



APPENDIX 3

FAYAIR (STANSTED) LIMITED

STANDARD TERMS OF BUSINESS

1 DEFINITIONS AND INTERPRETATION

1.1 In these Terms of Business:

“Aircraft”

means any aircraft in respect of which the Customer has requested Services;

“Customer”

means any person requesting Services from Fayair and/or to whom Fayair supplies Services;

“Facility”

shall have the meaning given to it in clause 3.2;

“Fayair”

means Fayair (Stansted) Limited, a company registered in England and Wales with company number 07566864, whose registered office is at 55 Park Lane, London W1K 1NA;

“Goods”

means the goods (if any) to be provided by Fayair as part of the Services;

“handling request”

means a request for the provision of Services, submitted by the Customer to Fayair prior to landing or departure;

“Price”

means the price payable by the Customer for the Services, as agreed between the parties;

“Services”

means the so called “Fixed Base Operator” services and other services to be provided by Fayair in accordance with these Terms of Business, including (where applicable) the supply of related Goods.

2 APPLICATION OF TERMS

2.1 Subject to clause 2.2, these Terms of Business shall govern Fayair’s supply of the Services, to the exclusion of any other terms and conditions (including without limitation any terms and conditions of the Customer)

2.2 These Terms of Business shall be deemed to incorporate the terms of any other document agreed between the parties (such as a written Service Delivery Agreement signed by both parties and/or any order form, handling request or equivalent document submitted by the Customer and accepted by Fayair).

2.3 Fayair shall be entitled to assume that any person requesting Services on behalf of the Customer is authorised to do so on behalf of the Customer.

3 SUPPLY OF SERVICES

- 3.1 Fayair shall provide the Services in accordance with these Terms of Business.
- 3.2 In order to receive the Services, the Customer shall present the Aircraft at Fayair's relevant hangar facility (the "Facility"), at its own cost and expense, at the time(s) and on the date(s) set out in the applicable handling request. The Customer shall submit its handling requests to Fayair with as much notice of the Aircraft's arrival / departure as is possible.
- 3.3 If the Customer's requirements vary from those set out in its handling request, due to delays in departure / arrival of Aircraft or otherwise, the Customer shall notify Fayair and Fayair shall wherever possible perform the requested Services as varied, subject to capacity at the relevant time.
- 3.4 All Services shall be performed during normal operating hours at the Facility, as notified by Fayair from time to time, unless otherwise agreed (in which case an out of hours percentage-based surcharge may apply).
- 3.5 Where the Services include the supply of Goods:
- (a) risk in the Goods shall pass to the Customer upon delivery to the Customer at the Facility; and
 - (b) title to the Goods shall not pass to the Customer and the Customer shall keep such Goods as bailee for Fayair until Fayair has received full payment of the Price payable therefor and any other sums payable by the Customer to Fayair. If the Customer breaches any of its contractual obligations to Fayair and/or is overdue in paying any sum payable to Fayair hereunder, Fayair shall be entitled to remove and repossess any Goods on the Facility the title to which remains with Fayair or to require the Customer to return forthwith to Fayair, at the Customer's expense, all Goods the title to which remains with Fayair.

4 PAYMENT

- 4.1 In consideration of Fayair's supply of the Services, the Customer shall pay Fayair the Price.
- 4.2 The Price is exclusive of all expenses and/or disbursements incurred by Fayair in connection with the provision of Services. All such expenses and/or disbursements will be charged at list/cost price plus any agreed handling fee. Any parts supplied by the Customer for fitment to Aircraft will incur a one-off administration handling fee, and must be accompanied by the appropriate release documents.
- 4.3 The Price does not include any airport charges including but not limited to parking, landing charges or navigation charges, which will be payable by the Customer as per the prevailing rates for the relevant airport.
- 4.4 Fayair shall invoice the Customer for the Price and any applicable expenses and/or disbursements. Invoices shall be payable on the terms specified therein or otherwise notified to the Customer. Fayair may at any time at its discretion vary its terms of payment, for example but without limitation, by demanding full or partial payment prior to performing the Services, or by requiring the Customer to open a suitable letter of credit.
- 4.5 All sums shall be invoiced and payable in the currency specified by Fayair, in full, without deduction, withholding or set-off. The Price is exclusive of VAT, import and export taxes and duties, and any other tax or duty payable in relation to the supply of

the Services, which shall (if and to the extent applicable) be payable by the Customer in addition to the Price.

- 4.6 If the Customer is overdue with any payment hereunder, then without prejudice to Fayair's other rights or remedies:
- (a) the Customer shall be liable to pay interest on the overdue amount at an annual rate of 3% above the prevailing base rate of the Bank of England, which interest shall accrue on a daily basis from the date payment becomes due until Fayair has received payment of the overdue amount together with all interest that has accrued;
 - (b) the Customer shall reimburse Fayair for any costs incurred by Fayair in taking steps to recover the overdue payment;
 - (c) Fayair shall have the right, at its option, to suspend all further performance of the Services until full payment is received;
 - (d) Fayair shall have a general lien on all Aircraft, Aircraft documents and all other property left by the Customer with Fayair ("**Customer Assets**"), exercisable in respect of all sums lawfully due from the Customer to Fayair. Fayair shall be entitled, on the expiry of 30 days' notice in writing, to dispose of such Customer Assets in such manner and at such price as it thinks fit and to apply the proceeds towards the amount outstanding, together with all costs and expenses (including without limitation storage, legal and professional costs and fees) incurred in effecting the sale. The Customer shall pay to Fayair on demand any shortfall between the amount realised by such sale and the amounts due from Customer to Fayair. Fayair shall account to the Customer for any excess immediately upon settlement of the amounts due. Fayair shall be entitled to assume that any property delivered to Fayair by the Customer is the property of the Customer and the Customer will indemnify Fayair against all losses, damages, cost and expenses of whatsoever nature arising by or as a consequence of such not being the case.

5 WARRANTIES

5.1 Fayair warrants that:

- (a) the Services will be carried out with reasonable skill and care. If the Services fail to comply with this warranty, the Customer shall notify Fayair, promptly upon receipt of the relevant Services;
- (b) the Goods (if any) will be of satisfactory quality, will be fit for the purpose(s) for which goods of the relevant kind are commonly used, and will conform in all material respects with any specifications agreed in writing between the parties. If any Goods fail to comply with this warranty, the Customer shall notify Fayair promptly upon receipt of the relevant Goods.

6 RISK AND INSURANCE

6.1 Fayair shall effect and maintain such insurance as Fayair considers necessary in respect of its obligations and liabilities hereunder, including without limitation policies of public liability, employer's liability and Aviation General Legal Liability and Hangar Keepers insurance.

7 THIRD PARTY CONTRACTORS

- 7.1 The Customer shall not permit any person other than Fayair or Fayair's appointed third party contractors to perform services at or deliver goods to the Facility, without first offering Fayair the opportunity to perform such services and/or deliver such goods and (where Fayair is unable to perform or deliver the same on terms reasonably acceptable to the Customer) obtaining Fayair's prior written approval.
- 7.2 If the Customer appoints any third party to perform services at or deliver goods to the Facility (a "**Customer Appointed Contractor**"):
- (a) the Customer shall be solely responsible, as between the Customer and Fayair, for procuring access to the Aircraft for such Customer Appointed Contractor (ensuring compliance with all applicable access, security and health and safety requirements applicable at the Facility);
 - (b) Fayair accepts no liability for the acts or omissions of any such Customer Appointed Contractor, all of whom will enter the Facility and access the Aircraft at the Customer's sole risk.
- 7.3 The Customer shall ensure that all Customer Appointed Contractors hold a minimum of \$100 million third party liability insurance acceptable to Fayair. Evidence of such insurance must be provided prior to any Customer Appointed Contractor being allowed access to the Facility and thereafter upon request by Fayair.

8 LIABILITY

- 8.1 Subject to clauses 8.2 and 8.3, Fayair's maximum aggregate liability under or in connection with any handling request shall not exceed an amount equal to the lower of (a) the Price payable by the Customer for Services provided pursuant to the relevant handling request or (b) £250,000.
- 8.2 Nothing in these Terms of Business shall exclude or in any way limit Fayair's liability for fraud, or for death or personal injury caused by its negligence, or any other liability to the extent that the same may not be excluded or limited as a matter of law.
- 8.3 Subject to clause 8.2, Fayair shall not be liable for any loss of actual or anticipated income or profits, loss of contracts or for any special, indirect or consequential loss or damage of any kind howsoever arising and whether caused by tort (including negligence), breach of contract or otherwise, whether or not such loss or damage is foreseeable, foreseen or known.
- 8.4 These Terms of Business set forth the full extent of Fayair's obligations and liabilities in respect of the supply of the Services and there are no conditions, warranties, representations or other terms, express or implied, that are binding on Fayair except as specifically stated in these Terms of Business.

9 FORCE MAJEURE

- 9.1 Fayair shall not be liable for any delay in performing or failure to perform its obligations hereunder to the extent that and for so long as the delay or failure results from any act, event, non-happening, omission or accident beyond Fayair's reasonable control (a "**Force Majeure Event**").
- 9.2 Force Majeure Events shall include but not be limited to the following:
- (a) strikes, lock-outs or other industrial action;

- (b) civil commotion, riot, invasion, terrorism, war (whether declared or not) or threat of or preparation for war;
- (c) any refusal to grant or withdrawal of any licence, authorisation, permit or consent required by Fayair in order to supply the Services at the Facility;
- (d) fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster;
- (e) impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;
- (f) compliance with any law or governmental order, rule, regulation or direction;
- (g) breakdown of plant or machinery;
- (h) default of suppliers or sub-contractors.

9.3 If affected by a Force Majeure Event, Fayair shall, within two working days of becoming aware of the Force Majeure Event, provide a written notice to the Customer, giving details of the Force Majeure Event, its likely duration and the manner and extent to which its obligations are likely to be prevented or delayed.

9.4 If any Force Majeure Event occurs, the date(s) for performance of the affected obligation(s) shall be postponed for so long as is made necessary by the Force Majeure Event.

10 NOTICES

10.1 Unless otherwise expressly stated in these Terms of Business, all notices and other communications required or permitted to be given under these Terms of Business shall be in writing and shall be deemed duly served if delivered by hand or sent by fax, e-mail, or pre-paid registered post to the intended recipient at the address specified in these Terms of Business or such other address as either party may notify to the other for this purpose from time to time.

10.2 Any notice shall be deemed to have been duly served:

- (a) if delivered by hand, on delivery;
- (b) if sent by pre-paid registered post, two working days after posting;
- (c) if sent by fax:
 - (i) during normal business hours, immediately on transmission;
 - (ii) outside normal business hours, on the following working day, provided that, in each case:
 - (1) a confirmatory transaction report is obtained and retained by the sender; and
 - (2) a confirmatory copy is sent by first class pre-paid post or by hand by the end of the next working day;
- (d) if sent by e-mail, on the working day immediately following the date of its despatch.

11 GENERAL

- 11.1 The failure of either party to enforce or to exercise at any time or for any period of time any term of or any right pursuant to these Terms of Business does not constitute, and shall not be construed as, a waiver of such term or right and shall in no way affect that party's right later to enforce or to exercise it.
- 11.2 If any term contained in these Terms of Business is found to be illegal, invalid or unenforceable under any applicable law, such term shall, insofar as it is severable from the remaining terms, be deemed omitted from these Terms of Business and shall in no way affect the legality, validity or enforceability of the remaining terms.
- 11.3 These Terms of Business contain all the terms agreed between the parties regarding their subject matter and supersedes any prior agreement, understanding or arrangement between the parties, whether oral or in writing. Each of the parties acknowledges and agrees that:
- (a) it has not relied on, and shall have no remedy in respect of, any statement, representation, warranty or understanding other than the statements, representations, warranties and understandings expressly set out in these Terms of Business; and
 - (b) its only remedies in connection with any statements, representations, warranties and understandings expressly set out in these Terms of Business shall be for breach of contract as provided in these Terms of Business,
- provided that nothing in this Clause 11.3 shall operate to limit or exclude either party's liability for fraud.
- 11.4 The construction, validity and performance of these Terms of Business shall be governed by the laws of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales to resolve any dispute between them.
- 11.5 Any valid alteration to or variation of these Terms of Business must be in writing and signed on behalf of Fayair by a duly authorised officer.