



Eco Fly

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Eco Fly AG Terms & Conditions (T&C)

1.) **Applicability**

- 1.1 The Terms & Conditions (T&C) set out hereinafter shall apply, unless otherwise agreed in writing, to all work performed upon aircraft, equipment, or parts thereof which Eco Fly AG, herein referred to as Eco Fly, shall carry out itself or delegate/subcontract to third parties. Eco Fly will not recognize differing T&Cs of the Customer unless Eco Fly has explicitly consented to their applicability in writing.
- 1.2 These T&C will also apply if Eco Fly unconditionally delivers maintenance and repair services and goods to the Customer with knowledge of contrary T&C of the Customer or T&Cs that deviate from these.

2.) **Scope of Work**

- 2.1 This T&C controls the relationship between Eco Fly and Customer to the exclusion of and in precedence over any other general conditions. Eco Fly will not be bound by the terms of any other document. Eco Fly's failure to object to such shall not be deemed to be a waiver.
- 2.2 Eco Fly may, in its absolute discretion, delegate or subcontract any work authorized by Customer to a third party. The terms of this document applies to all work done by Eco Fly or any Eco Fly subcontractor.
- 2.3 Customer hereby grants to Eco Fly, its employees, and agents' permission to operate the Aircraft, at Eco Fly's discretion for the purpose of testing and inspecting the aircraft as part of the services provided with the exception of test flights. Eco Fly may continue such operation until satisfied that the Aircraft is functioning satisfactorily and/or restore its airworthiness. The cost of such operation shall be paid by the Customer.
- 2.4 Eco Fly shall supply all the parts necessary for the performance of the services, unless otherwise agreed in writing. Any parts or components replaced by Eco Fly during performance of the services shall become the property of Eco Fly and may be disposed of by Eco Fly without approval from Customer.
- 2.5 If a disassembly and/or recycling of an asset or part of it should take place and thus resulting in being removed from the market, the contractual terms will remain in place same as a service rendered to the customer.

3.) **Customer Representative and Contact with Eco Fly**

- 3.1 Communications by Customer with Eco Fly may be through the representative assigned by Eco Fly to Customer or through the Eco Fly General Manager.
- 3.2 Customer representative(s) staying at the Eco Fly facility during any portion of an ordered work input downtime can be supported by Eco Fly at its facility with ancillary services that are in direct connection to that ordered work input including accommodation and lodging, ground and air transport, telecommunication, and other similar support services available in the course of reasonable customer care activities.

3.3 The Customer hereby represents that his representative(s) is/are entitled to order such ancillary services on Customer's behalf. Such orders need to be in written form and be signed by the Customer representative. Cost for such ancillary services will then be paid directly to the provider by Eco Fly and charged back to the Customer as separate line items in the invoice for the respective maintenance input.

4.) Offers and Cost Estimates

4.1 The prices quoted in any offer are prices in Swiss CHF unless otherwise expressly stated. All prices are quoted as net prices and do not include value added tax. Value added tax is charged to the Customer in addition to the price in an amount specified by applicable Swiss law.

4.2 Offers and cost estimates submitted by Eco Fly shall be made without commitment. Contracts shall be effective when confirmed in writing by Eco Fly or upon initiation of the work involved.

4.3 Cost estimates shall be binding only when submitted in writing and explicitly designated in the text to be binding, and for the time period indicated.

5.) Prices and Payments

5.1 All parts provided and services performed are ex-works according to Incoterms 2010.

5.2 Prices established under contract shall refer exclusively to such work and supplies as agreed upon in writing. Additional works not agreed for in the contract are charged separately.

5.3 If no fixed price is agreed upon, Eco Fly shall apply the prices it charges at the time of performance for the type of work involved.

5.4 The published Eco Fly hourly rates and inspection flat rates are available upon request by the Customer. In case Eco Fly modifies its prices or rates during the performance of the services, Customer shall be notified of such change before the Services are performed.

5.5 The exchange price for any exchange part is conditioned upon that part being complete and accepted by the overhaul vendor as an exchange part.

5.6 Exchange basis for parts: If the Customer is supplied with exchange parts, he shall return the off-core parts to Eco Fly within 10 days of the receipt of such exchange parts. The costs of exchange shall be determined in advance by the manufacturer of the parts or by Eco Fly. If the expense of repairing the returned off-core parts exceeds the cost of the exchange the Customer shall be charged with the difference. If for any reason whatsoever the Customer returns a part remitted to him by Eco Fly without having used it, such part shall only be accepted if serviceable upon arrival at Eco Fly. The Customer shall in addition be charged with a restocking and certification fee of 15% of the part's current list price or such charges that a supplier or OEM applies and invoices to Eco Fly, whichever is higher. If a returned part is found to be defective, the Customer shall be charged with the cost of repairing and recertification. If the part is not repairable, the Customer shall be debited with the full sales price.

5.7 Loan basis for parts: The provisions of Eco Fly standard loan agreement shall be applicable to loaned parts even in cases in which no such agreement is specifically concluded. Loaned parts shall be returned serviceable in any event. If such is not the case, the repair and recertification costs or, if repairs are not cost-effective, the replacement cost of loaned parts shall be charged to the Customer.

5.8 Additional costs resulting from performance of service outside the facilities of Eco Fly shall be paid by Customer.

5.9 Eco Fly reserves the right to demand a reasonable advance and/or progress payment in the sole discretion of Eco Fly.

- 5.10 Unless otherwise agreed by Eco Fly in writing, Customer guarantees that all invoices issued by Eco Fly to Customer for the parts and services provided shall be paid without deduction prior to release of the aircraft to Customer, or alternatively, if a dismantling took place, issuing the related final reporting. If Customer fails to pay any invoice in full within the time period specified on the invoice after receipt, Eco Fly may charge interest from the next day at the rate of one and a half times the statutory interest rate for commercial debts per month.
- 5.11 If Customer disputes an invoice amount, Customer shall provide to Eco Fly written details of the dispute within 5 working days of invoice receipt and shall pay the undisputed part. Failure to provide such details within 5 working days shall result in presumed acceptance by Customer that the invoice is correct.
- 5.12 If Customer fails to timely pay the invoice and remove the Aircraft (or part of it) from Eco Fly's facility, Customer shall pay Eco Fly for storage and maintenance required to be performed by Eco Fly to prevent deterioration of the Aircraft (or part of it).
- 5.13 In the event that Eco Fly shall be required to initiate a debt collection against Customer, Eco Fly shall have the right, without prejudice to damages, to increase the amounts due by a lump-sum fixed at 15% for collection charges. This charge shall be in addition to any other applicable collection damages and/or charges that Eco Fly may be entitled to claim against Customer. Customer shall reimburse Eco Fly for all legal fees and costs incurred to collect such a debt.
- 5.14 Eco Fly shall retain all rights and title to the parts provided until the corresponding invoices have been paid in full. Customer grants to Eco Fly a first and paramount lien over any goods or property of Customer in Eco Fly's possession for all sums due to Eco Fly for the work performed and parts provided.
- 5.15 Any duties, taxes, fees, charges, or expenses arising from the parts or services provided shall be paid by the Customer.

6.) Delivery, Redelivery and Acceptance

- 6.1 The Customer shall deliver at its own expenses the aircraft, part or equipment to be repaired or maintained ("Subject of Order") DDP (Incoterms 2010) Eco Fly facility where such repair or maintenance shall take place.
- 6.2 The repaired and/or maintained aircraft, part or equipment shall be redelivered by Eco Fly Ex Works (EXW - Incoterms 2010).
- 6.3 Acceptance of the Subject of Order will be approved in writing or earlier if the Customer utilizes it. Acceptance will be at the expense of the Customer. Acceptance is not permitted to be refused for flaws that do not interfere with the airworthiness or significantly interfere with the functional capability of the Subject of Order.
- 6.4 Shipment of the Subject of Order to the Customer, including temporary storage of the same en-route or at destination, shall be entirely at risk and expense of the Customer.
- 6.5 Once Eco Fly has given the Customer written notice of completion of a repair, maintenance job or dismantling service, the Customer will pick up the Subject of Order and inspect the services within a period of no more than 3 working days from the date of notice, after which period the Customer will be in default and deemed to have accepted the Subject of Order and the aircraft or parts will be entirely at his risk, and Eco Fly will only remain liable thereafter for destruction/damage to the aircraft arising directly from the willful misconduct of Eco Fly.
- 6.6 In case the aircraft or other Subject of Order remains at Eco Fly because (i) formal redelivery and/or acceptance has not occurred due to work stoppage by Eco Fly or (ii) the contract is terminated by

either party, or (iii) acceptance deadline as stated in 6.5 has lapsed, and in consequence the aircraft remains parked at Eco Fly, then it will be the sole responsibility of the Customer to define and formally order to Eco Fly any preventive or preservative maintenance measures to be applied to the aircraft or parts of it during such extended grounding period of the aircraft to ensure continuing airworthiness and fitness for use of the aircraft. Eco Fly hereby expressly excludes any liability for dilapidation of the aircraft during any prolonged grounding period of the aircraft. The aircraft or Subject of Order will be entirely at Customer's risk, and Eco Fly will only be liable for destruction/damage to the aircraft arising directly from the willful misconduct of Eco Fly. Customer will be responsible for parking or storing charges invoiced at the customary fee for the respective Eco Fly location.

- 6.7 If Eco Fly in its reasonable judgement concludes that certain preventive maintenance actions would be advisable, Customer agrees that Eco Fly has the right, but not the obligation, to define and perform such actions. Customer will remain fully responsible for the cost of such actions.

7.) Location of work, standards, liability for delay

- 7.1 Unless otherwise agreed in writing by Eco Fly, the item or aircraft shall be delivered by Customer to Eco Fly at Eco Fly's facility and shall be returned to customer by Eco Fly at the same facility.
- 7.2 Customer is responsible for freight charges and transit insurance for delivery of an item by Eco Fly to Customer outside Eco Fly's facilities. Eco Fly's responsibility for said items or aircraft ceases upon delivery by Eco Fly to carrier.
- 7.3 All services will be performed by Eco Fly pursuant to the standards, current as of the date of Customer signature on the Service Order, specified in applicable manuals and publications of the relevant aircraft and/or component manufacturer and in accordance with the requirements of relevant aviation governmental authorities.
- 7.4 Eco Fly shall not be liable for any advice or recommendation provided by Eco Fly regarding storage, application, or use of the parts or services which is not confirmed in writing by Eco Fly.
- 7.5 Although Eco Fly will strive to minimize the time incurred to provide parts and services, Customer acknowledges and agrees that completion of any work is dependent on many factors beyond the control of Eco Fly. Estimates for time of completion of contracted work are not binding, unless specifically agreed in writing by Eco Fly. Eco Fly shall not be liable for any loss or damage claimed by Customer as a result of reasonable or unavoidable delay.

8.) Warranty and warranty periods

- 8.1 Eco Fly warrants that maintenance and repair works carried out by it shall be free from any defects in workmanship up to the limit for:
- 8.1.1 avionic systems new installations one (1) year but in no event longer than six hundred (600) flight hours
- 8.1.2 complete cabin interior refurbishment one (1) year but in no event longer than six hundred (600) flight hours (not to extend to only partial refurbishment or interior component repair or cosmetic treatment and to the exclusion of normal wear and tear)
- 8.1.3 partial cabin interior refurbishment six (6) months but in no event longer than three hundred (300) flight hours (not to extend to interior component repair or cosmetic treatment and to the exclusion of normal wear and tear)
- 8.1.4 complete exterior repaint one (1) year

- 8.1.5 for all other maintenance and/or repair work ninety (90) days but in no event longer than hundred and fifty (150) flight hours after the completion of maintenance and/or repair work on the aircraft
- 8.2 In case that any defect results from faulty workmanship of maintenance and/or repair work performed by Eco Fly, the sole remedy available to the Customer shall be the immediate remedy of such defect by Eco Fly by repairing and/or replacing, at Eco Fly's sole discretion, any defective parts and/or workmanship up to a maximum amount not exceeding the total sum of the relevant work order. Eco Fly is not responsible for any other costs or expenses including but not limited to transporting the aircraft or warranted items to any repair facility.
- A defective item or aircraft shall be delivered to the Eco Fly facility at Customer's cost. If the aircraft cannot be flown to said facility Customer is responsible for the costs of transportation and expenses of the Eco Fly employee(s) to the aircraft to carry out the due defect rectification.
- 8.3 This warranty is void if:
- 8.3.1 customer does not notify Eco Fly of the claimed defect in writing within ten (10) working days from the date it was discovered or reasonably should have been discovered,
 - 8.3.2 the Customer does not give Eco Fly immediate access to the aircraft in order to inspect the defects,
 - 8.3.3 any part has been modified, overhauled or repaired without the prior inspection and/or authorization by Eco Fly and the modification, overhaul, or repair affecting the claimed defect,
 - 8.3.4 the part or service is a temporary repair performed at the request of Customer,
 - 8.3.5 the Customer has not taken all precautions to prevent an aggravation of the damage,
 - 8.3.6 the Customer does not comply with operating instructions given by Eco Fly or the Aircraft Manufacturer,
 - 8.3.7 no warranty claims will be considered for used parts or makeshift repairs installed or performed at the request of the Customer. If the Customer demands that equipment, spare parts, material, etc. supplied by himself are used, Eco Fly bears no responsibility as to the function of the said equipment and/or installation and refuses any warranty for the same,
 - 8.3.8 the defect is caused by improper use or negligence of Customer,
 - 8.3.9 the defect was caused by a force majeure event,
 - 8.3.10 Customer has not paid the relevant invoice for the part or service.
 - 8.3.11 in case of work performed by third parties, Eco Fly's warranty shall be limited to the extent to which Eco Fly is entitled to claims against third parties and can successfully enforce such claims.
- 8.4 For equipment and spare parts, the respective third-party manufacturer's and/or supplier's warranty shall be applicable, and Eco Fly does not assume any additional warranty for such equipment and spare parts.
- 8.5 Eco Fly will, so far as it is able, pass on to the Customer the benefit of any warranty given by any third party (whether manufacturer, sub-contractor or otherwise) in respect of equipment and spare parts and/or services. Except as specified above, all goods and services are sold without any warranty whatsoever.

9.) **Indemnity**

- 9.1 The Customer shall undertake to discharge Eco Fly from any third-party claims that may be advanced against Eco Fly for any legal reason whatsoever in connection with any work carried out by Eco Fly to

the Customer's order and to assume any and all expenses and costs that may be incurred by Eco Fly due to such claims.

- 9.2 The Customer assumes the risk of and agrees to indemnify and hold harmless Eco Fly (including its officers, agents and employees) from and against any and all liability, damage, loss, cost and expense, including attorney's fees, on account of any claim, suit or action made or brought against Eco Fly for the death of or injury to employees, agents, representatives and subcontractors of Customer, or damage or destruction of property of Customer, its employees, agents, representatives or subcontractors sustained in connection with Customer's presence on Eco Fly facilities (including its hangars and ramps but excluding Eco Fly's customer lobby and customer offices) during the course of the agreement, except due to the gross negligence or willful misconduct of Eco Fly or its employees (acting within the scope of their employment). This indemnification does not apply to damage or destruction of the aircraft upon which work is performed, which is addressed elsewhere under these T&C.

10.) Limitations of Liability and Insurance

- 10.1 Customer shall, at its own cost, maintain all risks insurances for the Aircraft.
- 10.2 Customer shall, upon request, provide to Eco Fly written evidence of the insurance policies referred to above.
- 10.3 The limitation of liability and warranties stated herein shall also inure to the benefit of subcontractors, employees, parent companies, and affiliated companies of Eco Fly.
- 10.4 Eco Fly shall maintain at all times ground hangar keeper's liability including product liability insurance.
- 10.5 Customer may not assign its rights and obligations under these T&C, in whole or in part, to a third party without the prior expressed written consent of Eco Fly.
- 10.6 Eco Fly shall have no liability for any loss or damage to the Aircraft and its parts after the same have left Eco Fly's premises, other than pursuant to the above Limited Warranty.
- 10.7 Any liability by Eco Fly shall be precluded unless the Customer's losses, damages or expenses
- 10.8 result directly from the negligence or willful misconduct of Eco Fly.
- 10.9 In no event will Eco Fly be liable for any incidental damages (except damages which are a direct consequence of physical damage to the Aircraft in Eco Fly's care and custody caused by Eco Fly's negligence or willful misconduct). To the fullest extent permitted under the applicable law, Eco Fly shall in no circumstances be liable for any consequential loss nor for special damages, indirect damages, loss of profits, loss of revenue or loss of use, even if informed of the possibility of such damages.
- 10.10 To the extent permitted under applicable law, these limitations will apply regardless of whether liability arises from breach of contract, warranty, tort (including but not limited to negligence), by operation of law, or otherwise.
- 10.11 The Customer shall be liable to Eco Fly for any damage he, his representative or his vicarious agents may cause to the subject of order and for damage caused by negligence or intention to Eco Fly, its representatives or its vicarious agents.
- 10.12 Eco Fly is under no obligation to take insurance coverage for the Aircraft, its components or parts or equipment, which are located on its premises, in its workshops or on its parking areas. The Customer undertakes to take out insurance coverage for property (Hull All Risk Insurance including Hull War and Allied Perils coverage on aircraft and aircraft spare parts, including improvements installed thereon as the work progresses). The Customer furthermore undertakes to take out a respective third-party liability coverage (including flight risks, Aircraft Combined Single Limit/Third Party & Passenger Liability Insurance) with a combined single limit for the duration of this Agreement. It is moreover understood

that the customer and its insurers/reinsurers waive all rights of recourse and/or subrogation against Eco Fly under the Hull All Risk, Hull War and Allied Perils and Aircraft Third Party Insurance and include Eco Fly its divisions, subsidiaries, affiliates, the assignees of each and their respective directors, officers, employees and vicarious agents as additional insured. If the Customer has ordered services from Eco Fly on behalf of a third party, the Customer guarantees that such third party effects and maintains insurances in the same way. The Customer will upon Eco Fly's request produce copies of the respective insurance certificates for the insurances mentioned in this clause.

11.) Applicable law, venue, and jurisdiction

- 11.1 In the event of dispute as to the interpretation or performance of these T&C, or their direct or indirect consequences, such dispute shall be subject to the exclusive jurisdiction of the tribunal of general jurisdiction for the particular type of dispute in the venue in which Eco Fly is located. Such disputes shall be governed by and construed in accordance with the law of such venue.
- 11.2 The Customer acknowledges that goods, services, technical data and/or other information received under these T&C and any related Purchase Order may be subject to U.S. export control laws and the US "International Traffic In Arms Regulations" ("ITAR"), and Customer agrees to comply fully with such laws and regulations. The Customer confirms that it will not re-export such goods, services, technical data and/or information to other countries or parties in violation of these U.S. laws and regulations. The Customer agrees to provide any information reasonably required by Eco Fly to ensure compliance by Eco Fly under any applicable laws and regulations (including U.S.) in providing goods or services under these T&C and any related Purchase Order.
- 11.3 Customer hereby confirms that, as of the date of execution of the Agreement, and in performing its obligations under this Agreement, except as otherwise disclosed in writing to Eco Fly: none of registered owners, contractual owners, beneficial owners, and operators of the aircraft (or any of their representatives, agents, or persons/entities that own or control any of the foregoing), is (i) subject to sanctions imposed by the Swiss Government, (ii) is a person or entity designated by the European Union for purposes of asset freeze, sectoral sanctions, or restrictions on the receipt of any goods or technology, (iii) is a person or entity designated by the US Government as a Specially Designated National or Blocked Person (SDN), Foreign Sanctions Evader (FSE), or on the Sectoral Sanctions Identification List (SSIL) or included on any of the US Government's Entity List, Denied Persons List, Debarred List, and Unverified List, (iv) is owned or controlled by an SDN, FSE, SSIL or a person/entity on the European Union's or the US Government's restricted party lists identified in (ii) and (iii) above, or (v) is organized, established, domiciled or resident in Cuba, Iran, North Korea, Sudan, Syria or in the Crimea Region.

12.) Passing of Title

- 12.1 Title to goods supplied (whether on their own or as part of the performance of services and whether separate and identifiable or incorporated in or mixed with other goods) by Eco Fly to the Customer ("Goods") shall remain with Eco Fly until full payment for work has been received by Eco Fly.
- 12.2 Any resale by the Customer of Goods in which title has not passed to the Customer shall (as between Eco Fly and the Customer only) be made by the Customer as agent for Eco Fly and the
- 12.3 Customer shall be deemed to be holding any monies received from the resale of such Goods on trust for Eco Fly.
- 12.4 Eco Fly's employees and agents shall be entitled to enter any land, buildings, vehicles or aircraft where the Goods or part of them are situated or are reasonably thought to be situated, and may take

possession of them at any time, to the extent permissible under the Applicable Law. If the Goods have been fitted to or fixed to an engine or aircraft, the Customer explicitly grants Eco Fly the right to take possession of them and Eco Fly's title in the Goods shall not be affected by any stipulation or rule of law that the Goods have become part of an engine or aircraft.

13.) Right of Lien

- 13.1 In respect of all claims, whether due or not, resulting from contractual relations with its Customers, including claims resulting from prior business relations with the Customer concerned, Eco Fly shall have, in addition to its legal right of retention, a contractual right of lien on such objects in its possession, independently of the Customer's proprietary rights. The Customer herewith gives its consent and approval to all measures reasonably taken by Eco Fly to secure its right of lien. The Customer agrees that Eco Fly has the right to retain the aircraft and / or to enforce such right of lien for the purpose of securing any of its claims against the Customer, including claims resulting from (i) prior business relations with the Customer concerned, and/or (ii) a business relationship between the Customer and any affiliate which is under the same ultimate control as Eco Fly.

14.) General

- 14.1 In the event that any provision in these T&C are determined by a court of competent jurisdiction to be invalid or unenforceable, in whole or in part, the remaining terms shall be construed to be valid.
- 14.2 These T&C constitute the entire agreement between the parties, supersede any previous agreement or understanding and may not be varied except if agreed in writing between the parties. All other terms, express or implied, by statute or otherwise, are excluded to the fullest extent permitted by law.