

## STANDARD CONDITIONS OF SALE

### 1. DEFINITIONS

**AOG** (Aircraft On Ground) means a situation in which the Helicopter is unable to fly or is ineligible to return to service because of an unscheduled need for replacement or major repair of components, that is not related to scheduled maintenance.

**BFE/CFE** means Buyer Furnished Equipment / Customer Furnished Equipment

**CAMO** means Continuing Airworthiness Management Organization.

**Certificate of Conformity** (or **Statement of Conformity**) means the document issued by the manufacturer or Seller's quality assurance organization after completion of procedures approved by the respective authorized national agency certifying the Products conformity with the Seller's applicable specifications.

**Contract** means the agreement negotiated between the Parties of which these Standard Conditions of Sale form part, comprising the applicable Specific Annex(es) and the Purchase Order or Order Confirmation.

**Control** (including with correlative meanings the terms "**controlling**" and "**controlled**"), with respect to any natural or legal person, means the possession, directly or indirectly, whether through ownership of voting securities, by contract or otherwise of:

- a majority of the voting rights exercisable at general meetings of the controlled undertaking on all, or substantially all, matters, or,
- the power to appoint or remove directors having a majority of the voting rights exercisable at meetings of the board of directors on all, or substantially all, matters, or
- a power to exert a dominant influence over the affairs of the controlled undertaking.

**Core Unit** means the used Part sent by the Customer to the Seller in case of exchange for an overhauled or repaired Part under the standard exchange service.

**Customer** means the person, entity, or company to whom the Seller sells any Products and/or Services under the Contract.

**Documentary Credit** means an irrevocable, confirmed and non-transferable documentary credit.

**EASA** means European Union Aviation Safety Agency.

**Helicopter** means helicopter manufactured by Airbus Helicopters (SAS) (H125, H130) or by Airbus Helicopters Deutschland GmbH (Bo105, Bk117, H135 and H145).

**Item** means any hardware, software, technical data/technology and/or services.

**IT Service Provider(s)** mean(s) a third parties(y) contracted by the receiving Party that provide(s) IT services, project management services or other office management services and which may have administrative rights to sustain the IT systems.

**MF** means Motorflug Baden Baden GmbH

**Order Confirmation** means the acknowledgement of receipt of the Customer's order by the Seller, i.e. either the confirmation sent by the Seller to the Customer to take into account the Customer's order or the approval sent by the Customer to the Seller on the Quotation.

**Part** means a physical good defined with a part number.

**Party/Parties** mean either separately or collectively the Customer and/or the Seller.

**Product(s)** means the goods to be provided by the Seller under the Contract in compliance with the applicable specification and/or definition, including all types of Helicopters, optional equipment, Spare Parts, tools, other equipment, documentation, technology, data, software on a Product.

**Production Organization Approval (POA)** means approvals issued by the respective competent authority to the manufacturer or Seller in compliance with EASA part 21/G regulation.

**Purchase Order** (or **Order**) means the order covering the acquisition of Products and/or Services.

**Quotation** means the priced offer and associated conditions, sent to the Customer by the Seller.

**R&O** means the following activities: repair, overhaul, standard exchange, inspection and modification of a Part.

**RMA** means Return Material Authorization format provided by the Seller for the purposes of article 9.1 and/or R&O Service.

**SB** means Service Bulletin.

**SCS** means these general Standard Conditions of Sale for Products and Services.

**Seller** means Motorflug Baden-Baden GmbH located in Rheinmünster Germany (referred to as "**MF**").

**Service(s)** means the services which may be performed under the Contract consisting of:

- performance of R&O,
- provision of Technical Data, technical assistance, technical expert services, and/or tool rental,
- performance of Training.

The specific Service(s) to be provided by the Seller under the Contract are specified therein.

**Spare Parts** means new parts provided by the Seller.

**STC** means Supplemental Type Certificate and also refers to an equipment which has a STC.

**TAT** means Turn Around Time, from the time the Seller receives the Customer's Part and its related and valid documents in its facility up to the time the Part is at the Customer's disposal Free Carrier (FCA) Incoterms® 2020 at Seller's facility, less the Customer's approval lead time and/or less lead time due to Customer's responsibility discrepancies.

**Technical Data (or TechData)** means technical publications provided by the Seller.

**Training** means training need analysis, training courses, simulator sessions and on-the-job training.

**Training Items** means training software, training documentation and courseware.

**TSN, TSO, TSR, TBO, OTL, SLL** mean respectively Time Since New, Time Since Overhaul, Time Since Repair, Time Between Overhaul, Operating Time Limit and Service Life Limit.

**VAT** means Value Added Tax.

## **2. SUBJECT AND SCOPE**

These general Standard Conditions of Sale apply to any sale of Products and/or Services by the Seller to its Customer(s). For the sake of clarity, the general Standard Conditions of Sale do not apply to any sale of Products and/or Services with intent to resell them by the Customer, unless this latter has been duly approved in accordance with MF compliance/due diligence related policy to proceed accordingly. The purchase of the Products and/or Services by a Customer is considered to be performed within the frame work of its professional activities.

## **3. PURCHASE ORDER / QUOTATION**

### **3.1. Sale of helicopters and associated Services - Purchase Order**

The Contract shall be binding when signed by duly authorized representatives of both Parties and the delivery schedule shall become effective upon receipt by the Seller of the initial down-payment and subject to compliance by the Customer to article 4.1. Helicopter serial number mentioned in the Contract (if any), shall be purely indicative, and shall not create any obligation upon the Seller.

### **3.2. Products and Services**

#### **3.2.1. Order issuance, acceptance**

Customer's Orders, signed by a duly authorized representative of the Customer, shall be confirmed by a duly authorized representative of the Seller in writing. The Contract shall become binding upon receipt by the Customer of the Seller's Order Confirmation and the delivery schedule shall become effective upon receipt by the Seller of the down-payment when relevant (as mentioned under article 6.2) and subject to compliance by the Customer to article 4.1.

In case the Customer requires a Quotation from the Seller, the Contract shall become binding when the Seller receives the Customer's written approval of such Quotation issued without changes. Said Quotation duly signed by the Customer shall constitute the Order Confirmation when received by the Seller.

#### **3.2.2. Purchase Orders/ Quotations**

The Customer shall issue to the Seller for each service an Order with the following information:

- Order number
- Type of work
- Price
- Type, version and serial number of the Helicopter
- Applicable Technical Data

- Current configuration and modifications carried out on the Helicopter (incl. STC)s
- Delivery date of need / Delivery date
- Request release documentation
- Invoice address and VAT numer

The Seller shall be bound by its cost estimates, quotations and/or Contracts but shall be entitled to provide supplemental Quotations to the Customer when necessary additional work is identified after the Order Confirmation (e.g. during disassembly, inspection or due to other reasons). For all additional work, the Customer shall notify the Seller of its decision within two (2) working days from the date of submission by the Seller of the proposal pertaining to such extra work. Supplemental Quotation duly signed by the Customer shall constitute the Order Confirmation when received by the Seller.

No additional work that is deemed mandatory by the Seller, in particular to regain airworthiness of the Helicopter, may be refused by the Customer. If the Customer refuses said work, the Seller will not be able to conclude the Contract, and in particular release to service and/or grant airworthiness to the Helicopter, in which case the following paragraph will apply.

Where a Contract cannot be concluded, the Seller may return the Helicopter to the Customer at the Customer's expense. Any costs incurred up to such time, for example due to evaluation, maintaining airworthiness, administration and transport among others, will be invoiced to the Customer.

Unless otherwise specified, the Customer's authorization shall be assumed as given for necessary maintenance or other necessary test flights and ground runs without additional agreement.

The Seller may provide its Service through a subcontractor.

### **3.3. Purchase Order modifications**

#### **3.3.1. Modifications to Purchase Order by the Seller**

Pursuant to new manufacturing or engineering requirements, obsolescence or new regulations, the Seller shall be entitled to carry out modifications without the consent of the Customer, as long as these modifications do not affect the specification and/or performance and/or delivery time of the Product and/ or Services. Should the requirements affect specification and/ or performance of the Product and/or Services, related costs and/or delivery time, the Parties shall agree on the contractual consequences.

#### **3.3.2. Modifications to Purchase Order by the Customer**

Any changes or configuration changes requested by the Customer require prior mutual written agreement of the Parties and may lead to an adjustment of the price(s) and/or delivery time(s).

### **3.4. Provision of Services**

#### **3.4.1. BFE/ CFE**

The Customer can provide BFE/CFE parts to the Seller for inclusion in its services if previously agreed with the Seller. The Seller reserves the right to apply a handling charge on BFE/CFE parts in accordance with § 5.3. Any delays incurred due to BFE/CFE parts will be added to the agreed TAT / delivery date. The consequences of non-delivery, or late or incomplete delivery, of BFE/CFE parts to be provided by the Customer, or of BFE/CFE parts that do not meet the requirements of the Contract, are at the risk and expense of the Customer, unless the shortcomings can be imputed to the Seller or are caused by force majeure.

If the Seller needs to send the BFE/CFE parts to the original equipment manufacturer for any reason such as, but not limited to, modification, unit conversion, software upgrade and so on, if the original equipment manufacturer while performing the service finds necessary to calibrate, repair or whatsoever a BFE/CFE parts to regain airworthiness, this shall be charged to the Customer by the Seller.

The Customer may provide acceptable used parts if the part number is agreed, the appropriate technical and airworthiness documentation is provided and parts are in an economically repairable state. Should these conditions not be met the Seller reserves the right to invoice the Customer for the value of acceptable used parts.

The Seller will have no liability whatsoever in relation with BFE/CFE.

### **3.4.2. Irreparable or unsuitable parts**

The Seller will inform the Customer of any parts deemed non-repairable or "beyond economical repair" for a return to service. Such parts will be scrapped thirty (30) days after the Customer has been informed unless the Customer requests said parts to be returned to its facility at its expense. The Customer shall bear the costs of evaluating and scrapping such parts or their transport and administration costs in either case.

### **3.4.3. SB and STC kits**

Unless otherwise specified, the kits originated from SB or STC equipment modification are defined on the basis of the "as-delivered" configuration (i.e. the configuration of the Helicopter at the time of transfer of title to the original customer). For any deviation of the actual configuration that requires the amendment of the SB or the STC installation, the instruction shall be charged to the Customer on a time and material basis.

Unless otherwise specified, the STC is sold to the Customer with the certification(s) as listed in the catalog and specified in the order. It's the responsibility of the Customer to make sure that such certification(s) is(are) acceptable by its competent airworthiness authority before the installation of the kit. The Seller will provide all reasonable support to the Customer for the additional certification or validation of the existing certification(s) at the latter's sole expense on a time and material basis.

The STC holder of the Product shall keep full responsibility for its own Product type design definition (configuration, definition, necessary changes and continuing airworthiness).

In case of STC required by the Customer, the Seller does not warrant the compatibility of the STC with future mandatory or non-mandatory modifications.

## **4. COMPLIANCE, EXPORT CONTROL, CUSTOMS**

The Parties hereby undertake at all times to (1) comply with all applicable laws and regulations in particular and not limited to national and international anti-corruption, anti-money laundering and any which impose economic, trade or other restrictive measures, or export, re-export licenses or other authorizations in each case issued and enforced by a Sanctions Authority (together "**Regulatory Rules**") and (2) undertake to act in accordance with national and international human rights regulations applicable in their respective countries. In this regard, and in any case, the Arms Trade Treaty and the Geneva Conventions of 1949 shall constitute the Parties' baseline for human rights ethical behavior.

In case of violation by the Customer of (i) any Regulatory Rules, including those enforced by the EU and/or the USA, as well as (ii) any of the obligations set forth in articles 4.1 and 4.2, the Seller will be entitled to either terminate the Contract or to suspend performance of its obligations under such Contract, and/or any of its obligations arising from any other agreement with the Customer, forthwith without prior notice and without liability whatsoever without prejudice to any claim that the Seller may have under the Contract or any other agreement.

For the purpose of the Contract,

**"Authorisation(s)"** means any license, approval, authorization, regulatory registration, consent, agreement, exception or exemption to export, re-export, import, transfer or retransfer any Item according to Export Regulations.

**"Export Regulations"** means United States of America ("**U.S.**"), European Union ("**E.U.**") and any other applicable law or regulation providing for economic or financial sanctions, sectoral sanctions, secondary sanctions, trade embargoes, export control regulations, Authorizations or other similar restrictive measures.

**"Sanctions Authority"** means the Government of the United States of America (including, without limitation, the Department of State, the Department of Commerce and the Office of Foreign Assets Control (OFAC) of the US

Department of the Treasury), the United Nations Security Council, the European Union, the United Kingdom or the government of any country with jurisdiction over the Parties.

**“Sanctioned Person”** means any natural or legal person that is:

- a) the target of any restriction under Regulatory Rules; or
- b) in any list of sanctioned persons of any Sanctions Authority (including the list of Specially Designated Nationals (SDN) and Sectorial or Sanctions Identifications (SSI) list, as issued and administered by OFAC); or
- c) directly or indirectly owned or Controlled by any one or several person(s) designated under (a) or (b) above.

#### **4.1. Representation from the Customer and Know your Customer policy**

The Customer undertakes to provide truthful, accurate and complete information to the Seller such as may be required by the Seller from time to time to comply with its obligations pursuant to the Regulatory Rules, including but not limited to information on the Customer’s corporate structure and shareholding, or source of financing of the Contract.

Subject to articles 3.1 and 3.2, the Seller’s obligations will only enter into force once the Seller has received from the Customer all required information and performed all necessary verifications pursuant to the Regulatory Rules and to the “Know your Customer” policy of the Seller. During the Contract performance, a) failure by the Customer to comply with the Regulatory Rules and/or b) Customer becoming a Sanctioned Person and/or c) performance of either Party’s obligations under the Contract would constitute a breach of Regulatory Rules and/or d) failure by the Customer to timely provide all necessary information and/or cooperate with the Seller, shall entitle the Seller to trigger the remedies set forth in article 4 preamble.

#### **4.2. Export Control**

- a) Each Party commits to act in compliance with all applicable Export Regulations and acknowledges that diverting from such Export Regulations is prohibited. The Customer shall ensure that its supply chain and its customers comply with Export Regulations when dealing with the Seller’s Items.
- b) The Parties acknowledge that performance by the Seller of its obligations under the Contract shall remain subject to obtaining, and to the terms of, any required Authorization. The Seller shall not be held liable if an Authorization is not granted or is granted with limited conditions and/or with any delay caused thereby or if an Authorization once granted is amended, suspended, revoked or not renewed. Such event shall be considered as a force majeure event under article 13.1. In the event all or part of the Item is subject to import restrictions in the country of the Customer, the Customer shall apply for any relevant import authorization required for the Seller to perform all or part of the Contract notwithstanding any other provision of the Contract. It is Customer’s responsibility to obtain all required Authorizations for the re-export/re-transfer of any Seller’s Item in compliance with Export Regulations.

Either Party shall provide the other with any information, declarations or certifications required according to Export Regulations and with all information necessary to obtain and to comply with, any required Authorization (including providing in due time duly completed and signed end-user statement/certificate). Prior to any change in the end-use/end-user or transfer of an Item to any third party, the Customer shall notify the Seller thereof and follow the instructions given by the Seller. When the Products and/or Services under the Contract are subject to Authorizations, the Customer undertakes to abide by the content of Authorizations, including specific end-use/end-user and provisions/conditions and any requirement to obtain a specific reexport authorization. The Customer hereby waives any right to use any national blocking statute against MF to prevent it from complying with Export Regulations.

- c) Should the Customer be subject to requirements set out in ITAR Part 130 or Part 129, the Customer shall comply therewith and shall remain solely liable therefor, and the Customer shall provide the Seller with a copy of Authorizations and provide any declaration necessary for the Seller to comply with Export Regulations.
- d) When the Customer provides any Item to the Seller under the Contract, the Customer shall ensure that the required Authorization is obtained prior to the delivery. In addition, the Customer shall provide each Item to the Seller together with all applicable export control, information, including classification(s) and the Authorization number when applicable.

- e) The Customer acknowledges that the Seller's prior approval and the approval from the relevant authorities are required for the Customer to access any classified export control Item and the Seller has the right to grant, refuse, suspend or revoke such access right at any time without notice. To access any classified export control Item provided by the Seller, the Customer shall complete and sign the compliance declaration template for third Party export-controlled Items access control provided by the Seller.
- f) Each Party represents to the other as at the date hereof that it is not a Sanctioned Person.  
If at any time following the signature of the Contract, a Party becomes a Sanctioned Person or performance of a Party's obligations under the Contract would constitute a breach of Export Regulations (a "Sanctions Event"), the impacted Party shall promptly notify the other Party and the Parties shall, to the extent permitted by Export Regulations, consult with each other with a view to mitigating the effects of such Sanctions Event. Such consultation is without prejudice to the right of either Party to suspend without liability its obligations under the Contract, including to the right of the Seller to deny the access to any Item at any time following the occurrence of a Sanctions Event.
- g) The Customer undertakes to use the Item exclusively for civil purposes and not to directly or indirectly sell, import, (re-)export, (sub)lease, (re-)transfer the Item for use or operation in any territory or country that is the target of any sanctions or embargoes under Export Regulations and/or to a Sanctioned Person in violation of Export Regulations. In particular, the Customer shall not sell, export or re-export, directly or indirectly, any Products and/or Services supplied under or in connection with this Contract to or for the use in countries where EU exporters are prohibited to sell, supply, export or re-export such goods or technologies (also part of the Regulatory Rules). The Customer shall set up a mechanism to ensure that any third party complies with such prohibition.

#### **4.3. Customs and intracommunity supply**

If the Customer is in charge of the transportation, in case of intra EU supply or export directly to a country outside the European Union, the Customer shall provide the Seller with the documentation required for VAT purposes (proof of transportation and/or import declaration) to justify such intracommunity supply or exportation.

Irrespective of the applicable Incoterm, if Products are exported directly to a country outside the European Union, the Seller will provide appropriate export customs documentation to the Customer or its designated freight forwarder. The Customer guarantees correct closure of the related customs procedure in due time on leaving the European Union or the country of dispatch. In case of non-compliance, the Customer shall be liable for any additional costs and charges imposed on the Seller by the national tax administration.

### **5. PRICES**

#### **5.1. General**

Prices are stated and payable in Euros. Helicopter prices and the prices of other Products and Services sold together with Helicopters are according to the baseline Helicopter definition in force on the date of signature of the Contract and to the specific configuration and scope detailed in the Contract. For Products and Services sold independently of Helicopters, all invoices for Products and Services will be at the prices stated in the relevant Seller's price list in force, or in the relevant Quotation. The Seller's price lists are subject to regular updates.

#### **5.2. Duties and taxes, VAT**

Prices are exclusive of taxes, duties and/or charges resulting from administrative and legislative regulations in force in any country other than the Seller's country and of any customs and duty charges, which shall be borne by the Customer. Prices are exclusive of VAT or sale taxes or turnover taxes or other similar taxes. If applicable, such taxes will be charged in addition.



### **5.3. Additional costs/ Chargeable amounts**

#### **5.3.1. General**

Prices, unless otherwise stipulated in the Contract, do not include any preparation, packing and crating charges nor any modifications carried out at Customer's request before and after delivery, expenses incurred for the inspection of Products by third parties, expenses relating to freight forwarding, carriage by sea, air or land, ferry-flight, storage and insurance costs incurred after Customer's acceptance.

For all Orders below a minimum amount of two hundred (200) Euros, the Seller reserves the right to invoice a minimum amount of two hundred (200) Euros.

#### **5.3.2. BFE/CFE Surcharge**

For BFE/CFE Motorflug will surcharge 7% of the of usual sales price (list price) but at least one hundred (100, -) Euros

#### **5.3.3. Material - / Service - Surcharge**

For:

- a) external services per external service provider and order,
- b) materials for procurement related to maintenance measures,
- c) materials for procurement according to the client's proposal without reference to maintenance measures per supplier and order:

- Amount until twenty thousand (20.000, -) Euros: 30% min. five hundred (500, -) Euros (Minimum amount omitted in case of b) as mentioned above)
- Amount higher than twenty thousand (20.000, -) Euros until two-hundred thousand (200.000, -) Euros: 20% min. six thousand (6.000, -€) Euros and max. twenty-five thousand (25.000,-€) Euros
- Amount higher than two-hundred thousand (200.000, -) Euros will be agreed individually.

#### **5.3.4. Sundays and public holidays**

If travel takes place on a Sunday or public holiday, a surcharge of 50% will be added to the daily rate.

If work takes place on a Sundays or public holiday, a surcharge of 100% will be added to the daily rate.

### **6. PAYMENTS**

#### **6.1. General**

The payment obligation will be considered fulfilled at the time the due amount is irrevocably credited in full to the Seller's bank account. The Customer shall make the payment by bank transfer (swift), which, on the Seller's request, may be secured by a stand-by letter of credit or a Documentary Credit.

Subject to article 14.1.2 any down-payments (including intermediate) made before acceptance are non-refundable, including in the case described in article 14.2, as they are necessary to cover the production, procurement, financial, administrative and other costs.

In the event of payment by Documentary Credit, the Customer shall at the time of the initial down-payment and/or Purchase Order, open at its own expense, a Documentary Credit in favor of the Seller for the Contract price, reduced by the initial down-payment, if any. The Documentary Credit shall permit partial deliveries and shall be valid for the total specified period of delivery or performance plus three (3) months covering the time required for preparing the necessary documents and for performing the payment. Should the Documentary Credit expire before full delivery is completed, the Customer shall in due time extend, at its expense, the Documentary Credit without any need for action in this respect on the part of the Seller. The Documentary Credit shall be payable at sight in favor of the Seller as deliveries are made upon presentation of the following documents by the Seller to the bank:

- In case of Products and Services sold independently of a Helicopter sale:
  - Commercial invoice in duplicate, and
  - Any document specified by the Seller and mentioned under the Contract.

As well, the stand-by letter of credit shall be opened at Customer's expense and payable upon presentation by the Seller on first demand to the bank of the here-above-described documents.

## **6.2. Payment terms**

6.2.1. intentionally left blank

### **6.2.2. Products and Services sold independently of a helicopter sale**

For any Order (except as specified hereinafter), the Customer shall make the following payments:

- Upon Contract signature, a thirty (30) per cent down-payment of the total amount of the Contract shall be paid by the Customer not later than fifteen (15) calendar days following the date of invoice;
- If the total contract amount exceeds two hundred thousand (200.000,-) Euros,
- Upon delivery of the Products or performance of the Services, the balance of the invoiced amount of the delivered Products or performed Services shall be paid by the Customer no later than thirty (30) calendar days following the date of invoice.

Nevertheless, for Spare Part Orders not exceeding fifty thousand (50.000,-) Euros and for R&O Service Orders not exceeding twenty-five thousand (25.000,-) Euros, full payment shall be made upon delivery no later than thirty (30) calendar days following the date of invoice.

Without prejudice to article 6.3, should the Customer at any time be in a situation of debit towards the Seller under any Helicopter, Products or Services contract between the Parties, the Seller is entitled, without prior notice, to:

- alter the terms of payment and request cash in advance payment for any Order under any existing contract and/or
- allocate any received payment from the Customer to any outstanding debt under any existing contract between the Parties and/or
- postpone any Product delivery or Service performance ordered by the Customer to the Seller in any existing contract without any liability whatsoever to the Seller; the Seller may charge the Customer for any additional costs and/or expenses incurred as a result of such postponement, such as, but not limited to, costs and/or expenses for storage, maintenance or loss of training slot.

Unless otherwise agreed, no discount shall be granted by the Seller to the Customer in case of early payment.

## **6.3. Late payment remedies**

Payment shall under no circumstances be postponed or apportioned for any reason whatsoever. Consequently, in case of late payment, the Customer shall pay to the Seller interest on the unpaid amount at the rate calculated on the basis of ten (10) percentage points per annum computed on the basis of 365 days/year and the actual number of days elapsed since the due date until the actual date of payment without any need for a formal demand or any prior notice. Without prejudice to the above, in the event of a failure or a delay in payment, the Seller shall be entitled to extend the schedule for a time period accounting for the delay's consequences on production schedule and/or suspend performance of the Contract and/or in all cases, definitively retain the amount of any payments already made by the Customer. The retention of any such payment shall not preclude the Seller from seeking compensation from the Customer for further damages and/or costs. Notwithstanding anything to the contrary elsewhere in these SCS, in the event of a delay or failure by the Customer to pay for more than two (2) months, the Seller shall be entitled to terminate the Contract for default of the Customer under the conditions defined in article 14.1.1.



## **7. QUALITY ASSURANCE AND AIRWORTHINESS**

### **7.1. General**

MF hold:

- a DOA issued by EASA according to Part 21J regulation,
- a POA in compliance with the EASA Part 21G, as issued by its respective national civil aviation authorities,
- a MOA in compliance with the EASA Part 145, as issued by its respective national civil aviation authorities, and

The privileges of an approved maintenance and production organizations include the issuance of airworthiness documents.

MF hold a CAMO approval certificate issued by its national civil aviation authority in compliance with EASA Part Part M/Subpart G.

The official recognition that products and repaired / overhauled / standard exchange Parts have satisfied the quality assurance procedures is certified by the issuance of the following documents:

For optional equipment delivered packed, Spare Parts and repaired / overhauled / standard exchange Parts:

- Upon request, a Certificate of Conformity or other equivalent document issued by the manufacturer or Seller's authorized certifying staff, for standard components,
- An authorized release certificate (EASA Form 1) for other certified components or non-standard Spare Parts issued on behalf of the national civil aviation authority by the Seller or the Seller's selected workshop,
- A log card if applicable
- A dual release if required through a bilateral agreement between authorities (e.g., Federal Aviation Regulation (FAR)145).

For miscellaneous parts and tools which are not subject to installation on the Helicopter (if applicable):

- A Certificate of Conformity issued by the manufacturer or Seller's authorized certifying staff.

The Customer that has its civil helicopter registered in a country under EASA regulation is responsible for any task related to the management of the continuing airworthiness of the helicopter or shall transfer this obligation by signing a contract with a CAMO in order to ensure the proper accomplishment of the airworthiness management activities in accordance with the regulations in force (Part M/Subpart G). Upon signature of the Contract with the Seller, the Customer shall indicate who will assume the responsibility of the CAMO.

## **8. HANDOVER AND DELIVERY**

### **8.1. Handover of Helicopter and Parts to Seller**

The Customer shall send the Helicopter logcards and component history data duly completed and certified in due time prior to the arrival of the Helicopter at the Seller's or subcontractor's site. Late delivery of these documents can lead to an excusable delay and additional expenses.

Prior to Helicopter handover to the Seller, the Customer shall remove or inhibit any optional system fitted on the Helicopter that is not recognized by the Seller (in certain cases, these operations may be performed by the Customer when handing over the Helicopter). The Customer shall notify all modifications done on the Helicopter alter the first delivery of the Helicopter.

Helicopter systems and Parts sent to the Seller for repair, inspection, upgrade, retrofit or overhaul shall be shipped by the Customer in adequate wrapping and under Delivered Duty Paid (DDP) Incoterms® 2020 to the Seller's or subcontractor's site.

The Helicopter shall be handed over by the Customer at the Seller's or subcontractor's facilities in airworthiness condition with its complete and updated documentation and flight manual, in English and all of its equipment in serviceable condition. All components followed on using up (TBO, SLL, OTL) should have enough potential to release the Service and for the release into service of the Helicopter.

If the Customer does not provide the Helicopter in its complete configuration, a list of missing items will be established and appended to the acceptance report. Consequently, the maintenance tasks required by the Seller's master servicing manual on these installations or components will not be applied by the Seller. However, these missing items should modify neither the airworthiness of the equipment, nor the safety of the flights. If the Customer is not able to fulfil these pre-requisite conditions, an agreement between the two Parties should be found through an over and above procedure.

A handover acceptance report shall be signed by both Parties upon the handover of the Helicopter. Through this document, the Customer shall notably commit to having complied with alert SBs released up to that date and with the Seller's approved modifications. The Seller will perform an inventory at the arrival of the Helicopter that will be signed by both Parties. This inventory will be appended to the Helicopter handover acceptance report.

At the Seller's request, and for test flight execution, the Customer can be requested to temporarily suspend its registration mark in order to allow the Seller "permit to fly" deliverance provided by its aviation authority. The Customer can also be requested to obtain approval of the civil licenses of the Seller's pilots by its aviation authority. In case of objection, any additional costs and/or delays will be charged to the Customer.

As from handover up to re-delivery of the Helicopter to the Customer in accordance with § 8.2 below:

- the Seller shall effect and maintain, at its own cost, for the Helicopter and Parts a hangarkeeper liability insurance coverage for an amount not less than the agreed value of the Helicopter or the replacement value of the Parts under the care, custody or control of the Seller;
- the Customer shall effect and maintain, at its own cost, for the Helicopter and Parts:
  - Aviation legal liability insurance including aircraft third party, passenger, baggage, cargo, mail and general third-party legal liability insurance (including war and allied risks in accordance with AVN52E) for a combined single limit of not less than the limit a prudent helicopter operator will maintain for similar activities and/or similar types of helicopters. The Customer shall cause the Seller to be named as additional insured;
  - a hull all risks/ spare all risks including war risks and allied perils insurance coverage (LSW555D or equivalent) in respect of the Helicopter and Parts. The Customer shall require such hull insurers to waive any and all rights of subrogation that such insurers may or could have against the Seller, its officers, agents and employees by virtue of such insurance contracts for any loss, damage or destruction of the Helicopter and Parts occurring while in the Seller's care, custody or control except such loss, damage or destruction is caused by the negligence on the part of the Seller, its officers and employees.

Any applicable deductible shall be borne by the Customer with respect to the above policies. Customer shall furnish to the Seller, prior to the start of any Services, a certificate of insurance compliant with the above provisions and certifying that such policies have been endorsed as follows: (i) the Customer's policies shall be primary and non-contributory to any insurance maintained by Seller; (ii) the Customer's policies shall contain a severability of interest clause; such insurance shall not become ineffective, cancelled, or coverage decreased or materially changed in a manner adverse to the additional insured including non-payment of premium by the giving of not less than thirty (30) days' notice in writing to the Seller (seven (7) days or such lesser period as maybe customarily available in respect of war and allied risks).

## **8.2. Delivery to the Customer**

Adherence to the delivery date is subject to additional lead time due to potential additional works.

Helicopter and Parts shall be delivered Free Carrier (FCA) Incoterms® 2020 at the Seller's or subcontractor's site.

Acceptance shall take place within five (5) working days after notification of the completion of Services.

A delivery acceptance report shall be signed by both Parties. If a Customer's acceptance flight is necessary, it will be limited to the standard Seller's acceptance flight (around one (1) to two (2) flight hour(s) maximum depending on the Helicopter version).

The Seller is entitled to store the Helicopter or Parts and to invoice mooring and storage costs. Storage may be outside of a hangar. Resulting costs must be paid prior to delivery. The Seller may only be held liable for damage incurred during mooring and storage in cases of gross negligence or willful misconduct.

## **9. ACCEPTANCE AND TRANSFER OF OWNERSHIP AND RISK**

9.1. intentionally left blank

### **9.2. Acceptance of Products and Services**

A Certificate of Conformity or equivalent document is issued by the manufacturer or Seller for Products other than the helicopters.

With regards to Products other than helicopters, the Customer shall check and notify any defect and/or non-conformity with the Order and/or missing associated documentation in a documented registered letter:

- within twenty-one (21) calendar days, except for AOG Orders within seventy-two (72) hours, as from the date the Seller has notified that the Product is ready to be collected, or
- in case of CIP or DAP Incoterms® 2020: within fifteen (15) calendar days after delivery, except for AOG Orders: within forty-eight (48) hours after delivery,

and claims against the carrier shall be made within three (3) working days as from the date of receipt of the Product. Any return of Products with defect and/or non-conformity shall be subject to the Seller's prior written approval and shall be packed with the original or appropriate packing and freighted in accordance with the Seller's instructions.

After expiry of said periods, the Customer's acceptance of the Product shall be deemed given unless the Customer's refusal is duly substantiated in writing and explaining the precise reason of the refusal and the contractual grounds thereof.

For the Services a certificate of completion of Services or assignment sheet shall be issued once the Service has been performed. The Customer shall sign the form certifying that the Service has been provided in accordance with the Contract. Unless the Customer's refusal is duly substantiated in writing and explains the precise reason of the refusal and the contractual grounds thereof, the Service shall be deemed accepted five (5) working days after issuance of the certificate of completion of the Services or of the assignment sheet.

### **9.3. Collection of Products**

After the transfer of ownership, the Customer shall collect the Helicopter or the pre-owned helicopter within two (2) weeks in case of ferry flight or within one (1) month, if it is to be dismantled or conditioned for sea, air or road transport.

If pilot's training has been contractually agreed to take place following the acceptance of the Customer's Helicopter, said duration shall be extended by the time required to train its pilot(s) on its Helicopter.

The Customer shall collect any optional (i.e. not installed on Helicopter) packed equipment, Spare Parts, R&O Parts and/or tools:

- within four (4) weeks for Products sold together with Helicopters
- within fifteen (15) calendar days otherwise

following the notification by the Seller to the Customer of its availability. If the Customer fails to pick up its Products within the above-mentioned periods of time:

- The Customer shall reimburse the Seller any expenses incurred by the Seller such as maintenance, storage, insurance, taxes and associated damages and interest if any, levies, etc. The foregoing does not constitute any obligation for the Seller to maintain, store or insure the Products beyond the date the Products should have been collected.
- The Seller may terminate the Contract as per article 14.1.1 and shall not be liable for any loss or damages incurred by the Customer as a consequence of such termination.

In the event that the Products are delivered in consigned containers and/or on transportation racks, the Customer shall return said containers and/or transportation racks at its expense within fifteen (15) calendar days after they are made available to the Customer by the freight forwarder. After the expiry of this period, the Seller shall be entitled to invoice the container and/ or transportation rack at its current price.

#### **9.4. Transfer of ownership and risk**

##### **9.4.1. intentionally left blank**

##### **9.4.2. Products other than new helicopters**

The transfer of ownership of any Products other than new Helicopters shall take place after fulfilment of export customs formalities by the Seller (when applicable):

- at the facility designated by the Seller at the time of their collection by the forwarding agent for all incoterms except DAP Incoterms® 2020,
- in case of Products delivered DAP Incoterms® 2020, at the end of the international transport before the arrival of goods in the destination country,

and shall be subject to the prior performance by the Customer of its obligations in particular the full payment of the delivered Products and interest, if any.

As a result, should the Customer fail to pay according to the contractual payment terms, the Seller reserves the right to terminate the Contract through notification sent by registered letter and, if the Products are already delivered, to demand that said Products be returned. If the laws of the country where the Products are delivered do not allow the Seller to regain ownership, the Seller shall be entitled to benefit from any other rights that such laws may confer. The Customer shall implement all measures necessary to protect the Seller's aforementioned rights. In all cases, this will not prevent the Seller from claiming any damages.

Risk of loss or damage to the Products is transferred to the Customer at the time of delivery of the Products by the Seller as determined by the agreed Incoterms® 2020.

### **9.5. Adherence to the delivery date**

Adherence to the delivery date is conditioned upon the Customer fulfilling all of its contractual obligations.

## **10. WARRANTY**

### **10.1. General - contractual warranty**

The Seller warrants that the Products and Services provided, except the turbine engine(s), specific equipment with a STC mentioned in the Contract (if any), are free from defects in material and workmanship under normal use and service and that software identified in the applicable Helicopter specification substantially provides the functions set forth in the said specification or in the applicable SB.

The turbine engine(s) installed in the Helicopter and STCs equipment identified in the Contract are covered by the warranty granted by the manufacturers of these items (Safran Helicopter Engines, Pratt & Whitney, Thales and concerned STC holder), the benefits of which the Seller hereby assigns on to the Customer who hereby acknowledges and accepts such assignment.

As soon as possible but no later than fifteen (15) calendar days after the discovery of a defect, the Customer shall furnish to the Seller, by using a warranty claim form provided by the Seller, the full details of its claim and the basis thereof. As soon as it receives the said form, the Seller will forward to the Customer a warranty claim acknowledgment and a RMA form. Within fifteen (15) calendar days following the receipt of such documents the Customer shall return the allegedly defective Parts to the Seller. If the Customer fails to return the allegedly defective Parts in due time, the Seller reserves the right to invoice the replacement Parts which have been ordered or produced for the Customer at the price stated in the relevant Seller's price list in force, or in the relevant Quotation.

The Seller will compensate reasonable transportation costs outbound from the Customer premises to the Seller's premises for the Parts for which the benefit of the warranty has been granted by the Seller. The Customer shall send the invoice to the Seller by the end of each quarter and in any case not later than three (3) months after the acceptance by the Seller of the warranty claim. Corresponding credit notification will be issued on a quarterly basis by the Seller and shall be applicable to Spare Parts and/or R&O invoice(s). Insurance, customs expenses and other charges as well as the expenses incurred by the Customer for the removal, re-installation, calibration and troubleshooting operations with respect to such Parts shall be borne by the Customer.

However, during the first year of the warranty of a new civil Helicopter, for each valid warranty claim, the Seller will compensate in kind the Customer for reasonable labour charges related to warranty issues on the basis of removal and re-installation of the concerned Part(s) (troubleshooting excluded). These labour charges flat rates in force are defined by the Seller per category and are available to the Customer on request. Such compensation shall be cumulated on a monthly basis under the form of a credit which shall be valid for one (1) year and shall be used by the Customers for paying ordered Spare Parts. If applicable, the Customer hereby authorizes the Seller to grant the credit to the company who manages and performs the warranty claim on its behalf for the final benefit of the said Customer.

Said credit(s) shall not apply in case of Customer's default, such as, but not limited to, late payment and payment failure.

For Parts for which the benefit of the warranty has been granted by the Seller, the return transportation costs to the Customer premises shall be borne by the Seller.

The warranty exclusions are as follows:

- in the event that maintenance activities have not been properly entered in the appropriate logbook (or in case of failure to produce the logbook to the Seller if so requested), or
- in the event of a defect that is the result of normal wear and tear, or
- Parts and any associated costs incurred for scheduled maintenance, or
- if the Customer has failed to notify the Seller of its warranty claim within fifteen (15) calendar days from the failure occurrence date, or
- if the Parts have been stored, protected, freighted, operated, maintained, installed, altered, repaired or overhauled otherwise than in accordance with the manuals, documentation and instructions delivered by the Seller or its subcontractors/suppliers, or
- if the Products or Parts have suffered an accident, or
- if a defect of the Part(s) alleged by the Customer is not confirmed during the technical expertise done by the Seller, or
- if the Parts have not been delivered by the Seller, or
- if the defect is partly or wholly caused by a defective item not provided by the Seller, or
- if the software or the host media is exposed to any computer virus or to any conditions in excess of those published in the applicable manuals, documentation and instructions delivered by the Seller, as well as any alteration and/or modification not validated by the Seller, having an impact on the software, or
- normal wear and tear of item(s) such as, but not limited to, seals, tires, inner tubes, bulbs, packings and similar consumables parts.

Software identified in the applicable Helicopter specification shall only be considered as non-conforming, if there are substantial deviations of the functions supported by software from the Helicopter specifications. The Seller will remedy such non-conforming software for the considered Helicopter by, at its sole discretion, either providing a correction release of the software or by finding a reasonable workaround. The Customer shall supply the Seller with all necessary information and documentation in its possession, to enable the Seller to investigate and rectify such non-conforming software. The warranty conditions for software embedded in the delivered Spare Parts or in the delivered repaired/overhauled/standard exchange Parts shall be the ones applicable to the software delivered with the Helicopter, as mentioned in the previous paragraph.

The warranty is granted to the Customer personally.

As a consequence, should the Customer sell a Helicopter during the warranty period, it undertakes to notify the Seller of the new owner's name at the time of the transfer of title. Notwithstanding, any request for warranty transfer to any third party within the six (6) months following the Helicopter's delivery is subject to the prior written consent of the Seller. Should the Customer want the warranty to be managed by a third party, it shall then provide the Seller with a power of attorney authorizing the said third party to act on its behalf.

The warranty constitutes the Seller's, sole liability in case of breach of the warranty obligation, and is exclusive and in lieu of any other warranty or remedy available under the Contract or at law (to the extent permitted at law).

## **10.2. Contractual warranty period**

The Seller's obligation under the warranty is limited to the repair - or replacement at the Seller's discretion - of the allegedly defective Products or Services that have been returned to its facility and, at the time of any repair or replacement have been recognized by the Seller



after expert investigation as defective. To be eligible under this warranty, the alleged failure must have occurred within the time-limits mentioned here-after:

- For Spare Part(s) and SB kit(s):  
Within two hundred (200) flying hours or six (6) months from the time they are fitted to the Helicopters or twenty-four (12) months after their delivery from the Seller's factory, whichever event occurs first.
- For tool(s):  
Within twenty-four (12) months after their delivery from the Seller's factory.
- For Training Item (s):  
Within the twelve (12) months after their delivery from the Seller's factory.
- For repaired, overhauled and standard exchange Parts, and used Part(s):
  - Within five hundred (200) flying hours or six (6) months from the time they are fitted to the Helicopters or twelve (12) months after their delivery from the Seller's site, whichever event occurs first.
  - For repaired Part, the warranty is limited to the repair done and/or the components of the Part replaced.
- For tools repaired, overhauled or returned for calibration:  
Within twelve (12) months after their delivery from the Seller's site.
- For workmanship:  
Within five hundred (100) flying hours or six (6) months from the signature date of the acceptance certificate for such workmanship by both Parties, whichever event occurs first.

The Seller warrants the software identified in the applicable Helicopter specification provided that any alleged non-conformity is notified by the Customer to the Seller within one hundred and eighty (180) calendar days from the date of delivery of the Helicopter to the Customer. The same shall apply for software embedded in the delivered Spare Parts or in the delivered repaired/overhauled/ standard exchange Parts.

The warranty period on the repaired or replaced Part(s) shall be the warranty period that was remaining on the respective defective Part. The Part(s) removed for which the Seller supplies a replacement Part(s) shall become the property of the Seller.

### **10.3. German legal warranty**

For Contracts governed by German law, the German legal warranty (Sachmängelhaftung) may complete the contractual warranty conditions described here above for the first twelve (12) months; notably during this period, and provided that the German legal warranty is applicable, the Seller may elect to repair or replace the defective Products.

## **11. CONFIDENTIALITY**

During the performance of the Contract, the proprietary information of the Parties shall be protected as follows: the term "Proprietary Information" shall mean any information or data in whatever form (either in writing or orally, subject to the conditions set forth hereinafter, and including but not limited to any written or printed documents, samples, models or any means of disclosing such Proprietary Information that the disclosing Party may elect to use during the life of the Contract), disclosed by either Party to the other and which is designated as proprietary to the disclosing Party by an appropriate stamp, legend or any other notice in writing, or when disclosed orally, has been identified as proprietary at the time of disclosure and has been promptly (within thirty (30) calendar days at the latest) confirmed and designated in writing as Proprietary Information of the disclosing Party.

The receiving Party hereby covenants that, from the effective date of the Contract, the Proprietary Information received from the disclosing Party shall:

- a) be protected and kept in strict confidence by the receiving Party, which must use the same degree of precaution and safeguards as it uses to protect its own Proprietary Information of like importance, but in no case any less than reasonable care; and
- b) be only disclosed to and used by those persons within the receiving Party's organization (including temporary workers) and its Affiliates, external counsels, lawyers, accountants, auditors, banks, insurers and IT Service Providers, who have a need to know and solely for the purpose specified in the Contract (and provided such entities are bound by confidentiality obligations either at least as constraining or resulting from a professional duty by operation of law); and
- c) not be used, in whole or in part, for any purpose other than the purpose of the Contract without the prior written consent of the disclosing Party; and
- d) neither be disclosed nor caused to be disclosed, whether directly or indirectly to any third party or persons other than those mentioned in subparagraph b) above; and
- e) neither be copied nor otherwise reproduced nor duplicated, in whole or in part, where such copying, reproduction or duplication has not been specifically authorized in writing by the disclosing Party.

Any Proprietary Information and copies thereof disclosed by either Party to the other shall, subject to any third-party rights, remain the property of the disclosing Party and shall be immediately returned by the receiving Party upon request.

Notwithstanding the confidentiality obligations stated in the Contract, the receiving Party may disclose the Proprietary Information to any governmental agency or judge legally authorized to have mandatory access to such information, provided however that in these circumstances, the receiving Party shall prior to disclosure notify the disclosing Party to give the disclosing Party the opportunity to take appropriate action(s), as far as available, against such disclosure.

## **12. INTELLECTUAL PROPERTY**

MF retain all rights in respect of developments, inventions, know-how, production procedures and any intellectual property rights relating to the Products that they manufacture and/or Services related thereto.

Nothing in the SCS shall be construed as a legal transfer of or licence to (other than specified hereafter), any patent, utility or design model, copyright, trademark, know-how or other intellectual property right. Copying and/or reproducing and/or communication and/or transmission to a third party of the Products or Services or technical information or Technical Data or training manuals, either wholly or partially, without the Seller's written express approval is strictly forbidden (except for the copying by the Customer of technical documentation provided by the Seller exclusively for the purposes of operation and maintenance of the Helicopters by the Customer).

The Seller grants the Customer a non-exclusive, non-transferable licence to use the executable form of the software on the related Product, for the purposes of operating the Helicopters.

This licence does not entitle the Customer to receive free of charge updates of such software. The Customer shall not decompile, disassemble, modify, reverse assemble, reverse engineer or reduce to human readable form, the software except to the extent the foregoing restriction is, by operation of applicable law, prohibited or of no effect.

### **13. LIABILITY**

Notwithstanding any provision to the contrary in the Contract or elsewhere:

- a) The total and cumulated liability of the Seiler due to any and all causes whatsoever, whether based on breach of contract or otherwise, shall in no event exceed in aggregate an amount equivalent to ten per cent (10%) of the total net Contract price (excluding taxes) or in case a specific Order is passed and the triggering event of liability relates to that Order, ten per cent (10%) of the total net Order price (excluding taxes);
- b) Each Party shall be responsible for death or bodily injury arising to its own personnel, whatever the cause. The Parties therefore waive the right to any claim against the other in this respect;
- c) In no event shall the Parties be liable for any indirect, consequential, incidental, special or punitive damages of any kind, including, but not limited to, damages for any loss of use or profit, loss of assets, loss of asset value, loss resulting from business disruption, loss of goodwill or loss of contractual opportunity by the other Party;
- d) The limitations in articles 12.a) to 12.c) shall not apply in the event of gross negligence or wilful misconduct;
- e) To the extent permitted at law, the Seller's obligations and liabilities and the Customer's rights and remedies as set forth in the Contract are exclusive and are in replacement of any and all other remedies under law or otherwise.

### **14. FORCE MAJEURE AND EXCUSABLE DELAY**

#### **14.1. Force majeure**

The Seller shall not be held responsible for failure to perform or delay in performing any of the contractual obligations of the Contract if such failure or delay is due to, but not limited to:

- acts of God, war, insurrection, epidemics, sabotage, labour disputes, strikes, lock-outs, shortages of labour, interruption or delays in transportation, fire, explosion, equipment or machinery breakdown, failure or delays of the Seller's sources of supply, shortage in material or energy, or
- acts, orders or priorities resulting from any government action, national or international authorities, or
- a bankruptcy or insolvency event concerning any supplier or subcontractor of the Seller (or lower-level subcontractor or supplier), or
- acts caused or suffered by any supplier or subcontractor of the Seller (or lower-level subcontractor or supplier), to the extent they qualify as Force Majeure pursuant to the above, or

any other case beyond the reasonable control of the Seller, and including any of the above events which already pre-existed at the time of the signature of the Contract. For the avoidance of doubt, the delay or absence of payment by the Customer cannot be considered by it as a case of force majeure.

In case of force majeure, the contractual delivery date shall be extended by such period of time reasonably required to remove and/or overcome the event of force majeure and its effects.

#### **14.2. Excusable delay**

Any postponement of the contractual dates due to the following causes shall not constitute a delay for the Seller:

- a) BFE/CFE not delivered according to the schedule stated in the Contract or found defective and which consequently requires to be replaced by the Customer or,
- b) Changes or additions to the Contract requested by the Customer or,
- c) Any failure or omission by the Customer to perform its obligations set forth in the Contract

Any additional costs incurred by the Seller as a result of the occurrence of one of the above events can be invoiced by the Seller and shall be paid by the Customer over and above the Contract Price.

## **15. TERMINATION**

### **15.1. Termination for default**

A Party may terminate all or part of the Contract for default of the other Party in the event that the other Party persistently fails to perform its obligations and despite the non-defaulting Party having notified by acknowledgment of receipt the defaulting Party to take adequate corrective measures and provided no such measures have been proven to have been taken within a period of six (6) months, or two (2) months in the case stated in article 6.3, following the above notice. The termination shall occur without any specific formality other than the above notice.

In the case of termination for default, the following shall apply:

#### **15.2. In case of default of the Customer:**

- a) the Customer shall indemnify the Seller for all costs and damages (including but not limited to raw materials, labour, overhead, storage fees, work in progress) incurred by the Seller or which the Seller could not avoid incurring (including termination indemnities, if any, under the contracts between the Seller and its subcontractors or suppliers or under the second level contracts or subcontracts),
- b) the Customer shall pay to the Seller a termination indemnity equal to ten per cent (10%) of the contractual price to cover Seller's general administrative and financial costs,
- c) the Customer shall indemnify the Seller in case other remedies are available by the Customer under the Contract, than those mentioned under paragraphs a) to b) above, and
- d) the Seller shall be entitled to retain any payments already made by the Customer.

##### **15.2.1. In case of default of the Seller:**

- a) the Seller shall be entitled to deliver the remaining non-faulty Products and render the remaining non-faulty Services, and shall be paid the corresponding price thereof,
- b) the Seller shall return to the Customer all the BFE/CFE remaining in its premises, once the Products are delivered and/or the Services are rendered, and
- c) the Seller shall refund the Customer, the amount of the down-payment which refers to the unfulfilled part of the Contract.

##### **15.2.2. Termination for force majeure**

In case of the occurrence of a force majeure event as provided in article 13.1 results in the contractual delivery or performance dates being extended by more than six (6) consecutive months, the Parties shall meet in order to determine under which conditions they wish to pursue the Contract or if they do not reach an agreement within a one (1) month period, either Party shall be entitled to terminate the Contract, without being entitled to claim for any damages or compensation in any form whatsoever.

## **16. APPLICABLE LAW AND DISPUTE RESOLUTION**

The Contract shall be governed by German law for the sale of Products manufactured and/or Services performed by MF. Irrespective of the applicable law, the "United Nations Convention on Contracts for the International Sale of Goods" is excluded.

The Parties shall attempt to amicably settle any dispute, controversy or claim arising out or in connection with the Contract, including through mediation (under the authority of a neutral, independent mediator to be jointly appointed by the Parties). If two (2) months after the occurrence of such dispute, controversy or claim, the Parties have failed to reach an agreement (unless they agree to extend the amicable phase), then the dispute, controversy or claim shall be settled as follows, depending on the contractual aggregate amount:

- A dispute will be finally settled under the rules of arbitration of the International Chamber of Commerce (ICC) by three (3) arbitrators appointed in accordance with the said rules.
- In the specific case of a dispute of which the aggregate amount does not exceed ten thousand (10 000) Euros, the Parties shall opt for a fast-track arbitration process in accordance with the ICC rules.

The seat of arbitration shall be Baden-Baden (Germany) and the language of the arbitration shall be German.

However, in all cases, should the Seller elect to choose a local court jurisdiction due to arbitration not being adapted to the specific nature of the dispute, in particular the need for immediate injunctive relief or to recover sums due, then such local court will be competent to settle the dispute.

The Parties hereby consent and agree to be subject to the jurisdiction of the aforesaid courts and/or arbitration and, to the greatest extent permitted by the applicable law, the Parties hereby waive any right to seek to avoid the jurisdiction of the above courts on the basis of the doctrine of forum non convenience.

Unless otherwise agreed by both Parties, the fact that any dispute has been referred to arbitration pursuant to this article shall not relieve either Party from any of its obligations as set out in the Contract.

## **17. DATA EXCHANGE**

### **17.1. General**

In order to improve the Products, their reliability and availability and the Customer services, MF has set up a data exchange process based on maintenance and operational data coming from the Customer's helicopters in service. The data (hereinafter the "Data") will notably consist of:

- Helicopter data generated by on-board recording systems,
- information system data, such as maintenance, operation, logistics and airworthiness data and

Thus, the Customer (including its designated entity for operations and/or maintenance), hereby authorizes MF on a free and nonexclusive basis:

- to collect such Data,
- to use the Data to create processed data (data which is reconciled, enriched, qualified and analysed by MF) (hereinafter the "Processed data"),

- to anonymize such Processed data (Processed data which is anonymized, not enabling to identify the Customer) (hereinafter the “Anonymous data”),
- to disclose Data, Anonymous data and Processed data internally only to those of its employees (for the avoidance of doubt, this shall include temporary agency workers and freelancers) and/or Customer Centres having a need to have access to such data for the purpose (\*) stated below,
- to disclose Data and Processed Data to partners, suppliers and/or subcontractors of MF (i) having a need to have access to such data for the purpose (\*) stated below and (ii) being bound by confidentiality obligations,
- to disclose Anonymous data to partners, suppliers and/or subcontractors of MF for the purpose (\*) stated below,
- to use and disclose to customers Anonymous data (including after being complemented with additional sources of anonymous data) for the purpose (\*\*) stated below, and
- to store Data, Processed data and Anonymous data.

(\*) Disclosure shall be for the purpose of further software & service development, helicopter improvement & expert analysis.

(\*\*) Trend monitoring, benchmarking services, report issuance, analyses and customer workshops for helicopter maturity.

Data, Anonymous data and Processed data may also be used for the purposes of supporting the Customer subject to a specific agreement.

#### **17.2. Data confidentiality and intellectual property**

The Parties agree that any and all Data disclosed by the Customer or its designated entity to MF shall be deemed confidential. Nevertheless, MF shall be entitled to disclose Data and Processed data to the persons and entities and at the conditions described under article 16.1 above. Anonymous data (including after being complemented with additional sources of anonymous data) can however be used and disclosed by the Seller without being subject to any confidentiality limitations/obligations.

MF owns all foreground intellectual property and know-how, if any, generated by the outcome of the analysis of the Data, Processed data and/or Anonymous data.

#### **17.3. Data related liability**

Notwithstanding anything to the contrary in the Contract, the intent of present data collection is not to analyse such data in order to detect/prevent potential incidents/accidents, therefore MF shall not be liable towards the Customer or its designated entity as a result of the mere possession by MF of the Data or as the result of any exchange or analysis of information collected through the process.

### **18. MISCELLANEOUS**

These SCS along with the Purchase Order (or Order) constitute the entire agreement between the Parties. They supersede all previous communications and/or agreements either oral or written, between the Parties with respect to the Products or Services.

In the event that one (1) or more of the articles provided for in these SCS is deemed invalid or unenforceable, the remaining provisions shall remain entirely valid and applicable.



English or German shall be the language of the Contract. Both Parties shall use English or German as the language to exchange, issue and deliver information, documentation and notices, and any related documents excluding those documents which might be produced by a governmental institution in the local language.

In the Contract, unless the contrary intention appears:

- headings are for the purpose of convenient reference only and do not form part of the Contract;
- where the last day of any period prescribed for the doing of an action falls on a day which is not a working day in the country of the applicable law, the action shall be done no later than the end of the next working day.

In case of any contradictions and discrepancies between the parts of the Contract, precedence shall be given in the following decreasing order:

- 1) Purchase Order, Order or Order Confirmation (as applicable)
- 2) Present SCS
- 3) Other annexes and/or appendices in their order of appearance.

The provisions of the confidentiality, intellectual property, liability, data exchange, applicable law and dispute resolution articles of the Contract shall survive and continue to have effect after the termination or expiry for any reason whatsoever of the Contract, and for a period of thirty (30) years thereafter.

No term or provision hereof will be considered waived by either Party, and no breach excused by either Party, unless such waiver or consent is in writing and signed by the Party against whom the waiver is asserted. No consent by either Party to, or waiver of, a breach by either Party, whether express or implied, will constitute a consent to, waiver of, or excuse of any other, different or subsequent breach by either Party.

Any variation or modification of the Contract shall be made in writing through an amendment and signed by duly authorised representatives of each Party.

The relationship between the Parties is solely that of purchaser and seller. No joint venture or partnership of any kind (cooperation, distribution, agency, etc.) is intended nor will any be construed from the Contract. Neither Party will have the authority to enter into contracts on behalf of or bind the other in any respect.

The Customer shall not be entitled, without the prior written consent of the Seller, to assign or transfer to a third party all or part of the rights and obligations under the Contract.