**Aerospace Engineering Solutions Limited**

**Terms and Conditions**

**The Customer's attention is particularly drawn to the provisions of clause 13 (Limitation of liability).**

**Please contact info@aesglobal.co.uk if you have any queries about these Terms and Conditions or the Goods and/or Services you have purchased.**

## 1. INTERPRETATION

The following definitions and rules of interpretation apply in these Conditions.

### 1.1 Definitions:

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| **"Business Day"** | a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business. |
| **"Business Hours"** | the period from 9.00 am to 5.00 pm on any Business Day. |
| **"Commencement Date"** | has the meaning given in clause 2.2**.** |
| **"Conditions"** | these terms and conditions as amended from time to time in accordance with clause 17.8. |
| **"Contract"** | the contract between the Supplier and the Customer for the supply of Goods or Services or Goods and Services in accordance with these Conditions. |
| **"Continued Airworthiness Programme"** | the Supplier's approved process by which the Supplier monitors and controls ongoing technical information needed to meet the requirements of its regulatory approval(s) and monitor safety of the Goods and/or Services in accordance with the laws, regulations, directives and technical specifications of the European Union Aviation Safety Agency or other such regulatory body as may be relevant. |
| **"Control"** | has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of Control** shall be interpreted accordingly. |
| **"Customer"** | the person or firm who purchases the Goods or Services or Goods and Services from the Supplier. |
| **"Deliverables"** | the deliverables set out in the Purchase Order produced by the Supplier for the Customer. |
| **"Delivery Location"** | has the meaning given in clause 4.2. |
| **"EU GDPR"** | the General Data Protection Regulation (*(EU) 2016/679*). |
| **"Force Majeure Event"** | has the meaning given to it in clause 16. |

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| **"Goods"** | the goods (or any part of them) set out in the Purchase Order. |
| **"Goods Specification"** | any specification for the Goods, including any relevant plans or drawings, that is agreed in writing by the Customer and the Supplier. |
| **"Intellectual Property Rights"** | patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world. |
| **"Purchase Order"** | the Customer's purchase order for the supply of Goods or Services or Goods and Services, as set out in the Customer's purchase order form, or the Customer's written acceptance of the Supplier's quotation, as the case may be. |
| **"Services"** | the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Service Specification. |
| **"Service Specification"** | the description or specification for the Services provided in writing by the Supplier to the Customer. |
| **"Supplier"** | Aerospace Engineering Solutions Limited registered in England and Wales with company number 04281247 and its registered office at Unit 6 Century Drive, Freeport Office Village, Braintree, Essex, CM77 8YG, operating under the European Union Aviation Safety Agency (EASA) Part 21 Section A Subpart J Design Organisation Approval of DOA AESGlobal Limited, a company registered in Ireland with company number 635549. |
| **"Supplier Materials"** | has the meaning given in clause 8.1.8. |
| **"UK GDPR"** | has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018. |

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**1.2 Interpretation:**

1.2.1 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.2.2 A reference to a party includes its personal representatives, successors and permitted assigns.

1.2.3 A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.

1.2.4 Any words following the terms including, include, in particular, for example or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.

1.2.5 A reference to writing or written excludes fax but not email.

## 2. BASIS OF CONTRACT

2.1 The Purchase Order constitutes an offer by the Customer to purchase Goods or Services or Goods and Services in accordance with these Conditions.

2.2 The Purchase Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Purchase Order at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods and Services described in them. They shall not form part of the Contract nor have any contractual force.

2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.5 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 30 Business Days from its date of issue unless otherwise agreed in writing by the Supplier.

2.6 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

2.7 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.

## 3. GOODS

3.1 The Goods are described in the Goods Specification.

3.2 To the extent that the Goods are to be manufactured in accordance with a Goods Specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim made against the Supplier for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in

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connection with the Supplier's use of the Goods Specification. This clause 3.2 shall survive termination of the Contract.

3.3 The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.

## 4. DELIVERY OF GOODS

4.1 The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Purchase Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the reference number of the Goods, where applicable), special storage instructions (if any) and, if the Purchase Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

4.2 Unless otherwise agreed in writing, the Customer shall collect the Goods from the Supplier's premises as advised to the Customer or such other location as may be agreed with the Customer before delivery (**Delivery Location**) within three Business Days of the Supplier notifying the Customer that that Goods are ready. The Customer is responsible for ensuring that the Goods (including any dangerous goods) are packaged and transported safely and appropriately and in accordance with all applicable health and safety laws or regulations.

4.3 Delivery of the Goods shall be completed on the completion of loading of the Goods at the Delivery Location onto the courier or other transportation service arranged by the Customer.

4.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.5 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.6 If the Customer fails to collect the Goods within three Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:

4.6.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and

4.6.2 the Supplier shall store the Goods until actual delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

4.7 If ten Business Days after the day on which the Supplier notified the Customer that the Goods were ready for collection the Customer has not taken actual delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, charge the Customer for any shortfall below the price of the Goods.

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4.8 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

4.9 On physical receipt of each consignment of Goods, the Customer shall inspect its contents and check the part numbers and quantities against the delivery note and the applicable Purchase Order, taking account of any agreed instalment schedule. The Customer shall also check for any visible damage and confirm that any accompanying documentation required by the Contract has been received. The Customer shall promptly notify the Supplier in writing of any shortage, incorrect part, visible damage or missing documentation identified during the inspection.

## 5. QUALITY OF GOODS

5.1 The Supplier warrants that on delivery, the Goods shall:

5.1.1 conform in all material respects with the Goods Specification;

5.1.2 be free from material defects in design, material and workmanship;

5.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and

5.1.4 be fit for any purpose held out by the Supplier.

In addition, the Supplier shall pass on to the Customer any warranty it receives from any third party supplier or manufacturer and on written request provide details of such third party warranty to the Customer.

5.2 Subject to clause 5.3, if:

5.2.1 the Customer gives notice in writing to the Supplier within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;

5.2.2 the Supplier is given a reasonable opportunity of examining such Goods; and

5.2.3 the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost,

the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

5.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 5.1 if:

5.3.1 the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.2;

5.3.2 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation (including unauthorised installation by the Customer), commissioning, use or maintenance of the Goods or (if there are none) good trade practice regarding the same;

5.3.3 the defect arises as a result of the Supplier following any drawing, design or specification supplied by the Customer;

5.3.4 the Customer alters or repairs such Goods without the written consent of the Supplier;

5.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or

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5.3.6 the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

5.4 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.

5.5 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

## 6. TITLE AND RISK

6.1 The risk in the Goods shall pass to the Customer on completion of delivery in accordance with clause 4.3.

6.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods.

6.3 Until title to the Goods has passed to the Customer, the Customer shall:

6.3.1 unless the Goods have been incorporated into another product or aircraft, store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

6.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

6.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;

6.3.4 notify the Supplier immediately if it becomes subject to any of the events listed in clause 14.1.2 to clause 14.1.4; and

6.3.5 give the Supplier such information as the Supplier may reasonably require from time to time relating to:

(a) the Goods; and

(b) the ongoing financial position of the Customer.

6.4 At any time before title to the Goods passes to the Customer, the Supplier may:

6.4.1 require the Customer to deliver up all Goods in its possession that have not been irrevocably incorporated into another product or aircraft and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them;

6.4.2 remove the Customer from the Supplier’s Continued Airworthiness Programme;

6.4.3 revoke effectivity of all applicable modifications to the Customer’s aircraft;

6.4.4 contact the National Airworthiness Authority and advise that the Supplier will no longer support any continued airworthiness for the affected Goods or modifications; and

6.4.5 notify any interested parties that airworthiness is not supported by the Supplier.

## 7. SUPPLY OF SERVICES

7.1 The Supplier shall supply the Services to the Customer in accordance with the Service Specification in all material respects.

7.2 Time is of the essence for all milestone dates in the Service Speficication.

7.3 The Supplier reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement and the Supplier shall notify

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the Customer in writing in any such event prior to amending the Service Specification.

7.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill ordinarily provided by similar professionals practicing in and/or under the same or similar circumstances.

7.5 The Supplier may use sub-contractors in the performance of the Services, including but not limited to DOA AESGlobal Limited, a company registered in Ireland with company number 635549 and Aerospace Engineering Solutions Spain, Sociedad Limitada, a company registered in Spain with company number 22136495.

## 8. CUSTOMER'S OBLIGATIONS

8.1 The Customer shall:

8.1.1 ensure that the terms of the Purchase Order and any information it provides in both the Service Specification and the Goods Specification are complete and accurate;

8.1.2 co-operate with the Supplier in all matters relating to the Services;

8.1.3 provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's aircraft, premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;

8.1.4 provide the Supplier with such information, equipment and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;

8.1.5 prepare the Customer's aircraft for the supply of the Services;

8.1.6 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start (including, but not limited to, obtaining the necessary licences, permissions and consent from the owner of the aircraft);

8.1.7 comply with all applicable laws, including health and safety laws;

8.1.8 keep all materials, equipment, documents and other property of the Supplier (**Supplier Materials**) at the Customer's premises or on the Customer's aircraft in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation; and

8.1.9 comply with any additional obligations as set out in the Service Specification or the Goods Specification or both.

8.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

8.2.1 without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;

8.2.2 the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 8.2; and

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8.2.3 the Customer shall be liable for any claims, liabilities, costs or losses sustained or incurred by the Supplier arising directly from the Customer Default.

## 9. CHARGES AND PAYMENT

9.1 The price for Goods:

9.1.1 shall be the price set out in the Purchase Order or, if no price is quoted, the price set out in the Supplier's published price list as at the date of delivery of the order; and

9.1.2 shall be exclusive of all costs and charges of packaging, insurance, and transport of the Goods, which shall be invoiced to the Customer if (by prior written agreement only) the Supplier agrees to arrange such matters,

save that the Supplier shall be entitled to charge for additional time and materials should the scope of the project be extended beyond the original Goods Specification.

9.2 The charges for Services shall be the price set out in the Purchase Order, save that the Supplier shall be entitled to charge for additional time and materials should the scope of the project be extended beyond the original Service Specification.

9.3 The Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including reasonably economical travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.

9.4 The Supplier reserves the right to:

9.4.1 increase the charges for the Services on an annual basis with effect from each anniversary of the Commencement Date (excluding any Services being provided pursuant to an already accepted Purchase Order ;

9.4.2 charge a handling fee should the Supplier be required to purchase the Goods on behalf of the Customer from a third party supplier; and

9.4.3 increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Supplier that is due to:

(a) any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

(b) third party costs;

(c) any special or additional testing required by the Customer or any government or other authority;

(d) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or

(e) any delay caused by any instructions of the Customer in respect of the Goods or failure or delay of the Customer in giving the Supplier adequate or accurate information, instructions or Customer deliverables in respect of the Goods.

9.5 The Customer shall pay each invoice submitted by the Supplier:

9.5.1 in accordance with the payment terms set out in the invoice and in any event no later than 30 days following the Customer’s receipt of the invoice; and

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9.5.2 in full and in cleared funds to a bank account nominated in writing by the Supplier, and

time for payment shall be of the essence of the Contract.

9.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.

9.7 If the Customer fails to make a payment due to the Supplier under the Contract by 20 days after the due date, then, without limiting the Supplier's remedies under clause 14:

9.7.1 the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 9.7 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%;

9.7.2 the Supplier may remove the Customer from the Supplier's Continued Airworthiness Programme;

9.7.3 the Supplier may revoke effectivity of all applicable modifications to the Customer's aircraft;

9.7.4 the Supplier may contact the National Airworthiness Authority and advise that the Supplier will no longer support any continued airworthiness for the affected Goods or Services or modifications; and

9.7.5 the Supplier may notify any interested parties that airworthiness is not supported by the Supplier.

9.8 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## 10. INTELLECTUAL PROPERTY RIGHTS

10.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials, information or data provided by the Customer) shall be owned by the Supplier.

10.2 The Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of the Contract to copy the Deliverables (excluding materials provided by the Customer) for the purpose of receiving and using the Services and the Deliverables in its business. This license will be perpetual for Supplier's Intellectual Property Rights that are necessary for Customer's use of the Services and Deliverables beyond the Contract term.

10.3 The Customer shall not sub-license, assign or otherwise transfer the Intellectual Property Rights (if any) granted to it by the Supplier.

10.4 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer.

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## 11. DATA PROTECTION

11.1 The following definitions apply in this clause 11:

11.1.1 **Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures**: as defined in the Data Protection Legislation.

11.1.2 **Data Protection Legislation**: (i) all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (*SI 2003/2426*) and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party; and (ii) to the extent EU GDPR applies, the law of the European Union or any member state of the European Union to which the Supplier is subject, which relates to the protection of personal data.

11.1.3 **Applicable Law:** (a) To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom; and (b) to the extent EU GDPR applies, the law of the European Union or any member state of the European Union to which the Supplier is subject.

11.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

11.3 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor.

11.4 Without prejudice to the generality of clause 11.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier and/or lawful collection of the Personal Data by the Supplier on behalf of the Customer for the duration and purposes of the Contract.

11.5 Without prejudice to the generality of clause 11.2, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:

11.5.1 process that Personal Data only on the documented written instructions of the Customer unless the Supplier is required by Applicable Law to otherwise process that Personal Data. Where the Supplier is relying on Applicable Law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Law unless the Applicable Law prohibits the Supplier from so notifying the Customer;

11.5.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and

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evaluating the effectiveness of the technical and organisational measures adopted by it);

11.5.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

11.5.4 not transfer any Personal Data outside of the UK or the European Economic Area (**EEA**) unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

(a) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;

(b) the Data Subject has enforceable rights and effective legal remedies;

(c) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

(d) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

11.5.5 assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

11.5.6 notify the Customer without undue delay on becoming aware of a Personal Data Breach;

11.5.7 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Contract unless required by Applicable Law to store the Personal Data; and

11.5.8 maintain complete and accurate records and information to demonstrate its compliance with this clause.

11.6 The Customer consents to the Supplier appointing third-party processors of Personal Data under the Contract. The Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business or incorporating terms which are substantially similar to those set out in this clause 11 and in either case which the Supplier confirms reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 11.6.

## 12. CONFIDENTIALITY

12.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party except as permitted by clause 12.2.

12.2 Each party may disclose the other party's confidential information:

12.2.1 to its employees, officers, representatives, contractors or subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 12; and

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12.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

## 13. LIMITATION OF LIABILITY

13.1 References to liability in this clause 13 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

13.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

13.2.1 death or personal injury caused by negligence;

13.2.2 fraud or fraudulent misrepresentation;

13.2.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); and

13.2.4 defective products under the Consumer Protection Act 1987.

13.3 Subject to clause 13.2, the Supplier's total liability to the Customer shall not exceed three times (3x) the total price paid by the Customer for the Goods and/or Services.

13.4 This clause 13.4 sets out specific heads of excluded loss:

13.4.1 Subject to clause 13.2, clause 13.4.2 excludes specified types of loss.

13.4.2 The following types of loss are wholly excluded:

(a) loss of profits;

(b) loss of sales or business;

(c) loss of agreements or contracts;

(d) loss of anticipated savings;

(e) loss of use or corruption of software, data or information;

(f) loss of or damage to goodwill; and

(g) indirect or consequential loss.

13.5 The Supplier has given commitments as to compliance of the Goods and Services with relevant specifications in clause 5 and clause 7. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

13.6 This clause 13 shall survive termination of the Contract.

## 14. TERMINATION

14.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

14.1.1 the other party commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 20 days after being notified in writing to do so;

14.1.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining

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a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

14.1.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

14.1.4 the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

14.2 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:

14.2.1 the Customer fails to pay any amount due under the Contract after the relevant cure period;

14.2.2 there is a change of Control of the Customer that will materially affect the Services; or

14.2.3 the Supplier is unable to perform the Contract due to any applicable law, government restriction or sanction.

14.3 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 14.1.2 to clause 14.1.4, or the Supplier reasonably believes that the Customer is about to become subject to any of them.

## 15. CONSEQUENCES OF TERMINATION

15.1 On termination of the Contract:

15.1.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest;

15.1.2 in respect of Services and Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice (which shall be payable by the Customer immediately on receipt). In addition to the Services and Goods supplied, the Supplier shall be, if the termination is by Customer, entitled to charge the Customer for:

(a) any work of a preparatory nature carried out by the Supplier;

(b) any materials obtained by the Supplier in respect of the Goods or Services to be supplied;

(c) any non-returnable items obtained by the Supplier;

(d) any other non-recoverable costs incurred by the Supplier; and

(e) any labour which has already been completed in respect of the project.

15.1.3 the Customer shall return all of the Supplier Materials and any Deliverables or Goods which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;

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15.1.4 the Supplier may remove the Customer from the Supplier's Continued Airworthiness Programme;

15.1.5 the Supplier may revoke effectivity of all applicable modifications to the Customer's aircraft;

15.1.6 the Supplier may contact the National Airworthiness Organisation and advise that the Supplier will no longer support any continued airworthiness for the affected Goods or Services or modifications; and

15.1.7 the Supplier may notify any interested parties that airworthiness will no longer be supported by the Supplier.

15.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

15.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

## 16. FORCE MAJEURE

Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**). The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for three months, the party not affected may terminate the Contract by giving 14 days' written notice to the affected party.

## 17. GENERAL

### 17.1 Assignment and other dealings

17.1.1 Intentionally omitted.

17.1.2 Neither party shall assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the other party.

### 17.2 Notices.

17.2.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

(a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

(b) sent by email to:

(i) in the case of the Supplier: info@aesglobal.co.uk

(ii) in the case of the Customer: the email address specified in the Purchase Order

(or an address substituted in writing by the party to be served):

17.2.2 Any notice shall be deemed to have been received:

(a) if delivered by hand, at the time the notice is left at the proper address;

(b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or

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(c) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

17.2.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

17.3 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 17.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

17.4 **Waiver.**

17.4.1 Except as set out in clause 2.7, a waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

17.4.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

17.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

17.6 **Entire agreement**.

17.6.1 The Contract constitutes the entire agreement between the parties.

17.6.2 Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

17.7 **Third party rights.**

17.7.1 The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

17.7.2 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

17.8 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

17.9 **Governing law.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

17.10 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

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