3.2 shall maintain the Equipment in satisfactory condition and keep it insured in the name of KGAR on an "all risks" basis in an amount of cover equal to its full replacement value;
- 8.3.3 shall produce to KGAR or its representatives for inspection on demand a copy of any policy of insurance entered into or maintained in compliance with the Customer's obligations under Condition 8.3.2 together with copy receipts for the payment of premiums;
- 8.3.4 shall comply in full with the terms of any insurance policy under which the Equipment is insured as required by Condition 8.3.2, and not do anything or omit to do anything where such act or omission might reasonably be expected to be likely to cause any relevant policy of insurance to be avoided or vitiated;

8.3.5	shall not surrender possession or control of the Equipment to any third party;		suffered or incurred by KGAR as the direct or indirect result of the failure by the Customer, its employees, officers, contractors, agents or representatives to comply with any of the obligations set out in Condition 9.1.
8.3.6	hereby grants to KGAR and its representatives an irrevocable licence at any time to enter any premises where the Equipment may be located in order to inspect it (and where the Customer does not own or control such premises the Customer hereby undertakes to procure such right) and, where the Customer's right to possession of the Equipment has terminated pursuant to Condition 10.2.2, to recover it;		
8.4	The Customer shall not sell, offer for sale, assign, mortgage, pledge, otherwise encumber or in any other way deal with or dispose of the Equipment, nor permit or suffer any of the foregoing to be done by any third party.		
9.	<u>Use of the Equipment</u>		
9.1	The Customer shall, and shall procure that its employees, officers, contractors, agents or representatives, at all times during the currency of the Contract:-		
9.1.1	install and use the Equipment in a skilful and proper manner, and in accordance with any installation or operating instructions or guidelines issued for it;		
9.1.2	ensure that the Equipment is installed, operated and used by competent, experienced, trained and (where appropriate) qualified personnel;		
9.1.3	keep the Equipment at its own expense and at all times in good repair, condition and working order, properly serviced and maintained in full accordance with all and any current servicing or maintenance guidelines or instructions issued in relation to it by competent, experienced, trained and (where appropriate) qualified personnel, and at its own cost and expense to obtain and fit all such new parts as shall from time to time be required and, without prejudice to Condition 16, if any part of the Equipment is destroyed, damaged or lost, at its own cost and expense repair it or (if the part of the Equipment in question is lost or damaged beyond economic repair) replace it with equipment that complies in all respects with the terms of this Agreement, such replacement equipment to be regarded as "Equipment" for the purposes of this Agreement;		
9.1.4	not make any alteration to the Equipment or remove any existing component from it unless it is replaced immediately, or if such removal is undertaken for the purposes of complying with the Customer's obligations under Condition 9.1.3, any component removed is to be replaced by the same component or by one of a like make and model to that removed or an improved or advanced version of it;		
9.1.5	keep and maintain up to date, throughout the currency of the Contract, complete and accurate written or computer-accessible records of all installation, use, operation, maintenance, servicing, repairs and replacement of components carried out to or with regard to the Equipment;		
9.1.6	obtain and maintain valid and in force all permissions, licences and permits and to pay all rates, rents, taxes and charges which may from time to time be required in connection with the business of the Customer, the Equipment and their use, the aircraft or assembly in which the Equipment is installed from time to time, the Contract and the hire, ownership, delivery, possession, operation, servicing, maintenance or repair, any return or other disposition of the Equipment, or upon the rentals, receipts or earnings arising from them, including interest and penalties (other than any tax charged on the profits or taxable gains of KGAR);		
9.1.7	comply at all times with all statutory and other obligations of all kinds in relation to the Equipment and its use arising during the currency of the Contract;		
9.1.8	fit to or install with the Equipment any safety or other equipment required by any applicable law or regulation to be so fitted or installed for the use or operation of the Goods; and		
9.1.9	protect the Equipment against distress, execution or seizure (or any equivalent or analogous process in any jurisdiction).		
9.2	The Customer shall fully indemnify KGAR and keep KGAR fully indemnified from and against all actions, claims, demands, costs (including reasonable legal costs) losses, charges, expenses, damages and liability, however arising, to the extent that the same are		
		10.	<u>Rental</u>
		10.1	The Customer shall pay to KGAR, punctually and without deduction or set-off, the Rentals at the times specified for payment in the Contract Documentation. Time for payment of each instalment of the Rental shall be of the essence of the Contract.
		10.2	If the Customer fails to make in full, at the time specified for payment in the Contract, any payment of Rental (save in the case of a genuine bona fide dispute as to the amount due, and subject to the payment by the Customer of any part of the Rental not in dispute), then, without limiting any other remedy of KGAR under the Contract:-
		10.2.1	KGAR shall be at liberty to suspend all further deliveries of the Equipment or other goods or products of any kind, whether pursuant to the Contract or otherwise, unless and until payment is made;
		10.2.2	the Customer's right to possession of the Equipment which is the subject of the invoice in question shall terminate with immediate effect; and
		10.2.3	Interest shall be payable on any payment of Rental due from the Customer to KGAR under the Contract and remaining unpaid after the due date at the rate specified in the Late Payment of Commercial Debts (Interest) Act 1998, from the day after the due date until the date of actual payment, whether before or after any judgment.
		11.	<u>Delivery up of the Equipment</u>
		11.1	The Customer shall, upon the expiry or early termination of the Term:-
		11.1.1	deliver up the Equipment, serviced and maintained and in good repair, condition and working order as required by Condition 9.1.3, together with all records, log books and handbooks in respect thereof at such address in the United Kingdom or the Republic of Ireland as KGAR shall specify to the Customer; and
		11.1.2	allow KGAR, its agents or representatives access to any premises or aircraft where or in or upon which the Equipment may be stored or installed for the purpose of inspecting and removing it, and to carry out any servicing, maintenance, repair or other work to the Equipment reasonably specified by KGAR so as to put them into good repair, condition and working order as required by Condition 9.1.3.
		12.	<u>Duty to Provide Information</u>
		12.1	The Customer shall:-
		12.1.1	provide to KGAR promptly upon request such information regarding the condition, use, operation, repair and maintenance of the Equipment by the Customer, and in such form and at such intervals, as KGAR may reasonably require from time to time; and
		12.1.2	furnish promptly to HM Revenue and Customs or any other taxation authority to whose jurisdiction the Equipment or the Customer may be subject) such information as may be legally required to be so furnished about the hire of the Equipment or the use to which it is being or has been put and to furnish to KGAR promptly upon request such information, accounts records or documents as KGAR may request in order to enable KGAR to respond to such a request made by HM Revenue and Customs or such other taxation authority (as the case may be) or in order to apply for or preserve any claims made by or available to KGAR for any form of allowance against taxation of any kind.
		13.	<u>Term and Termination</u>
		13.1	The Contract shall come into effect on the date on which the relevant Order is accepted by KGAR and will remain in full force and effect until the expiry of the Term unless terminated earlier in accordance with any other provision of the Contract.

13.2	KGAR shall be entitled to terminate the Contract with immediate effect by giving notice to the Customer in any of the following circumstances:-		Customer all relevant future information coming to the attention of KGAR concerning the handling, storage, use and safety of the Equipment.
13.2.1	any sum of money due to be paid by the Customer to KGAR under the Contract remains unpaid upon the expiry of fourteen (14) days from the due date for payment;	15.2	KGAR shall comply with all of its legal obligations in relation to health and safety in relation to the Equipment and shall (in the case of a Sale, on or before delivery of the Equipment and, in the case of a Hire, as a continuing obligation during the currency of the Contract) use reasonable endeavours to provide the Customer with such information and assistance concerning the Equipment as the Customer may reasonably request in writing in order to enable the Customer to comply with its legal obligations in relation to health and safety regarding the Equipment.
13.2.2	the Customer commits any material breach of any of the provisions of the Contract, other than any provision relating to the payment of money, and such breach (if capable of remedy) is not remedied within 28 (twenty-eight) days of the date of the receipt by the Customer of a notice from KGAR specifying the breach in question and requiring it to be remedied;	15.3	KGAR shall ensure that items comprised in the Equipment which are hazardous or may otherwise endanger life or health are clearly identifiable from external packaging. KGAR shall supply with the Equipment warning labels appropriate to warn persons coming into contact with the item of the hazards and its effects, together with all necessary instructional material in relation to such hazards and their effects.
13.2.3	an order is made or a resolution is passed or adopted for the winding up of the Customer (otherwise than for the purposes of and followed by an amalgamation or reconstruction previously approved in writing), or if a petition is presented for the appointment of any administrator or liquidator (and is not discharged within 14 days) or if a receiver or administrative receiver is appointed with regard to the Customer, or an encumbrancer takes possession of the whole or any part of its undertaking or assets, or if the Customer has a bankruptcy order made against it or becomes insolvent, or if any analogous event shall occur in any territory to whose jurisdiction the Customer is subject; or	16.	<u>Warranties</u>
13.2.4	the Customer makes or seeks to make any composition or arrangement with its creditors, or proposes any voluntary arrangement, or is unable to pay its debts as they fall due, or if any distress or execution is levied on any of its assets (and is not discharged within 14 days), or if any judgment for a monetary sum be given against it and is not paid out within 14 days, or if any analogous event shall occur in any territory to whose jurisdiction the Customer is subject; or	16.1	For the avoidance of doubt, nothing in the Contract shall serve to exclude or limit the application of the implied terms as to satisfactory quality set out in the Sale of Goods Act 1979 (where the Equipment is supplied by way of Sale) or the Supply of Goods and Services Act 1982 (where the Equipment is supplied by way of Hire).
13.2.5	the Customer ceases or threatens to cease, or in the reasonable opinion of KGAR is likely to cease, to carry on the whole or any relevant part of its business or trade.	16.2	KGAR warrants that the Equipment will, upon delivery, comply with all relevant statutes, regulations and other matters having the force of law (whether specifically relating to the Equipment or otherwise).
13.3	The expiry or termination of the Contract, howsoever arising, shall not terminate or affect any rights, obligations or liabilities of the parties which have accrued under the Contract prior to the effective date of expiry or termination.	PART E – This Part applies only to the Exchange of Equipment	
13.4	Without limiting the generality of Condition 13.3, in the event of the termination of the Contract pursuant to Condition 13.2 the Customer shall on demand fully indemnify KGAR and keep KGAR fully indemnified from and against any and all costs, losses, damage and expenses incurred by KGAR, of any kind and regardless of the manner in which the same arose, arising as a consequence of or in connection with the termination of the Contract, including as a consequence of the re-taking of possession of, selling or re-hiring the Equipment, the enforcement of this Agreement or any attempt by or on behalf of KGAR to do any of those things.	17.	<u>Exchange of Equipment</u>
13.5	The Contract shall, as to any of its provisions remaining to be performed in whole or in part or capable of having effect following termination or performance, remain in full force and effect notwithstanding the termination or expiry of the Contract.	17.1	KGAR agrees to supply the Equipment to the Customer, and the Customer agrees to supply to KGAR, by way of exchange, the Exchange Equipment.
PART D – This Part applies to both the Sale and the Hire of Equipment		17.2	KGAR will deliver the Equipment pursuant to an Exchange in accordance with the provisions of Condition 24.2.
14.	<u>Variation of Orders</u>	17.3	The Customer shall, within twenty-one (21) days, or such other period as may be agreed between the parties, of the date of delivery or, if applicable, deemed delivery of the Equipment (which date shall be determined in accordance with the provisions of Condition 24.5) deliver the Exchange Equipment to KGAR, accompanied by the following:-
	The Customer shall not be entitled, following the acceptance by KGAR of any Order, to change the quantity or the specification of the Equipment, or the Delivery Date, without the express prior written consent of KGAR. If any such change would result in additional cost or expense to KGAR in providing the Equipment or would delay delivery of the Equipment, KGAR shall be entitled, as a condition of giving its consent, to make an equitable adjustment to the Price or the Delivery Date, to the extent necessary to reflect the additional costs or delay (as the case may be).	17.3.1	a Non-Incident Statement, in such form as KGAR shall determine from time to time;
15.	<u>Information relating to the Equipment</u>	17.3.2	a complete and accurate written history of the Exchange Equipment, including details of the aircraft from which it was removed and complete and accurate TSN and TSO data, together with supporting documentary evidence where applicable; and
15.1	KGAR shall:-	17.3.3	written details of all defects and faults in the Exchange Equipment of which the Customer is aware.
15.1.1	supply in connection with the Equipment, on or before delivery of the Equipment, such documents and information as shall be specified in the Contract Documentation; and	18.	<u>Exchange Fee</u>
15.1.2	(as a continuing obligation surviving completion or earlier termination of the Contract) promptly pass on to the		The Customer will pay to KGAR the Exchange Fee in accordance with the Contract.
		19.	<u>Return of Unused Equipment</u>
		19.1	The Customer may return the Equipment to KGAR unused in accordance with the following provisions of this Condition 19.
		19.2	If the Customer notifies KGAR at or before the end of the seventh day following the date of delivery of the Equipment (as determined in accordance with Condition 24.3) of its intention to return the Equipment to KGAR, the Exchange Fee will be reduced by twenty per cent (20%). If the Customer notifies KGAR at any later time, the Exchange Fee will be payable in full.
		19.3	The Customer shall return the Equipment to such address as KGAR, acting reasonably, shall specify, at its own expense within three (3) Working Days of the date on which the Customer gives notification to KGAR pursuant to Condition 19.2, and shall be responsible for

	unloading the Equipment from the appropriate vehicle at the delivery address.		equivalent to that of the Equipment; and
19.4	Re-delivery of the Equipment shall be deemed to have taken place when the Customer places the Equipment at the disposal of KGAR at the delivery address following unloading.	20.7.2.3	bears the same manufacturer's product or line code as the Equipment; and
19.5	Risk in the Equipment shall revert to KGAR upon re-delivery.	20.7.3	the Customer shall fully indemnify KGAR and keep KGAR fully indemnified from and against any and all actions, claims, demands, costs (including reasonable legal costs), losses, expenses damages and liability suffered or incurred by it and in any way arising as the result of the Exchange Equipment being decided by KGAR to be beyond economic repair, to the extent that the recovery by KGAR of the Outright Price under Condition 20.7.1 or the provision by the Customer of a replacement for the Exchange Equipment pursuant to Condition 20.7.2 (as the case may be) does not serve as a full and sufficient indemnity for KGAR against the same.
19.6	The Customer is deemed to warrant to KGAR upon re-delivery that it has at no time in any way used the Equipment.		
20.	<u>Repair and Overhaul of the Exchange Equipment</u>		
20.1	KGAR shall examine the Exchange Equipment as soon as reasonably practicable following its delivery to KGAR and determine, in good faith, whether it is capable of economic repair. Except in the case of manifest error, the decision of KGAR shall be final.	21.	<u>Failure to Deliver the Exchange Equipment</u>
20.2	For the purposes of this Condition 20 the Customer Equipment shall be deemed to be incapable of economic overhaul and repair if, in the opinion of KGAR, acting reasonably and in good faith, the cost of overhauling and repairing the Customer Equipment such as to render it compliant with the warranties set out in Condition 23.1 and the implied terms as to satisfactory quality set out in the Supply of Goods and Services Act 1982 is in excess of seventy per cent (70%) of the manufacturer's current list price for the item of Equipment in question.	21.1	If the Customer fails to deliver the Exchange Equipment to KGAR within the time specified in Condition 17.3, then, at KGAR's option, and subject to Condition 21.5, either:-
20.3	If KGAR decides that the Exchange Equipment is capable of economic repair:-	21.1.1	the Customer shall be deemed to have purchased the Equipment, in respect of which the provisions of Condition 21.2 shall apply; or
20.3.1	it shall determine the nature and extent of the works necessary in order to restore the Exchange Equipment to a serviceable condition and the estimated cost of performing those works or having them performed, including the cost of assessing the Exchange Equipment and all transportation costs ancillary to the repair and overhaul, and shall provide this information to the Customer;	21.1.2	the Customer shall be required to deliver the Exchange Equipment or replacement equipment, in respect of which the provisions of Condition 21.3 shall apply; or
20.3.2	the Customer shall, within three (3) Working Days of the date of receipt of the said information, confirm to KGAR in writing whether or not it authorises KGAR to complete the overhaul and repair of the Exchange Equipment.	21.1.3	KGAR shall be entitled to recover the Equipment, in which event the provisions of Condition 21.4 shall apply.
20.4	If the Customer confirms KGAR pursuant to Condition 20.3.2 that it requires KGAR to complete the overhaul and repair of the Exchange Equipment, KGAR shall procure the completion of such overhaul and repair as soon as reasonably practicable.	21.2	If KGAR exercises its option in accordance with Condition 21.1.1:-
20.5	Any estimated cost notified by KGAR to the Customer pursuant to Condition 20.3.1 is an estimate only and shall not be binding upon KGAR. The Customer shall be responsible for the entire cost of the overhaul and repair of the Exchange Equipment, including the cost of assessing the Exchange Equipment and all transportation costs ancillary to the repair and overhaul, including where such cost exceeds the Outright Price. KGAR shall however use reasonable endeavours to notify the Customer in a timely fashion if it should become aware that the actual cost is likely to exceed any estimate previously given, it being understood for the avoidance of doubt that any updated information provided by KGAR shall also be an estimate and the provisions of this Condition 20.5 shall apply to it.	21.2.1	the Customer shall be deemed to have purchased the Equipment upon the giving by KGAR to the Customer of notice to that effect;
20.6	If the Customer fails to provide confirmation to KGAR in accordance with Condition 20.3.2 within the stated period of three (3) Working Days (as to which time shall be of the essence) KGAR reserves the right to procure the repair and overhaul of the Exchange Equipment at the expense of the Customer, including the cost of assessing the Exchange Equipment and all transportation costs ancillary to the repair and overhaul.	21.2.2	The Customer shall be liable to pay the Outright Price, subject to the following provisions of this Condition 21; and
20.7	If KGAR decides that the Exchange Equipment is beyond economic repair, then:-	21.2.3	the Contract shall be deemed to have been entered into as a contract of Sale ab initio, and the provisions of these Conditions will apply in respect of such deemed Sale, save that in the event of any conflict this Condition 21 shall prevail.
20.7.1	KGAR shall be entitled to recover from the Customer the Outright Price, subject to Condition 20.7.2;	21.3	If KGAR exercises its option in accordance with Condition 21.1.2:-
20.7.2	the Customer may, with the express prior written consent of KGAR, alternatively provide a replacement for the Exchange Equipment, provide that such replacement:-	21.3.1	the Customer shall, within twenty-one (21) days of the giving of notice to the Customer to that effect, deliver to KGAR, at the Customer's option, either:-
20.7.2.1	complies in full with such specifications as KGAR may stipulate;	21.3.1.1	the Exchange Equipment; or
20.7.2.2	is, in the reasonable opinion of KGAR, in a condition and working order at least	21.3.1.2	alternative equipment of identical make and specification, and at least equivalent physical and operational condition in all respects to, the Exchange Equipment and which is in all other respects satisfactory to KGAR, acting reasonably;
		21.3.2	should the Customer fail to comply with its obligations under Condition 21.3.1, then the Customer shall, without prejudice to KGAR's rights under Condition 21.3.3, pay to KGAR liquidated damages in an amount equivalent to the Exchange Fee in respect of each complete period of twenty-one (21) days, the first such period to begin on the date of expiry of the notice given by KGAR pursuant to Condition 21.3.1, during which the Customer's obligations under Conditions 21.3.1 remain unfulfilled in any respect; and
		21.3.3	if, upon the expiry of 189 (one hundred and eighty-nine) days following the date of expiry of the notice given by KGAR pursuant to Condition 21.3.1, the Customer has still failed to comply with its obligations under Condition 21.3.1 then, without prejudice to the entitlement of KGAR to recover liquidated damages pursuant to Condition 21.3.2 in respect of the entirety of the said period of 189 (one hundred and eighty-nine) days, or to the generality of Condition 21.5, KGAR shall be entitled, by giving notice to that effect to the Customer, to determine that the Customer is deemed to have purchased the Equipment, in which event the provisions of Conditions 21.2.2 and 21.2.3 shall apply.

- 21.4 If KGAR has not previously given notice pursuant to Conditions 21.2 or 21.1.2, it shall be entitled to recover the Equipment, and the Customer hereby grants to KGAR and its representatives an irrevocable licence at any time to enter any premises where the Equipment may be located or board any aircraft on which the Equipment may have been installed (and where the Customer does not own or control such premises or aircraft the Customer hereby undertakes to procure such right) for the purpose of the exercise of this right.
- 21.5 Nothing in this Condition 21 shall exclude or limit the right of KGAR to exercise its rights under Condition 21.1.3 in the event that any prior attempt by KGAR to exercise its rights under Conditions 21.1.1 or 21.1.2 should prove unsuccessful.
- 22. Payments**
- 22.1 The Exchange Fee and Outright Price are exclusive of:-
- 22.1.1 Value Added Tax which shall be due at the rate ruling on the date of KGAR's invoice to the Customer, provided that such invoice is a valid VAT invoice; and
- 22.1.2 all other duties, taxes and impositions on the Equipment or the supply thereof, of whatever kind and howsoever arising.
- 22.2 KGAR shall be entitled to submit its invoice to the address specified for such purpose in the Order:-
- 22.2.1 for the Exchange Fee at any time following delivery of the Equipment; and
- 22.2.2 for the Outright Price immediately upon the Outright Price becoming payable by the Customer.
- 22.3 The Customer shall pay each invoice submitted by KGAR, in full and without deduction or set-off, on or before the expiry of 30 (thirty) days following the date of the relevant invoice (the final day of such 30-day period being "the due date" for the purposes of the remaining provisions of this Condition 22).
- 22.4 The Customer shall pay each invoice by electronic transfer, or such alternative method as KGAR shall specify, to such bank account of KGAR as is specified on the relevant invoice.
- 22.5 Interest shall be payable on the whole or any part of the Exchange Fee or Outright Price and remaining unpaid after the due date at the rate specified in the Late Payment of Commercial Debts (Interest) Act 1998, from the day after the due date until the date of actual payment, whether before or after any judgment.
- 22.6 If the Customer fails to pay in full the Exchange Fee or Outright Price or any part of either by the due date (save in the case of a genuine bona fide dispute as to the amount due, and subject to the payment by the Customer of any part of the Price not in dispute), then, without limiting any other remedy of KGAR under the Contract:-
- 22.6.1 KGAR shall be at liberty to suspend all further deliveries of the Equipment or other goods or products of any kind, whether pursuant to the Contract or otherwise, unless and until payment is made; and
- 22.6.2 the Customer's right to possession of the Equipment which is the subject of the invoice in question shall terminate with immediate effect.
- 23. KGAR's Warranties**
- 23.1 KGAR hereby warrants that the Equipment will, on delivery:-
- 23.1.1 have been overhauled and repaired in accordance with all and any manuals and other maintenance documentation issued at any time by the manufacturer thereof and in force or applicable at the time of delivery;
- 23.1.2 comply with all regulations, rules and standards (if any) applicable to the Equipment in force at the time of delivery and pertaining to airworthiness or safety issued by or on behalf of the aviation authority under whose jurisdiction the aircraft to which the Equipment is to be fitted has been registered; and
- 23.1.3 comply in all other respects with all relevant statutes, regulations and other matters having the force of law (whether specifically relating to the Equipment or otherwise).
- 23.2 For the avoidance of doubt, nothing in the Contract shall serve to exclude or limit the application of the implied terms as to satisfactory quality set out in the Supply of Goods and Services Act 1982 in relation to the Equipment.
- PART F – This Part applies to all Contracts**
- 24. Delivery of Equipment**
- 24.1 The Delivery Date is an estimate only and, whilst KGAR will use its reasonable endeavours to deliver the Equipment on the Delivery Date, time shall not be of the essence of the Contract. KGAR shall not be liable to the Customer for any losses, costs, damages, expenses or charges directly or indirectly suffered or incurred by the Customer as the result of any delay in the delivery of the Equipment, neither shall any such delay entitle the Customer to terminate or rescind the Contract.
- 24.2 Delivery of the Equipment will be effected by either: (i) KGAR delivering the Equipment or having it delivered to the Customer at the Delivery Address ("method (i)"); or (ii) by the Customer collecting the Equipment from the Delivery Address after KGAR has notified the Customer that the Equipment is available for collection ("method (ii)"), and the expressions "delivery" "deliver" or "delivered", when used in these Terms and Conditions, refers to delivery made pursuant to either of these methods.
- 24.3 Where method (ii) is used for the delivery of the Equipment KGAR will give the Customer not less than three (3) Working Days' notice of the actual date on which the Equipment will be available for collection.
- 24.4 Where method (i) is the method of delivery of the Equipment, the Customer shall be responsible for unloading the Equipment from the appropriate vehicle at the Delivery Address. Where method (ii) is used, the Customer shall be responsible for loading the Equipment onto the appropriate vehicle at the Delivery Address, and the Equipment onto its delivery vehicles. The Equipment shall be collected between 09.00 and 17.00 hours on the date notified to the Customer by KGAR pursuant to Condition 24.3.
- 24.5 Delivery of the Equipment shall be deemed to have taken place when KGAR places the Equipment at the disposal of the Customer for the purposes of loading and unloading.
- 24.6 Immediately upon delivery having been deemed to have taken place pursuant to Condition 24.5:-
- 24.6.1 Risk in the Equipment shall pass to the Customer (and, unless and until title passes to the Customer pursuant to Condition 5.1, shall remain with the Customer at all times); and
- 24.6.2 KGAR shall have no further obligations in relation to the care or storage of the Equipment.
- 24.7 If the Equipment remains in the possession of KGAR after a period of two (2) Working Days has elapsed from the date on which delivery is deemed to have taken place pursuant to Condition 24.5, KGAR may, without limiting any other right or remedy that it may have, sell it to a third party or otherwise dispose of it, in either case without incurring any obligation to supply replacement Equipment to the Customer.
- 25. Export and Import Licences**
- 25.1 In the event that an export licence or clearance is required to be obtained from the relevant UK authority for the supply of any Equipment (whether by way of Sale, Hire or Exchange) by KGAR to the Customer pursuant to the Contract:-
- 25.1.1 the Customer shall provide to KGAR in a timely manner such documentation, materials or information as KGAR may reasonably require in order to facilitate or accompany the application for such licence, including without limitation, an end user statement in such form as may be required by the relevant UK Authority;
- 25.1.2 KGAR will liaise with the relevant UK Authority with a view to obtaining, and generally use reasonable endeavours to obtain, the requisite clearances or licences; and
- 25.1.3 should the requisite clearances or licences not be provided or subsequently be revoked by the relevant UK Authority, or any documentation, materials or information required pursuant to Condition 25.1.1 not be provided by the Customer in a timely manner, or in a format acceptable to the relevant UK Authority, then KGAR reserves the right, without liability to the Customer, to defer the performance

of its obligations under, or to terminate the Contract with immediate effect by giving notice to the Customer.

25.2 It is the responsibility of the Customer to obtain all necessary import licences and pay all import duties relating to the Equipment in the country of delivery. The Customer will fully indemnify and keep fully indemnified KGAR, its officers, employees, contractors, agents and representatives (together, "the indemnified parties") against all and any actions, claims, demands, costs (including reasonable legal costs), expenses, losses, damages and liability of any kind suffered or incurred by the indemnified parties or any of them to the extent that the same arise as the result of any failure by the Customer to comply or procure the compliance by it with its responsibilities under this Condition 25.2.

26. Packaging of Equipment

26.1 The Equipment will be delivered packed in accordance with the packaging specification contained within the Contract Documentation or, if no such specification exists, with KGAR's standard packaging specifications, details of which KGAR shall supply to the Customer on request.

26.2 If the Customer requires any additional packaging for the Equipment in excess of that which KGAR is required to provide pursuant to Condition 26.1, KGAR shall supply such additional packaging at the additional expense of the Customer, subject to agreement being reached in advance between the parties as to the amount of such additional expense, including, where applicable, the cost of any removal of existing packaging and re-packaging of the Equipment reasonably required in order to meet the Customer's request for additional packaging.

27. Limitation of Liability

27.1 Subject to Condition 27.2:-

27.1.1 KGAR's total liability to the Customer in connection with any and all claims, of any kind and regardless of the nature of the cause of action giving rise to them, arising in any way in relation to the Contract shall not exceed the following:-

27.1.1.1 where the Contract is by way of Sale, the Price;

27.1.1.2 where the Contract is by way of Hire, the aggregate of the Rentals payable during the Term; and

27.1.1.3 where the Contract is by way of exchange, the Outright Price;

27.1.2 Under no circumstances shall KGAR be liable to the Customer for loss of profit, loss of revenue, loss of bargain, loss of business or contract, diminution of goodwill or for any other economic loss (whether direct, indirect or consequential), or for any indirect or consequential loss or damage of any kind; and

27.1.3 save as expressly provided in the Contract all warranties, conditions or other terms implied by statute or common law in relation to the sale of goods are hereby excluded.

27.2 Nothing in the Contract shall limit or exclude the liability of KGAR:-

27.2.1 for death or personal injury resulting from the negligence (as defined in Section 1 of the Unfair Contract Terms Act 1977) of KGAR;

27.2.2 for fraud or fraudulent misrepresentation; or

27.2.3 for any matter in respect of which its liability cannot lawfully be limited or excluded.

27.3 Notwithstanding any other provision of the Contract, KGAR shall under no circumstances have any liability in respect of any claim, of any kind and regardless of the nature of the cause of action giving rise to it, suffered or incurred by the Customer unless written notice of such claim, including full particulars thereof, is received by KGAR within one (1) year of the date on which the event, matter or circumstance giving rise to the claim is alleged to have arisen or occurred.

28. Force Majeure

Any delay or failure of either party ("the affected party") to perform its obligations hereunder shall be excused if and to the extent that it is caused by any event, matter or circumstance which is beyond the

reasonable control of the affected party, provided that written notice of such a delay (including the anticipated duration of such delay) shall be given by the affected party to the other party within three (3) Working Days of the affected party becoming aware of the event, matter or circumstance in question.

29. Confidentiality

29.1 A party (the "Receiving Party") which receives, whether directly or indirectly, any Confidential Information belonging to the other party (the "Disclosing Party") shall:

29.1.1 keep the Confidential Information confidential;

29.1.2 not use, disclose or otherwise make available the Confidential Information to any other person other than with the prior written consent of the Disclosing Party or in accordance with Conditions 29.2 to 29.4 and

29.1.3 not use, disclose or otherwise make available the Confidential Information for any purpose other than to enable or facilitate the performance of its obligations or the exercise of its rights under the Contract.

29.2 The Receiving Party may use, disclose or otherwise make available the Confidential Information to its employees and approved sub-contractors (the "Recipient") to the extent that it is necessary for the purposes of the Contract.

29.3 The Receiving Party shall use its reasonable endeavours to ensure that each Recipient is made aware of and complies with all the Receiving Party's obligations of confidentiality under the Contract as if the Recipient were a party to the Contract.

29.4 The obligations contained in Conditions 29.1 to 29.3 shall not apply to any Confidential Information which:

29.4.1 is, at the date on which the Contract is entered into, or becomes, at any time after the date of the Contract, a matter of public knowledge other than through breach of the Contract by the Receiving Party or any Recipient; or

29.4.2 can be shown by the Receiving Party to the reasonable satisfaction of the Disclosing Party to have been known by the Receiving Party and at its free disposal before disclosure by the Disclosing Party to the Receiving Party; or

29.4.3 subsequently comes lawfully into the possession of the Receiving Party from a third party lawfully entitled to disclose the same, without any obligation of confidentiality being imposed upon the Receiving Party in respect thereof; or

29.4.4 is required to be disclosed by law (including pursuant to the order of any court or tribunal of competent jurisdiction), any governmental or regulatory authority, the Takeover Panel or pursuant to the rules of any recognised stock exchange to which the Receiving Party is subject.

30. Entire Agreement

30.1 The Contract constitutes the entire agreement between the parties and cancels and supersedes any and all previous agreements (whether oral or written, express or implied) between the parties relating to the subject matter of the Contract.

30.2 The parties acknowledge and agree that in entering into the Contract they have not relied on or been induced by any warranty, statement or representation of the other or any other person relating to the Contract which has not been incorporated into the Contract by way of express provision.

30.3 Nothing in the Contract shall affect any liability of either party for fraudulent misrepresentation.

31. Rights of Third Parties

No term of the Contract is intended for the benefit of any third party, and none of these Conditions shall be enforceable by a third party either under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

32. Severability

Each provision of the Contract, including each of these Conditions, is to be construed as independent of every other such provision.

Consequently the invalidity, illegality or unenforceability of any provision of the Contract shall not affect any other provision of the Contract, all of which will remain in full force and effect.

33. Variations

No variation of the Contract is effective unless it is made in writing, refers specifically to the Contract and is signed by duly authorised representatives of both of KGAR and the Customer.

34. Waiver

No omission or delay on the part of KGAR in exercising any right, power or privilege under the Contract shall operate as a waiver by it or of any right to exercise it in future or of any other of its rights under the Contract.

35. Rights Cumulative

Except as expressly provided in the Contract, the rights and remedies contained in the Contract are cumulative and shall be in addition to every other right or remedy provided by law or otherwise.

36. Assignment and Sub-Contracting

36.1 KGAR shall be entitled to assign the whole or any part of its rights or obligations under Contract, or to sub-contract the whole or any part of its obligations under the Contract without the prior written consent of the Customer.

36.2 The Customer shall not be entitled to assign the whole or any part of its rights or obligations under Contract, or to sub-contract the whole or any part of its obligations under the Contract without the express prior written consent of KGAR.

37. Notices

37.1 Any notice required to be sent under the Contract will be properly served if sent in writing:

37.1.1 by hand at the address of the party in question given on the Order (or such other address as the parties may notify to each other from time to time) in which case such notice shall be deemed to be served at the time of delivery where it is delivered on a Working Day, and at 9am on the first Working Day following the day of delivery if it was not delivered on a Working Day; or

37.1.2 by first class or recorded delivery post to the address of the party in question given on the Order (or such other address as the parties may notify to each other from time to time) in which case such notice will be deemed to have been served two Working Days after the date of posting; or

37.1.3 []

38. Governing Law and Jurisdiction

English law shall govern the construction and operation of the Contract and KGAR and the Customer each agree to submit to the non-exclusive jurisdiction of the English courts.