

Avtrade Limited Terms and Conditions of exchange of Components

1 Definitions

In these Terms and Conditions of exchange of Components ("Terms of Exch") unless the context requires otherwise:

Avtrade's Premises means Global Headquarters, Sayers Common, West Sussex, BN6 9JQ, England or other such address as may be notified by Avtrade from time to time.

Contract means the agreement arising when the Customer's Order is accepted by Avtrade under these Terms of Exch, Exchange Agreement or any signed supplemental terms agreement between Avtrade and the Customer.

Current BER Value means the stated value of a Component.

Customer means the company, entity or individual exchanging Components from Avtrade.

Delivery means the point in time a Component is made available by Avtrade for collection from Avtrade's Premises.

Component(s) means an aviation component covered by the terms of these Terms of Exch, Avtrade's invoice, Exchange Agreement, or any supplemental terms agreement.

Exchange Transaction means a transaction whereby a Component is supplied by Avtrade to the Customer for the Exchange Period in exchange for an Exchange Core.

Exchange Agreement means the signed document setting out the specific details of a particular Exchange Transaction between Avtrade and Customer.

Exchange Core means a Component returned to Avtrade prior to or immediately following the Exchange Period.

Exchange Core Due Date means the date on which an Exchange Core is due to be delivered to Avtrade's Premises following an Exchange Transaction.

Exchange Fee means the amount charged by Avtrade and payable by the Customer for the Exchange Transaction.

Exchange Period means the duration of the Exchange Transaction or subsequent periods of time equal to the Exchange Period.

Order means the Customer's order for the Components.

2 Application and Precedence

- 2.1 Any quotation provided by Avtrade shall remain valid for acceptance for the period of time as stated on the quotation, unless the quotation is withdrawn by Avtrade.
- 2.2 These Terms of Exch and any other terms and conditions set out in a supplemental agreement or on Avtrade's invoice or in an Exchange Agreement shall apply to the Contract 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 unless by way of a supplemental terms agreement mutually agreed and signed by both Avtrade and Customer.

3 The Customer's Order and Duties

- 3.1 The Customer shall be responsible to Avtrade for ensuring the accuracy of the terms of any Order submitted by the Customer.
- 3.2 An Order shall only be deemed to be accepted when Avtrade issues a written acceptance of the Order, at which point the Contract shall come into existence.
- 3.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Avtrade which is not set out in the Contract.

4 Price

- 4.1 Prices are exclusive of all taxes and duties which shall be paid by the Customer and which the Customer hereby undertakes to pay without delay. Should Avtrade be required to pay any such taxes or duties on behalf of the Customer the Customer shall reimburse Avtrade forthwith upon demand.
- 4.2 Quotations given by Avtrade in a currency other than US Dollars are based on the rate of exchange at the time of quoting and unless otherwise stated, pricing may at Avtrade's discretion be subject to revision should a different rate of exchange apply at the date of invoice.

5 Supply and Delivery of Components on Exchange

- 5.1 Avtrade shall charge and the Customer shall pay:
 - 5.1.1 The Exchange Fee; and
 - 5.1.2 All costs charged by Avtrade's nominated maintenance provider, plus handling or management fees as advised by Avtrade, and
 - 5.1.3 Freight and any import/exchange charges related to the return of the Exchange Core; and
 - 5.1.4 All related freight costs to and from Avtrade's nominated maintenance provider.
- 5.2 Avtrade shall notify the Customer in writing that the Components are ready for collection from Avtrade's Premises.
- 5.3 Each Delivery of a Component shall be treated as taking place under a separate Contract and default or delay by Avtrade in any single Delivery of Components shall not entitle the Customer to repudiate any previous or subsequent Contract.
- 5.4 Components will be supplied with a maintenance release certification acceptable to the Customer and packed in accordance with good industry practice.
- 5.5 If Avtrade and the Customer agree that Avtrade shall arrange or undertake the insurance and transport of the Components beyond the point of Delivery at the Avtrade's Premises, such costs shall be for the Customer's account and shall not affect the provisions of the Contract as to the passing of risk.
- 5.6 Any cancellation or warranty claim must be requested in writing and all returns including those for warranty claim must be accompanied by a Return Material Authorisation number ("RMA").

6 Exchange Core Requirements and Charges

- 6.1 Exchange Cores shall be returned to Avtrade prior to or on the stated Core Due Date.
- 6.2 Avtrade's nominated maintenance facility shall bring the Exchange Core to the same condition as the original Component, including the implementation of all applicable work scope requirements including reliability enhancements, if that work scope was applied to the original supplied Component, at the costs of the Customer.
- 6.3 Should an acceptable Exchange Core not be received by Avtrade prior to or on the stated Core Due Date, Avtrade shall charge and the Customer shall pay an additional Exchange Fee for each subsequent Exchange Period until an acceptable Exchange Core is received by
- 6.4 Should an Exchange Core not be received by Avtrade within 180 days of the Order date Avtrade may have the right to charge and the Customer shall pay an additional fee being the Current BER Value in addition to all other charges related to the Exchange Transaction.
- 6.5 Exchange Cores shall be of the same part number and modification status as the original supplied Component unless by written agreement by Avtrade.
- 6.6 Exchange Cores shall be returned to Avtrade with the following:
 - 6.6.1 Legible data plate unless by written authorisation from Avtrade in accordance with 6.13; and
 - 6.6.2 Unserviceable airline tag stating part number, serial number, aircraft registration, and defect reason for removal; and
 - 6.6.3 Signed ATA Spec 106 including non-incident statement, airline, aircraft type and registration; and
 - 6.6.4 Documentation referencing chain of ownership and control from the airline from which the Exchange Core was removed to Avtrade including but not limited to shipping documentation and traceability; and
 - 6.6.5 For Components that are life limited or are major aerostructures including but not limited to thrust reversers, cowling and flight control surfaces, full back to birth documentation and a date of manufacture newer than the original supplied Component; and
 - 6.6.6 For Components where Avtrade monitors flight hours and cycle data Customer shall provide Avtrade with flight hours and cycle data for the Exchange Core prior to delivery of the Exchange Core to Avtrade; and
 - 6.6.7 Trace documentation acceptable to Avtrade. Exchange Cores received with trace documentation from an entity that is subject to any UK, US or EU sanction or embargo shall be rejected by Avtrade.
- 6.7 Avtrade reserves the right to reject any Exchange Core where the requirements set out in 6.6 are not met and in such instances the Exchange Period shall continue as if the unacceptable Exchange Core had not been received by Avtrade.
- 6.8 Avtrade reserves the right to reject any Exchange Core where it or the aircraft it was fitted to was involved in an incident or accident, or subject to extreme heat or fire, or where the Exchange Core was subject to any PMA or DER repair or recertification.
- 6.9 Should Avtrade accept an Exchange Core of a lesser standard than the original supplied Component Avtrade shall at its option either charge the Customer all costs to bring the Exchange Core to the correct standard or accept the lesser standard Exchange Core and charge the Customer a fee in relation to the fair market value of the original supplied Component.
- 6.10 Should Avtrade agree to accept an Exchange Core that is life limited with date of manufacture older than the original supplied Component Avtrade shall charge the Customer 7% of the Current BER Value for every year's difference from the date of manufacture of the original supplied Component.
- 6.11 Avtrade reserves the right to reject an Exchange Core with fewer hours and/or cycles than the original supplied Component. Should Avtrade agree to accept an Exchange Core with fewer hours and/or cycles Avtrade may charge the Customer a fee based on the difference in hours and/or cycles between the original supplied Component and the Exchange Core.
- 6.12 Where a supplied Component has an ultimate life including but not limited to brakes and oxygen bottles, Avtrade reserves the right to charge the Customer a fee based on the costs to bring the Exchange Core to 100% life.
- 6.13 Where an Exchange Core received without a data plate or a legible data plate is accepted by Avtrade the Exchange Core must be accompanied by the documentation set out in 6.6.2 to 6.6.7 inclusive, and previous release certificates, technical log, or other technical documentation as may be required by Avtrade's nominated maintenance facility. Should this information not be provided, or Avtrade's maintenance facility is unable to assign a new data plate, Avtrade shall reject the Exchange Core, and the Exchange shall continue as if the rejected Exchange Core had not been received and the Customer shall pay all related costs.
- 6.14 Where an Exchange Core is received by Avtrade with damage, Avtrade shall notify the Customer providing evidence of the damage and details of the packaging received. All related costs to correct any damage shall be charged by Avtrade to the Customer.
- 6.15 Where an Exchange Component is found by Avtrade's nominated maintenance provider to be beyond economic repair Avtrade shall charge and the Customer shall pay the Current BER Value, and the charges set out in 5.1.
- 6.16 Where the recertification or maintenance costs advised by Avtrade to the Customer in relation to the Exchange Component equals or exceeds 25% of the Current BER Value, the Customer shall approve or reject the costs within 5 business days (being days when the banks in London, England are open for business). Should the Customer fail in such notification Avtrade shall proceed with the recertification or maintenance and all charges set out in 5.1 shall apply.
- 6.17 Should Avtrade's nominated maintenance provider revise their quotation for the recertification or maintenance of an Exchange Core prior to its completion or return, Avtrade shall charge, and the Customer shall pay such costs.
- 6.18 Avtrade may at its sole discretion accept an Exchange Core in an 'unused condition' provided the Customer includes all original paperwork and a signed statement that the Component has not been used.
- 6.19 Avtrade may at its sole discretion accept an Exchange Core in a condition similar to the condition of the original supplied Component. In such instance Customer shall provide to Avtrade warranty periods the same as those provided by Avtrade to the Customer or as set out in 9.1, whichever is longer..
- 6.20 The Customer may during the stated Exchange Period request to convert the exchange to a sale transaction. In such instance Avtrade shall provide to the

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- Customer a quotation and if accepted, Avtrade's Terms and Conditions of Sale shall apply to the sale transaction and the Customer shall not be credited any charge made by Avtrade in relation to the original Exchange Transaction.
- 6.21 Exchange Cores shipping from the EU to the UK via Road Freight must be pre alerted by contacting imports@avtrade.com in advance of the shipments departure to ensure effective clearance into the UK.
- ### 7 Payment
- 7.1 Avtrade shall render to the Customer invoices showing the sums due under the Contract. All payments due thereunder shall be made by the Customer in the currency and to bank account and within the time for payment as detailed on Avtrade's Invoice ("**Payment Due Date**") in cleared funds. Time for making all payments due to Avtrade hereunder shall be of the essence.
- 7.2 Without prejudice to Avtrade's rights under Clause 11 hereof; if the Customer fails to make any payments within 15 days after the Payment Due Date Avtrade shall have the right (without prejudice to any other rights or remedies which may be available to Avtrade) forthwith to terminate or suspend all further Orders and Delivery of Components until such default is made good. Any additional costs and expenses of whatever nature incurred by Avtrade as a result thereof shall be borne by the Customer.
- 7.3 Without prejudice to any other of Avtrade's rights or remedies the Customer shall in addition to payment of the price pay interest on all overdue amounts on a daily accruing basis of 10% per year until the actual date of receipt by Avtrade of the payment, such interest being calculated daily. The Customer shall reimburse all costs and expenses (including legal costs) incurred in the collection of any overdue amount.
- 7.4 If the Customer fails to take Delivery of the Components on the date agreed by the parties or if Avtrade is prevented or hindered from performing any of its obligations under the Contract as a result of any act or omission on the part of the Customer, Avtrade shall be entitled (without prejudice to any other rights or remedies which Avtrade may have) to invoice the Customer for the price thereof and payment shall be due as if Delivery of the Components had been effected. In such event the Customer shall be liable for and shall promptly reimburse Avtrade upon demand for all costs and expenses incurred by Avtrade up to the time of actual collection of the Components.
- ### 8 Risk and Title
- 8.1 Risk in a Component shall pass from Avtrade to the Customer upon Delivery.
- 8.2 Risk in an Exchange Core shall pass from the Customer to Avtrade upon receipt by Avtrade of an acceptable Exchange Core.
- 8.3 Title to a Component shall pass from Avtrade to the Customer and title to an Exchange Core shall pass from the Customer to Avtrade simultaneously when a Component is fitted to an aircraft and when an Exchange Core is removed from an aircraft.
- 8.4 At any time before title to the Components passes to the Customer (whether or not any payment to Avtrade is then overdue or the Customer is otherwise in breach of any obligation to Avtrade), Avtrade may (without prejudice to any other of its rights):
- retake possession of all or any part of the Components and enter any premises for that purpose (or authorise others to do so) which the Customer hereby authorises; and
 - require delivery up to it of all or any part of the Components.
- 8.5 Title to Components or any parts thereof which are returned to Avtrade by the Customer and which Avtrade subsequently replaces pursuant to the terms of this warranty shall revert in Avtrade in accordance with Clause 8.3.
- 8.6 Avtrade may at any time appropriate sums received from the Customer as it thinks fit, notwithstanding any purported appropriation by the Customer.
- 8.7 Each Clause and sub-Clause of this Clause 8 is separate, severable and distinct and, accordingly, in the event of any of them being for any reason whatsoever unenforceable according to its terms, the others shall remain in full force and effect.
- ### 9 Warranty
- 9.1 Avtrade will provide the following warranties, or as otherwise stated on Avtrade's invoice, the Exchange Agreement or supplemental terms agreement:
- for any Component which is factory new, Avtrade will provide a warranty of 12 months from the date of Delivery, or the balance of any warranty given to Avtrade, whichever is the greater; or
 - for any Component which is Overhauled, whereby the Component has been restored in accordance with the instructions defined in the Component Maintenance Manual ("**CMM**") supplied by the original equipment manufacturer, Avtrade will provide a warranty of 6 months from the date of Delivery; or
 - for any Component which is Serviceable, whereby the Component has been repaired and classified as fully functioning and able to be fitted to an airworthy aircraft as stated by EASA and/or FAA and/or CAA, Avtrade will provide a warranty of 3 months from the date of Delivery.
- 9.2 Where warranty is confirmed by Avtrade's maintenance provider for a warranty claim, Avtrade will repair or replace such Components (or the defective part).
- 9.3 The Customer will inspect Components and must inform Avtrade of any claim or rejection within 10 calendar days after Delivery. If no notice of rejection or claim is received in accordance with this Clause 9.3, the Customer will be deemed to have accepted the Component.
- 9.4 The warranty in Clause 9.1 is subject to the following conditions:
- that the Components have been stored, maintained, installed, operated, and used in accordance with the CMM and not subject to wilful damage; and
 - that the Component, or the aircraft it was fitted to, has not been subject to any misuse nor have they been involved in any incident or accident.
- 9.5 Avtrade's obligations under this warranty shall not apply:
- if the Customer has failed to make payment in accordance with Clause 7.1; or
 - if any defect arises from fair wear and tear, wilful damage or abnormal working conditions; or
- in the event that the Customer does not notify Avtrade within 10 calendar days of the failure of the relevant Component; or
 - In the event that the Customer does not provide Avtrade with a full defect report in relation to the relevant Component.
- 9.6 A claim by the Customer in respect of any defect in the Components or in respect of any delay in Delivery shall not entitle the Customer to cancel or refuse such Delivery or payment for such Components.
- 9.7 The provisions of this warranty represent the entire liability of Avtrade, its officers, employees and agents with respect to any matter arising out of or in connection with the quality or condition of the Components any part thereof, and all other warranties, guarantees, terms, conditions, representations or liabilities (whether for direct, indirect or consequential loss or damage or otherwise) as to quality, description, standard of workmanship, condition, fitness for purpose or otherwise (whether express or implied by statute or common law) are hereby excluded to the fullest extent permissible at law.
- ### 10 Limitation of Liability
- 10.1 Avtrade shall not be liable to the Customer whether in contract or in tort (including but not limited to negligence) or for breach of statutory obligation or otherwise for any loss of profits (direct or indirect), business interruption, loss of sales, loss of use, loss of opportunity, loss of goodwill and loss of turnover and whether arising directly or indirectly out of or in consequence of any act, default or omission of Avtrade, and Avtrade shall not in any circumstances be liable for any losses, actions, claims, proceedings, judgements, damages, compensation, obligations, injuries, costs and expenses or other liabilities, whether direct or consequential, and any other remedy which would otherwise be available in law to the Customer is hereby excluded except to the extent that such exclusion is prohibited by law.
- 10.2 Avtrade's total liability in contract, tort (including negligence), misrepresentation or otherwise shall be limited to the value to the value of the Component and in no event shall exceed the sum of £10,000,000.
- ### 11 Indemnity
- 11.1 The Customer will on demand indemnify Avtrade in full against all losses, liabilities, actions, claims, proceedings, judgements, damages, compensation, obligations, injuries, costs, and expenses (including legal costs and expenses) of whatever nature suffered by Avtrade to the extent that the same are caused or related to:
- any claim for personal injury or death or loss or damage or indirectly occasioned by default (including non-compliance with any statutory or other obligation in relation to the Goods), failure to follow Avtrade's instructions (whether written or oral) or misuse or mis-operation of the Components by or on the part of the Customer or any person or persons other than Avtrade; or
 - the improper incorporation, assembly, use, processing, storage or handling of the Components by the Customer.
- 11.2 This indemnity shall continue in force notwithstanding termination for whatever reason of the Contract.
- ### 12 Termination
- 12.1 If the Customer becomes aware of any of the events listed in Clause 12.2 or Avtrade reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to Avtrade, Avtrade may cancel or suspend all further deliveries under the Contract or under any other contract between the Customer and Avtrade without incurring any liability to the Customer and all outstanding sums in respect of Components delivered to the Customer shall become immediately due.
- 12.2 If the Customer enters into a deed of arrangement or commits an act of bankruptcy or compounds with his creditors or if a receiving order is made against him or (being a company) it shall pass a resolution or the Court shall make an order that the Customer shall be wound up (otherwise than for the purposes of solvent amalgamation or reconstruction) or if a receiver (including an administrative receiver) shall be appointed of any of the assets or undertaking of the Customer or if the Customer suffers the appointment or the presentation of a petition for the appointment of an administrator or if circumstances shall arise which entitle the Court or a creditor to appoint a receiver (including an administrative receiver) or a manager or which entitle the Court to make a winding-up order or if the Customer takes or suffers any similar action in consequence of debt or if the financial responsibility of the Customer shall, in the opinion of Avtrade, become impaired or if the Customer shall commit any breach of any part of the Contract or these Terms and Conditions and Avtrade may terminate the Contract immediately whether in whole or in part.
- 12.3 In addition to any right of lien to which Avtrade may be entitled Avtrade shall in the event of the Customer's insolvency or bankruptcy be entitled to a general lien on all items of or attributable to the Customer in Avtrade's possession (notwithstanding that such items or any of them may have been paid for) for the unpaid price of any Components or other items sold and delivered to the Customer by Avtrade under any other contract.
- 12.4 Notwithstanding any provision in these Terms and Conditions the Customer shall not have the right to set off any claims it might have against Avtrade against any sums otherwise due to Avtrade.
- 12.5 Upon termination of the Contract for whatever reason, Avtrade shall be entitled to set off any claim it might have against the Customer against any sums or otherwise due to the Customer.
- 12.6 Termination of the Contract shall not affect the accrued rights of Avtrade nor Avtrade's other rights and remedies.
- ### 13 Licences and Shipping
- 13.1 The obtaining of any licence or consent in relation to a Component shall be the responsibility of the Customer.
- 13.2 The Customer shall be responsible for complying with any legislation or regulations governing the importation of the Components into the country of destination and for the payment of any duties thereon.
- 13.3 The Customer shall be responsible for all freight and customs charges in relation to the shipment of an Exchange Core to Avtrade and between Avtrade and its nominated maintenance provider.

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- 13.4 For any Exchange Core or warranty claim on a Component shipping to the UK via road Customer shall notify Avtrade in advance of despatch of such Component to imports@avtrade.com providing details including but not limited to Component information, weight, dimensions, packaging composition, copies of accompanying documentation and other information as Avtrade may require,
- 14 **Waiver**
Any failure delay or indulgence on the part of Avtrade in exercising any power or right conferred hereunder shall not operate as a waiver of such power or right nor preclude the exercise of any other right or remedy hereunder and shall be without prejudice to the legal rights of Avtrade and the obligations of the Customer shall continue in full force and effect.
- 15 **Assignment of Contract**
Avtrade may assign the Contract and the rights and obligations thereunder whether in whole or in part. The Contract is personal to the Customer, who shall not without the prior written consent of Avtrade assign, mortgage, charge or dispose of any of its rights hereunder, or sub-contract or otherwise delegate any of its obligations hereunder.
- 16 **Sub-Contracting**
Avtrade reserves the right to sub-contract its obligations under the Contract or any part thereof.
- 17 **Severability**
In the event of any Clause or provision or part thereof of the Contract or these Terms and Conditions being rendered or declared ineffective or invalid by any legislation or rule of law or by any decision of any Court of competent jurisdiction the remainder of any affected Clause or provision of the Contract and these Terms and Conditions shall remain in full force and effect.
- 18 **Confidentiality**
These Terms and Conditions, the subject matter of the Contract, and any supplemental terms and conditions shall be treated by the Customer as confidential and shall not without Avtrade's written consent be divulged to any other person.
- 19 **Notices**
All notices and requests required or authorised hereunder shall be given in writing either by personal delivery or recorded mail (return receipt requested) or by email and the date upon which any such notice or request is personally delivered or if such notice or request is given by registered or recorded mail or email the date upon which it is received by the addressee shall be deemed to be the effective date of such notice or request. The parties shall be addressed as per their normal business address for correspondence, or as may otherwise be notified by each party to the other, or in default thereof to their respective Registered Offices.
- 20 **Interpretation**
Headings are for convenience only and shall not govern the interpretation of these Terms and Conditions.
- 21 **Business Ethics**
Both Parties agree that all business activities will comply with the applicable laws contained in Clause 22 whilst ensuring that the undertaking of these activities is without recourse to anti-competitive activity, bribery or corruption or slavery or human trafficking and ensuring compliance to the United Kingdom Bribery Act and Modern Slavery Act regulations.
- 22 **Governing Law and Jurisdiction**
- 22.1 These Terms and Conditions and all non-contractual obligations arising out of or in connection with them shall be governed by and construed in accordance with English law.
- 22.2 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with these Terms and Conditions (including a dispute regarding the existence, validity or termination of these Terms and Conditions) (a "**Dispute**").
- 22.3 The Customer agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly the Customer will not argue to the contrary.
- 23 **Arbitration**
- 23.1 Subject to Clause 22, any Dispute may be referred to and finally resolved by arbitration under the Arbitration Rules (the "**Rules**") of the London Court of International Arbitration.
- 23.2 The arbitral tribunal shall consist of one arbitrator. The seat of arbitration shall be London, England and the language of the arbitration shall be English.
- 23.3 Save as provided in Clause 23.4, the Parties exclude the jurisdiction of the courts under Sections 45 and 69 of the Arbitration Act 1996.
- 23.4 Avtrade may by notice in writing to the Customer require that all Disputes or a specific Dispute be heard by a court of law. If Avtrade gives such notice, the Dispute to which that notice refers shall be determined in accordance with Clause 22.
- 23.5 This Clause 23 is for the benefit of Avtrade only. As a result, Avtrade shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, Avtrade may take concurrent proceedings in any number of jurisdictions.