
MTU Aero Engines Group

PARTS REPAIR - GENERAL TERMS AND CONDITIONS

(rev Feb2016)

1 DEFINITIONS

Aviation Authority: shall mean, as applicable, the United States Federal Aviation Administration ("FAA"), the European Aviation Safety Agency ("EASA") and/or such other equivalent foreign aviation authority having jurisdiction over the performance of the Services provided hereunder, including any of their successor organizations.

Item: shall mean Customer's aero engine or industrial gas turbine module, component, part or accessory which shall be repaired by the MTU Repair Facility subject to these Terms and Conditions.

MTU Company / MTU Companies: shall for the purposes of these Terms and Conditions mean any or all of MTU Aero Engines AG and the following of its subsidiary companies: MTU Maintenance Hannover GmbH, MTU Maintenance Berlin-Brandenburg GmbH and MTU Maintenance Canada Ltd.

MTU Repair Facility: shall mean the specific MTU Company listed in the MTU Repair Capability Catalog and designated in Customer's Purchase Order for the performance of Services hereunder.

MTU Repair Capability Catalog: shall mean the parts repair catalog jointly published by the MTU Companies specifying all aero engine or industrial gas turbine module, component, part or accessory repairs the MTU Companies are certified, licensed and capable of, as revised from time to time.

Original Equipment Manufacturer / OEM: shall mean the original manufacturer of a respective Item or part.

Parts Exchange: shall have the meaning as defined in Section 10.4.

Purchase Order: shall mean a written purchase order for the provision of Services under these Terms and Conditions issued by Customer to a MTU Repair Facility.

Services: shall mean, with respect to any Item, all or any of those maintenance, repair, overhaul, modification, installation, investigation and inspection work requested by Customer which the MTU Repair Facility agrees to provide under these Terms and Conditions, as more particularly specified in the Workscope. Services may include the sale of new, used or exchanged parts installed during performance of such work.

Standard Exclusions: shall mean handling damage, Service Bulletins, Engineering Order (DER), Customer requirements, OEM design deficiencies, catastrophic failure and/or unit declared beyond economical repair (BER).

Terms and Conditions: shall mean these MTU Aero Engines Group General Terms and Conditions for Parts Repair.

Turnaround Time (TAT): shall mean the period of time agreed between the parties for the performance of Services by the respective MTU Repair Facility. Unless otherwise agreed in writing between the parties, the TAT measurement shall commence on the calendar day of induction of an Item into the repair process at the respective MTU Repair Facility, provided all documents, without substantial technical errors or omissions therein, to be furnished by the Customer are made available to the MTU Repair Facility at least three (3) calendar days prior to such induction, and the TAT will end upon notification that the Services are completed and that the serviced Item is ready and prepared to be redelivered to Customer.

Workscope: shall mean the specific scope of Services defined by the MTU Repair Facility following inspection of Customer's Item and as acknowledged by Customer.

2 APPLICATION

- 2.1 These Terms and Conditions shall apply between Customer and the individual MTU Repair Facility with regard to Services performed by such MTU Repair Facility, and any legal relationship between Customer and the MTU Repair Facility shall exclusively be governed by these Terms and Conditions unless and to the extent varied by special preceding conditions expressly agreed upon in a written document signed by Customer and the MTU Repair Facility.
- 2.2 Customer's general terms and conditions shall not apply and shall not form part of any contract for the provision of Services between Customer and the MTU Repair Facility even if (i) the MTU Repair Facility has not expressly objected to such general terms and conditions in each individual case, or (ii) the Customer has declared to purchase only subject to its general terms and conditions.

3 PURCHASE ORDERS

The MTU Repair Facility will only provide Services where the Customer issues a properly completed Purchase Order, and no legally binding contract shall be construed before MTU Repair Facility's acknowledgement of such Purchase Order. Such contract will not extend to MTU Companies other than the MTU Repair Facility, and in no event shall any MTU Company other than the respective MTU Repair Facility (i) be deemed an additional party to such contract between the Repair Facility and

Customer, or (ii) be held jointly and severally liable for any obligation of the respective MTU Repair Facility or any other MTU Company.

4 SHIPMENT / EXPORT CONTROLS

- 4.1 Unless otherwise agreed between the parties, Customer shall ship Items to the MTU Repair Facility "CIP" ("Carriage and Insurance Paid to", Incoterms 2010). For the avoidance of any doubt, Customer shall in any event bear the risk of loss or damage to the Items as well as the cost of the transportation until its receipt by the MTU Repair Facility. The Items shall be delivered to the MTU Repair Facility in safe condition such that all liquids, including lubrication oil and liquid fuel (if applicable), will be drained and all open ports be covered before shipment.
- 4.2 The MTU Repair Facility's acceptance of Customer's Purchase Order is subject to applicable export control regulations. At Customer's request and Customer's cost the MTU Repair Facility will apply for any necessary export permits or approvals but Customer and the MTU Repair Facility agree and acknowledge that the MTU Repair Facility shall not be responsible for their issuance or renewal. Any delays in the issuance of export permits by the respective authorities shall be deemed Excusable Delay in the meaning of Clause 8.2.
- 4.3 Unless otherwise agreed between the parties, the MTU Repair Facility will redeliver the serviced Items to nominated carrier "FCA" MTU Repair Facility location ("Free Carrier", Incoterms 2010).

5 CHANGES

The MTU Repair Facility may make minor changes and improvements to the Workscope which do not affect price, installation or interchangeability of major parts. The MTU Repair Facility will, where applicable, incorporate mandatory airworthiness directives issued by the Aviation Authorities and mandatory OEM service bulletins and Customer agrees to pay for such Services even if not explicitly agreed in the Purchase Order. Non-mandatory Service Bulletins (SBs) will be incorporated in accordance with the MTU Repair Facility's then current service policy for repair/overhaul as supplemented or modified by any additional Customer's requirement timely notified to the MTU Repair Facility in writing. Apart from such minor changes and improvements, request for modification of a Customer's Purchase Order shall not be binding unless agreed to in writing between Customer and the MTU Repair Facility.

6 TAXES AND DUTIES

- 6.1 Customer is responsible for all taxes, duties and other charges arising from the sale of parts or provision of Services, and will reimburse the MTU Repair Facility for any such charges the MTU Repair Facility may be required to pay.
- 6.2 All payments by Customer to the MTU Repair Facility shall be free of all withholdings of any nature whatsoever except to the extent required by law. In case such withholding is so required, Customer will pay an additional amount to the MTU Repair Facility such that after the deduction of all amounts required to be withheld, the net amount received by the MTU Repair Facility will equal the amount the MTU Repair Facility would have received if such withholding had not been required.

7 PAYMENT

- 7.1 Services and parts provided by the MTU Repair Facility will be charged in accordance with the rates and charges agreed in writing between Customer and the MTU Repair Facility. In case fixed prices are agreed between Customer and the MTU Repair Facility, Standard Exclusion shall not be covered by such fixed prices and the related Services are chargeable as over-and-above cost.
- 7.2 Unless otherwise expressly agreed in a written document signed by Customer and the MTU Repair Facility, the MTU Repair Facility will require payment in advance of redelivery of serviced Items and shall be entitled to cancel Customer's Purchase Order or to put Services on hold if such advance payment is not timely received by the MTU Repair Facility.
- 7.3 If Customer is in default of any payment obligations, the MTU Repair Facility, without prejudice to any of its other rights or remedies under the applicable law, reserves the right to charge interest without reminder at one percent (1%) per month from the due date of payment until payment is received plus any proven additional financing cost incurred by the MTU Repair Facility, as well as reimbursement of all reasonable expenses incurred by the MTU Repair Facility in connection with the recovery of any payment due.
- 7.4 Unless agreed by the MTU Repair Facility in writing, the Customer shall not be entitled to offset any of its claims against the MTU Repair Facility's claims or to withhold payment except in the event that a final enforceable judgment of a competent court has been entered against MTU.
- 7.5 Payments shall be made by Customer to the MTU Repair Facility's bank account specified in its respective invoice. Unless otherwise agreed, all payments shall be made in US-Dollars (US\$).

8 PERFORMANCE, DELAY AND FAILURE TO PERFORM

- 8.1 The MTU Repair Facility will comply with the specified TAT provided that all documents required processing the specific Workscope are received by the MTU Repair Facility in time and that the Customer is in compliance with its other contractual obligations (e.g. timely advance payment). The Services shall be deemed accepted by the Customer upon the redelivery of the serviced Item pursuant to Clause 4.3, unless Customer gives written notice of complaints, including objective evidence thereof, within a period of fourteen (14) days after redelivery of the serviced Item.
- 8.2 The MTU Repair Facility is not responsible for any failure or delay in performance resulting from events beyond MTU Repair Facility's reasonable control that stop or severely limit MTU Repair Facility's performance ("Excusable Delay").

These may include, but are not limited to, events such as acts of government, court orders, civil unrest, sabotage, adverse weather conditions, labour troubles, shortage of materials or external services and/or service on hold pending Customer's instructions. The MTU Repair Facility will give timely notice to Customer of any such event and will endeavour to avoid or remove the cause and resume performance with minimum delay. To the extent such events actually retard the timely performance of Services hereunder the TAT shall be extended for as many days beyond the agreed TAT as is required to remove such events and continue performance of Services.

9 LIABILITY AND INDEMNIFICATION

- 9.1 Subject to the liability limitation set forth in Clause 9.2, the MTU Repair Facility shall be liable to the Customer, its affiliated companies and each of their respective directors, officers and employees (the "Customer Indemnified Parties") for and shall indemnify and hold harmless the Customer Indemnified Parties from any damages arising out of the Services performed by the MTU Repair Facility and each of their respective officers, directors, employees, agents and authorized subcontractors (the "the MTU Indemnifying Parties") to the extent caused by the negligence or the willful misconduct of the MTU Indemnifying Parties.
- 9.2 In cases of negligence of the MTU Indemnifying Parties the MTU Repair Facility's liability and indemnity obligation set forth in Clause 9.1 above is limited to US Dollars one million (US\$ 1,000,000) per occurrence or in the aggregate per year, provided however, that in no event shall the MTU Repair Facility be liable to, or indemnify, the Customer Indemnified Parties for any indirect, special, secondary, incidental or consequential loss and/or expense, loss of profit or revenue; loss of use, cost of capital; cost of substitute equipment, facilities or services; and/or downtime costs in any case of whatsoever nature and howsoever and whensoever arising, suffered by the Customer, Customer Indemnified Party, and/or any third party.
- 9.3 THE FOREGOING INDEMNITY OBLIGATIONS OF THE MTU REPAIR FACILITY ARE EXCLUSIVE AND ARE GIVEN AND ACCEPTED IN LIEU OF ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY BY CUSTOMER OR CUSTOMER INDEMNIFIED PARTIES UNDER ANY CAUSE OF ACTION, WHETHER IN CONTRACT, TORT, STATUTE, STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE, WHETHER OR NOT ARISING FROM THE MTU REPAIR FACILITY'S NEGLIGENCE, ACTUAL OR IMPUTED, PROVIDED THAT THE FOREGOING LIMITATION SHALL NOT LIMIT CUSTOMER'S CONTRACTUAL CLAIMS FOR BREACH OF WARRANTY UNDER CLAUSE 11. THE LIABILITY OF THE MTU REPAIR FACILITY TO CUSTOMER SHALL BE LIMITED TO THAT PROVIDED IN CLAUSE 9 OF THIS AGREEMENT TO THE EXCLUSION OF ANY AND ALL OTHER REMEDIES TO THE FULLEST EXTENT PERMISSIBLE UNDER THE APPLICABLE LAW CHOSEN BY THE PARTIES TO THIS AGREEMENT OR OTHERWISE APPLIED BY A COMPETENT COURT.
- 9.4 Customer shall indemnify and hold harmless the MTU Indemnifying Parties from any damages suffered by such MTU Indemnifying Parties in connection with the performance of their obligations under this Agreement arising out of or resulting from the negligence or willful misconduct of any of the Customer Indemnified Parties. In addition, the Customer shall indemnify and hold harmless the MTU Indemnifying Parties and the MTU Companies from any and all claims in excess of US Dollars one million (US\$ 1,000,000) per occurrence or in the aggregate per year or for any indirect, special, secondary, incidental or consequential loss and/or expense, loss of profit or revenue; loss of use, cost of capital; cost of substitute equipment, facilities or services; and/or downtime costs in any case of whatsoever nature and howsoever and whensoever arising by the Customer Indemnified Parties or any third parties for damages caused by the negligence of the MTU Indemnifying Parties.
- 9.5 The Customer shall furnish insurance certificates indicating satisfactory liability insurance coverage. The liability insurances shall name the MTU Indemnifying Parties as additional insured and shall also include that the insurers accept and insure the indemnification and hold harmless provisions of this Clause 9. Any deductibles shall be the sole responsibility of the Customer.

10 RETENTION OF TITLE / TITLE TO UNSERVICEABLE ITEMS / LIEN / PARTS EXCHANGE

- 10.1 Retention of Title. Property in the parts delivered and/or installed by the MTU Repair Facility shall remain with the MTU Repair Facility and not pass to Customer until Customer has paid all related the MTU Repair Facility invoice amounts including VAT (if applicable) in full. Until such time as property in the parts passes from the MTU Repair Facility the Customer shall not pledge or in any way charge by way of security for any indebtedness any of the parts which are the property of the MTU Repair Facility. Customer shall insure and keep insured the parts to the full new price against 'all risks' to the reasonable satisfaction of the MTU Repair Facility until the date that property in the parts passes from the MTU Repair Facility, and Customer shall whenever requested by the MTU Repair Facility produce a copy of the policy of insurance.
- 10.2 Title to unserviceable Items. Title to Items with a remaining value of less than US\$ one thousand (US\$1,000) determined by the MTU Repair Facility as scrap or rejected will pass to the MTU Repair Facility.
- 10.3 Lien. The MTU Repair Facility shall, in addition to any applicable statutory liens, have a contractual lien on the Items which come into the MTU Repair Facility's possession in connection with the performance of Services for all outstanding claims that the MTU Repair Facility has against Customer. These rights may be asserted in connection with claims arising from previously performed Services, and other claims arising from the business relationship between Customer and the MTU Repair Facility. The MTU Repair Facility may enforce this contractual lien by sale of the Customer's Items. In the event that Customer does not hold title to the Items, Customer shall obtain the written consent of the title owner that such lien may be asserted on the Items. If such consent cannot be obtained, Customer shall promptly notify the MTU Repair Facility and shall provide an adequate alternative security (e.g. a stand by letter of credit).

- 10.4 Parts Exchange. Instead of performing the respective repair ordered by Customer the MTU Repair Facility may replace any unserviceable Items by an equivalent serviceable part of same part number from its inventory ("Parts Exchange") whereby in cases of serialized parts, i.e. parts bearing individual serial numbers, such Parts Exchanges shall be subject to Customer's prior approval which shall not unreasonably be withheld. Title to the removed Item will pass to the MTU Repair Facility upon such Parts Exchange and the MTU Repair facility will be entitled to charge Customer (i) the corresponding repair price, or (ii), in case the MTU Repair Facility determines the removed Item to be scrap, the then current OEM list price. In case Customer does not approve a Parts Exchange the respective TAT shall be extended for the time needed to repair Customer's Item.

11 WARRANTY

- 11.1 The MTU Repair Facility warrants that at the time of redelivery of the serviced Items the Services will have been performed with reasonable care and skill. This warranty is limited to the MTU Repair Facility's correcting at its facilities such Services as are shown to the MTU Repair Facility's reasonable satisfaction to be defective as a result of a failure of the MTU Repair Facility or any of its subcontractors to perform its work with reasonable care and skill, provided that such defect has arisen within twelve (12) months after redelivery of the serviced Items to Customer, and provided further that written notice of such defect is received by the MTU Repair Facility within ninety (90) Days after its discovery by the Customer. Transportation charges for return of defective Items to the MTU Repair Facility and their reshipment will be borne by the MTU Repair Facility, provided that the defective Item is returned in accordance with written shipping instructions of the MTU Repair Facility. In the event of a justified warranty claim hereunder, the warranty period shall be extended by the time required by the MTU Repair Facility to rectify the defect.
- 11.2 The MTU Repair Facility's warranty shall not apply in relation to the respective Item:
- (a) if after redelivery by the MTU Repair Facility the Customer, its servants, agents, subcontractors or third parties have abused, altered or attempted to repair the Item, have incorrectly built the Item into the respective engine or module, or have not operated the respective engine or module in accordance with the manufacturer's operating instructions or recommendations, or
 - (b) if Customer has applied excessive stress to the Item including but not limited to operation under unusual or harmful circumstances which were not made known to the MTU Repair Facility in writing at the time this Agreement was concluded.
- 11.3 With respect to new or used parts supplied or incorporated in serviced Items, the MTU Repair Facility's warranty is, except for the workmanship involved in the incorporation of such used or new parts, limited to the assignment of any warranty obtained from MTU Repair Facility's suppliers. The MTU Repair Facility will on request of Customer, on behalf of Customer initiate a respective claim.
- 11.4 In case the Customer asserts a warranty claim according to this Clause 11 and as a result of the investigation it is established that the MTU Repair Facility is not liable for the defects claimed, the costs of investigation as well as any other costs and expenses connected with such claim shall be borne by the Customer and due and payable upon receipt of the MTU Repair Facility's respective invoice.
- 11.5 SOLE REMEDY FOR BREACH OF WARRANTY. The liability of the MTU Repair Facility and any MTU Indemnifying Party connected with or resulting from the warranty contained in this Clause 11, and, without limitation, any other breach by it or them in its performance of this Agreement, shall be limited to repair and/or replacement by the MTU Repair Facility and any MTU Indemnifying Party, or its designee of the defective Item and shall not in any case exceed the cost of correcting the defect as provided herein.
- 11.6 THE LIMITED WARRANTY CONTAINED IN THIS CLAUSE 11 IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY (INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, SATISFACTORY QUALITY OR REASONABLE CARE AND SKILL) OF WHATSOEVER NATURE AND HOWSOEVER AND WHENSOMEVER ARISING. CUSTOMER WILL HAVE NO OTHER CLAIM AGAINST THE MTU REPAIR FACILITY AND ANY MTU INDEMNIFYING PARTY FOR BREACH OF CONTRACT OR BREACH OF WARRANTY, AND THE MTU REPAIR FACILITY AND ANY MTU INDEMNIFYING PARTY SHALL BE UNDER NO LIABILITY WHATSOEVER TO THE CUSTOMER FOR ANY INDIRECT, SPECIAL, SECONDARY, INCIDENTAL OR CONSEQUENTIAL LOSS AND/OR EXPENSE, LOSS OF PROFITS OR REVENUE, LOSS OF USE, COST OF CAPITAL, COST OF SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, AND/OR DOWNTIME COSTS, IN ANY CASE OF WHATSOEVER NATURE AND HOWSOEVER AND WHENSOMEVER ARISING.

12 TERMINATION OF PURCHASE ORDER

The MTU Repair Facility may terminate a Customer's Purchase Order at any time with immediate effect by written notice to Customer if (i) Customer commences winding-up, becomes insolvent, commits any act of bankruptcy or if a receiver, trustee or custodian is appointed of Customer or a substantial part of Customer's property, or (ii) Customer is in default of its obligations under a Purchase Order and such default remains uncured for a period of fourteen (14) calendar days after issuance of a default notification by the MTU Repair Facility. On termination the MTU Repair Facility will have no further obligation to Customer under the Purchase Order and Customer will reimburse the MTU Repair Facility's termination costs, including a reasonable allowance for profit.

13 SUBCONTRACTING

The MTU Repair Facility may subcontract the whole or parts of the Services to any other MTU Company or third-party vendors holding all licenses as required by the Aviation Authorities, and Customer will accept the airworthiness certificates issued by such subcontractors.

14 ASSIGNMENT

Customer may not assign the contract, any Purchase Order or any rights and/or obligations hereunder the order without the prior written consent of the MTU Repair Facility.

15 CONFIDENTIALITY / DATA PROTECTION

- 15.1 Non-Disclosure. Unless the parties otherwise agree in writing, any knowledge, information or data which the parties have or may disclose to each other shall be held in confidence and may not be either disclosed or used for any purpose, except that the MTU Repair Facility may disclose the same to MTU Companies, subsidiaries, service providers, or consultants as needed to perform the Services provided under the respective Purchase Order. The preceding clause will not apply to information which (a) is or becomes part of the general public knowledge otherwise than as a result of breach of any confidentiality obligation to MTU Companies; or (b) was, as shown by written records, known to the receiving party prior to receipt from the disclosing party.
- 15.2 Intellectual Property. Nothing contained in this Agreement will convey to either party the right to use the trademarks of the other, or convey or grant to Customer any license under any patent owned or controlled by the MTU Companies.
- 15.3 Data Protection. Customer's data and the data of Customer's contact persons will be stored at the MTU Companies and will be used exclusively for processing business transaction with the Customer. Access to the MTU Companies' data processing system is protected according to the state-of-the-art. Further information are available in MTU Aero Engines' data privacy statement at http://www.mtu.de/en/globals/privacy_statement/index.html.

16 LANGUAGE AND GOVERNING LAW

- 16.1 These Terms and Conditions, the Purchase Order and any contract based on these Terms and Conditions, including any dispute or claim arising under or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with the laws of England to the exclusion of its conflict of law principles. The application of the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980, the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982 shall be excluded. The contract language and all communication between Customer and the MTU Repair Facility shall be English.
- 16.2 Any and all disputes arising out of or under this Agreement between the parties shall be finally settled through arbitration in accordance with the Arbitration Act 1996 and any other laws amending, supplementing or replacing the same. In addition to the rules of the Arbitration Act 1996, the parties agree that the arbitration shall be conducted according to the IBA (International Bar Association) Rules of Evidence. Unless otherwise agreed between the parties, the place of arbitration shall be London, England. The arbitral tribunal shall be constituted by one (1) arbitrator. Within thirty (30) Days following notification of arbitration by one party both parties shall mutually appoint the arbitrator. If the parties cannot agree within such thirty (30) Days as to the choice of an arbitrator or if the arbitrator is or becomes for any reason unable to act, the President or Vice-President, for the time being, of the Chartered Institute of Arbitrators may be asked by either party and be deemed authorized by both parties to choose and appoint an arbitrator.
- The cost and expenses arising in conjunction with the arbitration proceedings, including without limitation the fees for the arbitrators and reasonable fees for attorney(s) retained by the parties shall be borne by the losing party or in case the award stipulates that a party prevails or loses only partially then such cost and expenses shall be allocated among the parties in the same ratio. The arbitral award shall be final and binding and each party hereto waives any right of appeal in respect of such award to any court or other judicial authority. The existence as well as all aspects of the arbitration proceedings shall be kept strictly confidential by the parties and the arbitral tribunal.
- 16.3 Except for the MTU Indemnifying Parties, a person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Terms and Conditions. The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under these Terms and Conditions is not subject to the consent of any person that is not a party.

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