

TERMS AND CONDITIONS FOR LOANS OUT AGREEMENT

1. The following Terms and Conditions apply to the loan of a Component by Monarch and in requesting a Component the Customer agrees to be bound thereby.

2. Definitions:

“Agreement” the agreement for loan to which the Terms and Conditions apply.

“Monarch” shall mean Monarch Airlines Limited, Monarch Aircraft Engineering Limited, their respective agents, subcontractors, officers, directors and employees.

“Customer” means the other party to this Agreement.

“Component” means a rotatable or repairable item the subject of this Agreement

“Price” means the OEM’s current catalogue price for a Component as specified in the Agreement at the time the Loan Period commences.

“Serviceable” means in a condition to be used with the corresponding original dual release form, EASA Form 1 or FAA 8130-3 approved certificate.

“Loan” means the loan of a Component by Monarch to a Customer.

“BER” means Beyond Economical Repair.

“OEM” means Original Equipment Manufacturer.

3. Loan Period:

The loan period (“Loan Period”) will commence from the date of despatch of the Serviceable Component from Monarch as evidenced by Monarch’s despatch note and will terminate once the Serviceable Component is received by Monarch complete with the corresponding original dual release form, EASA Form 1 or FAA 8130-3 approved certificate at:-

**Monarch Aircraft Engineering Limited, Hangar 9, London Luton Airport,
Luton, Beds, LU2 9LX**

4. Monarch Request For Early Return of Component:

The Customer agrees to return a Serviceable Component if so requested, to support Monarch’s urgent requirement therefore. If the Customer is unable to return the original Serviceable Component, the Customer must locate and supply the same part number with the same or less hours thereof, at cost to the Customer, until either Monarch returns the duplicate to the Customer or the Customer returns the original to Monarch, whichever shall occur first. If the Customer is unable to return the original Serviceable Component or supply a duplicate and Monarch has to obtain the same part number with similar or less hours from another source, the Customer agrees to pay for the loan thereof until either Monarch returns the same part number with similar or less operating hours or the Customer has returned the original Serviceable Component to Monarch.

5. Certification Requirements:

If a returned Component does not have the relevant approved release certification (clause 3 above) or if the paperwork received does not clearly state that the unit is Serviceable Monarch’s goods receipt department will contact the Customer requesting clarification. If no response is received from the Customer within 24 hours from the time of such request Monarch reserves the right to send the Component away to a repair agency. The Customer will pay the costs for any transport, repair, test and recertification and the Loan Charges will continue at the agreed rates until the Component is duly recertified. The Loan Period will only terminate when the Serviceable Component has been received at Monarch’s Luton facility.

6. BER:

Components returned to Monarch BER will be charged to the Customer at the Price plus 20% in addition to all previously accrued charges.

7. Technical Records:

Upon return of a Component, the Customer's documentation must show the Agreement number and the number of operating hours and cycles performed by the aircraft whilst the Component was fitted thereon. In the event that a Component is returned to Monarch that has not been fitted to any aircraft, then a signed statement from an authorised employee of the Customer on their company headed paper confirming that the Component is Serviceable and unused by the Customer will be required. The original valid release documents supplied when the Component was despatched from Monarch will also be required. The Customer will still be liable for Loan charges for the Loan Period.

8. In Lieu Units:

The Customer may not return an in lieu Component except with the prior written approval of Monarch. Any such in lieu Component must be of identical modification status, have a full traceable history, be of not less serviceability (condition or time) than the original Component would have had at the end of the Loan Period and title thereof must pass to Monarch absolutely upon receipt.

9. Lost Items:

In the event that a Component is either lost or damaged BER, Monarch may, at its sole option, effect a sale thereof to the Customer and invoice the same in accordance with clause 6. Loan Charges will continue whilst a replacement Component is found. Assistance from the Customer may be requested in order to find a difficult to locate Component.

10. Price:

All Loan Charges are based on the OEM Price and will be identified on each Loan Order, unless otherwise agreed between Monarch and the Customer and confirmed on our Appendix to this Agreement.

11. No Fault Found:

If a Component becomes unserviceable within 24 hours of commencement of the Loan Period Monarch must be advised immediately by fax and the Component returned to Monarch in an unserviceable condition. If the Component is subsequently found to be Serviceable i.e. no fault found, then all costs, including Loan Charges, will be payable until the Customer completes the return formalities addressed in clauses 3 & 7. If a Component is confirmed as having a fault that is not related to damage caused by the Customer then the loan will be at no charge.

12. Loan Cancellation By Customer:

Any loan cancelled by the Customer prior to despatch of the Component or within the first 24 hours thereof will be charged an access fee of 5% of the Price with administration charges of £100.00 Pounds Sterling plus any additional costs borne by Monarch on the Loan.

11. Title:

Title to all loaned Components shall at all times remain with Monarch except where an in lieu Component is accepted in accordance with clause 8 in which case Title to the original Component shall pass to the Customer simultaneously with Title to the in lieu Component passing to Monarch.

12. Shipping Costs:

Packing, transportation and freight from Monarch to the Customer and return packing, transport and freight to Monarch will be for the Customer's account.

13. Taxes & Duties:

Import duties, customs charges, freight agent charges and any other levies will be for the Customer's account.

14. Termination

The Agreement is indefinite and these Terms and Conditions shall apply to each and every loan as if separately supplied on each occasion. Either party may terminate the Agreement by giving 1 months prior written notice to the Supplies Manager at Monarch, providing that any existing loan shall remain subject to the Terms and Conditions for the remainder of the Loan Period.

- a) All documentation shall be addressed as follows:-
Monarch Aircraft Engineering Ltd
London Luton Airport
Luton
Beds
LU2 9LX
Attn: Supplies Manager

15. Warranty:

Monarch in no way represents or warrants that any Component is of merchantable quality or fit for the purpose for which it may be intended and will not be liable to the Customer (whether in contract or otherwise) for any damages losses or other consequences, howsoever caused, suffered by the Customer as a result of a Component supplied hereunder. The Customer shall indemnify and hold harmless Monarch against any actions, claims, costs, damages or losses that Monarch might suffer as a result of a Component supplied hereunder.

16. Duty Of Care:

The Customer will keep the Component in good and substantial repair and condition (fair wear and tear only excepted) and will use maintain and store the Component in accordance with good industry practice and the manufacturer's instructions. The Customer will accept and pay for all costs involved in the routine inspection and maintenance of the Component whilst in its possession. Such inspections and maintenance will either be carried out by Monarch or in accordance with Monarchs instructions.

17. Ownership:

The Customer will at all times keep the Component within its custody and control and will not sell, assign, let, mortgage, charge or otherwise part with possession of or otherwise deal with the Component or any interest therein.

18. Insurance:

During the Loan Period the Customer will insure the Component for the Price

19. Repair & Overhaul:

Where Components are returned in an unserviceable condition, the Component will be sub contracted for repair/overhaul work Monarch will charge the Customer the cost of work sub contracted plus 20%.

20. Payment Terms:

Unless otherwise stated Loan and other charges are quoted exclusive of VAT and duties. Monarch shall not be responsible or liable for any expenses, taxes or other costs sustained in any shipment of Components between the Customer and Monarch in either direction. Customer to pay within 30 days of date of invoice to Monarch's account specified on the invoice. Foreign currency amounts may be converted to sterling using prevailing exchange rates determined by Monarch at its sole discretion. Monarch reserves the right to charge and recover interest at the rate of 3% (three) per annum over the base rate of Barclays Bank PLC from time to time from the date any amount becomes due but is unpaid until the date payment is made.

21. Indemnity:

The Customer shall indemnify and hold harmless Monarch, its affiliates, its agents and its sub-contractors and its and their respective employees ("the Indemnified Parties") from and against any and all legal actions, claims, costs, tort, damages or losses howsoever arising in respect of death of or injury to any person or loss of or damage to any property, including, but not limited to, the aircraft of attachment and the Customer's property, arising out of or in respect of the loan of any Component unless caused by wilful misconduct of the Indemnified Parties acting in the scope of their employment or sub-contract, but in no circumstances shall Monarch be liable for any consequential damage or financial loss (including loss of profit, revenue or business opportunity) and the Customer shall hold the Indemnified Parties harmless there from.

22. Insolvency & Bankruptcy:

If the Customer becomes insolvent or bankrupt during the Loan Period, or makes an arrangement with its creditors or has an administrative receiver or administrator appointed or commences to be wound up, Monarch may without prejudice to its other rights terminate the Agreement and request return of the Component or access to the Customer's facility to repossess the Component.

23. Governing Law:

Regardless of where executed, the Agreement shall be construed in accordance with the laws of England. Any dispute concerning the validity, scope, meaning, interpretation or effect of the Agreement may be brought only in accordance with the following.

26. Arbitration:

If any dispute arises out of the Agreement the parties will endeavour to settle such dispute by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation procedure.

If the parties have not settled the dispute within 3 (three) months of initiation of the said Model Mediation procedure the dispute shall be referred to and finally resolved by arbitration under the Rules of the International Chamber of Commerce, which Rules are deemed to be incorporated herein by reference to this clause, such arbitration to be in London.