

Terms and conditions for the supply of services

1. Interpretation

- 1.1 Definitions.** In these Terms & Conditions, the following definitions apply:
- Business Day:** a day (other than a Friday, Saturday or public holiday) when banks in the Emirate of Abu Dhabi are open for business.
- Charges:** the charges payable by the Customer for the supply of the Services in accordance with clause 5.
- Commencement Date:** has the meaning set out in clause 2.2.
- Customer:** the person or firm who purchases Services from the Etihad Airways Engineering
- Deliverables:** the deliverables set out in the Quotation performed by Etihad Airways Engineering for the Customer.
- Etihad Airways Engineering:** Etihad Airways Engineering LLC registered in the Emirate of Abu Dhabi.
- Quotation:** the duly signed quotation between the Etihad Airways Engineering and the Customer for the supply of Services in accordance with these Terms & Conditions.
- Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including Know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- Services:** the services, including the Deliverables, supplied by Etihad Airways Engineering to the Customer as set out in the Quotation.
- Terms & Conditions: these terms and conditions as amended from time to time in accordance with clause 12.7.

- 1.2 Construction.** In these Terms & Conditions, the following rules apply:
- a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
 - a reference to a party includes its personal representatives, successors or permitted assigns;
 - a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
 - any phrase introduced by the terms including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
 - a reference to writing or written includes faxes and e-mails.

2. Basis of contract

- The Quotation constitutes an offer by Etihad Airways Engineering to provide the Services in accordance with these Terms & Conditions.
- The Quotation shall only be deemed to be accepted when Etihad Airways Engineering and the Customer issues a signed acceptance of the Quotation at which point and on which date the Quotation shall come into existence (Commencement Date).
- The Quotation together with these Terms & Conditions constitute the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Etihad Airways Engineering which is not set out in the Quotation.
- Any samples, drawings, descriptive matter or advertising issued by the Etihad Airways Engineering, and any descriptions or illustrations contained in the Etihad Airways Engineering's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Quotation or have any contractual force.
- These Terms & Conditions apply to the signed Quotation to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3. Supply of Services

- Etihad Airways Engineering shall supply the Services to the Customer in accordance with the Quotation in all material respects.
- Etihad Airways Engineering shall use reasonable endeavours to meet any performance dates specified in the Quotation, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- Etihad Airways Engineering shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and Etihad Airways Engineering shall notify the Customer in any such event.
- Etihad Airways Engineering warrants to the Customer that the Services will be provided using reasonable care and skill.
- In performing their respective obligations under the Quotation, each of Etihad Airways Engineering and the Customer will comply with United States and European Union export control and asset control laws, regulations, and orders (as they may be amended from time to time) applicable to the export or re-export of goods or the Services, including software, processes, or technical data. Such regulations include without limitation to the Export Administration Regulations, International Traffic in Arms Regulations, and regulations and orders administered by the US Treasury Department's Office of Foreign Assets Control.

4. Customer's obligations

- The Customer shall:
 - ensure that the terms of the Quotation are complete and accurate;
 - co-operate with Etihad Airways Engineering in all matters relating to the

Services;

- provide Etihad Airways Engineering with such information and materials as the Etihad Airways Engineering may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects; and
 - obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start.
- 4.2 If Etihad Airways Engineering's performance of any of its obligations under the Quotation is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):
- Etihad Airways Engineering shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Etihad Airways Engineering's performance of any of its obligations;
 - Etihad Airways Engineering shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Etihad Airways Engineering's failure or delay to perform any of its obligations as set out in this clause 4.2; and
 - the Customer shall reimburse Etihad Airways Engineering on written demand for any costs or losses sustained or incurred by Etihad Airways Engineering arising directly or indirectly from the Customer Default.

5. Charges and payment

- 5.1 The Charges for the Services shall be on a time and materials basis:
- The Charges shall be calculated in accordance with the Etihad Airways Engineering's standard daily fee rates, as set out in the Quotation;
 - Etihad Airways Engineering's standard daily fee rates for each individual are calculated on the basis of an eight-hour day worked on Business Days;
 - Etihad Airways Engineering shall be entitled to charge an overtime rate of 50 per cent of the standard daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 5.1(b); and
 - Etihad Airways Engineering shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom Etihad Airways Engineering engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Etihad Airways Engineering for the performance of the Services, and for the cost of any materials.
- 5.2 Etihad Airways Engineering reserves the right to increase its standard daily fee rates, provided that such charges cannot be increased more than once in any 12 month period. Etihad Airways Engineering will give the Customer written notice of any such increase 2 months before the proposed date of the increase. If such increase is not acceptable to the Customer, it shall notify Etihad Airways Engineering in writing within 2 weeks of the date of Etihad Airways Engineering's notice and Etihad Airways Engineering shall have the right without limiting its other rights or remedies to terminate the Quotation by giving 2 weeks written notice to the Customer.
- 5.3 Etihad Airways Engineering shall invoice the Customer on completion of the Services and the Customer shall pay each invoice submitted by Etihad Airways Engineering:
- within 30 days of the date of the invoice; and
 - in full and in cleared funds to a bank account nominated in writing by Etihad Airways Engineering, and
 - time for payment shall be of the essence of the Quotation.
- 5.4 All amounts payable by the Customer under the Quotation are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Quotation by Etihad Airways Engineering to the Customer, the Customer shall, on receipt of a valid VAT invoice from Etihad Airways Engineering, pay to Etihad Airways Engineering such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 5.5 If the Customer fails to make any payment due to Etihad Airways Engineering under the Quotation by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of four 4% per cent per annum above LIBOR's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 5.6 The Customer shall pay all amounts due under the Quotation in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Etihad Airways Engineering may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Etihad Airways Engineering to the Customer.

6. Intellectual property rights

- All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by Etihad Airways Engineering
- The Customer acknowledges that, in respect of any third party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on Etihad Airways Engineering obtaining a written licence from the relevant licensor on such terms as will entitle Etihad Airways Engineering to license such rights to the Customer.

7. Confidentiality

- A party (receiving party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (disclosing party), its employees, agents or subcontractors, and any other

confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Quotation, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Quotation. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 7 shall survive termination of the Quotation.

8. Limitation of liability

8.1 Nothing in these Terms & Conditions shall limit or exclude Etihad Airways Engineering's liability for:

- a). death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; or
- b). fraud or fraudulent misrepresentation.

8.2 Subject to clause 8.1:

- a). Etihad Airways Engineering shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Quotation; and
- b). Etihad Airways Engineering's total liability to the Customer in respect of all other losses arising under or in connection with the Quotation, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the total Charges paid by the Customer to Etihad Airways Engineering for the Services provided under the Quotation.

8.3 This clause 8 shall survive termination of the Quotation.

9. Termination

9.1 Without limiting its other rights or remedies, Etihad Airways Engineering may terminate the Quotation by giving the other party three (3) weeks' written notice.

9.2 Without limiting its other rights or remedies, either party may terminate the Quotation with immediate effect by giving written notice to the other party if:

- a). the other party commits a material breach of any term of the Quotation and (if such a breach is remediable) fails to remedy that breach within thirty (30) days of that party being notified in writing to do so;
- b). the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts;
- c). the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- d). the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- e). the other party's financial position deteriorates to such an extent that in the Etihad Airways Engineering's opinion the Customer's capability to adequately fulfil its obligations under the Quotation has been placed in jeopardy.

9.3 Without limiting its other rights or remedies, the Etihad Airways Engineering may terminate the Quotation with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Quotation on the due date for payment and fails to pay all outstanding amounts within sixty (60) days after being notified in writing to do so.

9.4 Without limiting its other rights or remedies, Etihad Airways Engineering may suspend provision of the Services under the Quotation or any other contract between the Customer and Etihad Airways Engineering if the Customer becomes subject to any of the events listed in clause 9.2(b) to clause 9.2(h), or Etihad Airways Engineering reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Quotation on the due date for payment.

9.5 The Parties expressly acknowledge and agree that a Court order will not be required to give effect to any termination of this Agreement and each Party's entitlement to terminate this Agreement pursuant to its terms is in accordance with the meaning of consent and mutual consent as contemplated under the UAE Civil Code.

10. Consequences of termination

10.1 On termination of the Quotation for any reason:

- a). the Customer shall immediately pay to Etihad Airways Engineering all of Etihad Airways Engineering's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Etihad Airways Engineering shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- b). the Customer shall return all of Etihad Airways Engineering materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then Etihad Airways Engineering may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Quotation;
- c). the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Quotation which existed at or before the date of termination or expiry; and
- d). clauses which expressly or by implication survive termination shall continue in full force and effect.

11. Force majeure

11.1 For the purposes of this Quotation, Force Majeure Event means an event beyond the reasonable control of Etihad Airways Engineering including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of Etihad Airways Engineering or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

11.2 Etihad Airways Engineering shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Quotation as a result of a Force Majeure Event.

11.3 If the Force Majeure Event prevents Etihad Airways Engineering from providing any of the Services for more than six (6) weeks, Etihad Airways Engineering shall, without limiting its other rights or remedies, have the right to terminate this Quotation immediately by giving written notice to the Customer.

12. General

12.1 Assignment and other dealings.

- a). Etihad Airways Engineering may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Quotation and may subcontract or delegate in any manner any or all of its obligations under the Quotation to any third party or agent.
- b). The Customer shall not, without the prior written consent of Etihad Airways Engineering, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Quotation.

12.2 Notices

- a). Any notice or other communication given to a party under or in connection with the Quotation shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail.
- b). A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.2(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- c). The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

12.3 Severance

- a). If any provision or part-provision of the Quotation is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Quotation.
- b). If any provision or part-provision of this Quotation is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

12.4 **Waiver.** A waiver of any right under the Quotation or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy provided under the Quotation or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

12.5 **No partnership or agency.** Nothing in the Quotation is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

12.6 **Third parties.** A person who is not a party to the Quotation shall not have any rights to enforce its terms.

12.7 **Variation.** Except as set out in these Terms & Conditions, no variation of the Quotation, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by Etihad Airways Engineering

12.8 **Governing law.** The Quotation, these Terms & Conditions and any dispute or claim arising out of or in connection with either of them or their subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the laws of the Emirate of Abu Dhabi and the federal laws of the United Arab Emirates as applied in the Emirate of Abu Dhabi.

12.9 **Notice of Dispute.** In the event of any dispute, difference, controversy or claim between the Parties arising out of or in connection with or relating to this Agreement (Dispute), representatives of the Parties shall, within fifteen (15) days of a written notice from one Party to the other Party (Dispute Notice), hold a meeting (Dispute Meeting) in an effort to resolve the Dispute. Each Party shall use all reasonable endeavours to send a representative who has authority to settle the Dispute at the Dispute Meeting.

12.10 **Jurisdiction.** If the Dispute referred to in Clause 12.9 is not resolved within 14 days of the Dispute Meeting, either party may refer the Dispute to the courts of the Emirate of Abu Dhabi which shall have exclusive jurisdiction to hear such dispute.