



# Contract

No. 530000[XXXX]

concerning

Full-Service Aircraft Charter for State transportation

**between**

the Danish Ministry of Defence Acquisition and Logistics Organisation

Lautrupbjerg 1 - 5

DK-2750 Ballerup

Denmark

CVR (VAT no.) 16 28 71 80

(in the following referred to as DALO)

**and**

[Company name]

[Legal identification code]

[Address]

[Postal code and city]

[Country]

(in the following referred to as the Supplier)



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- Annex B: Labour clause, corporate social responsibility (CSR) requirements and requirements concerning international sanctions.
- Annex B.1: CSR follow-up actions.
- Annex C: The Supplier's offer.
- Annex C.1: The Supplier's prices.
- Annex D: Price adjustment.
- Annex E: Security provisions concerning classified information.

## **RECITALS**

Today, the Parties have entered into the following Contract,

Whereas DALO desires to obtain Full-Service Aircraft Charter, including services essential for the charter, for transportation for the Danish Government.

Whereas the Supplier agrees to provide Full-Service Aircraft Charter, including Aircraft type agreed, equipped, fuelled and in airworthy condition and with a qualified and competent crew and Other Services essential for the Charter to DALO.

Whereas the Full-Service Aircraft Charter provided to fulfill this Contract shall comply with all relevant laws, regulations and standards, including any government requirements, EU law and EASA Regulations applicable in Denmark at the time of provision of the Full-Service Aircraft Charter. Such compliance shall include any requirements with respect to the legality and safety of the Full-Service Aircraft Charter.

Whereas the Supplier acknowledges and agrees that:

- a) the specification of the requirements for the Full-Service Aircraft Charter in accordance with this Contract is the result of a resource intensive approval and procurement process carried out by DALO in accordance with the Danish Act no. 1564/2015, as amended, on Public Procurement (in Danish: "Udbudsloven")
- b) DALO has relied on the Supplier's representations about time and quality as stated in the offer and this Contract, and
- c) DALO has therefore determined that the Contract gives DALO value for money on the basis that full acceptance of all Individual Chartering is achieved without Delay and at the agreed standard and quality.

## 1. DEFINITIONS

**"Aircraft"** shall mean the aircraft as described in Annex A.

**"Annex"** shall mean all Annexes to this Contract. Where an Annex is stated, it shall mean the Annex including all sub-Annexes. E.g. if Annex A is stated, this shall also include any sub-Annexes such as Annex A.1, A.2 etc.

**"Commencement"** shall mean the date of the latest signature of the Contract.

**"Contract"** shall mean this Contract with its Annexes and any subsequent amendments.

**"Crew"** shall mean flight crew (captain and first officer) and cabin crew (flight attendants).

**"Day"** shall mean a calendar day.

**"Defect"** shall mean failure to comply with the provisions of the Contract (including being Fit for Purpose), applicable laws or regulations, industry standards and/or good workmanship.

**"Delay"** means the non-performance of the Supplier with regard to Delivery in accordance with the Delivery Time and this is not due to force majeure, circumstances for which DALO is responsible or circumstances stated in clause 9.

**"Delivery"** means the provision of an Individual Chartering.

**"Delivery Time"** means the time for Delivery stated in clause 2.5.

**"Direct Operating Costs"** shall mean all expenses directly attributable to the operation of the Aircraft for an Individual Chartering, including but not limited to fuel costs, ATC-charges (Air Traffic Control charges), landing and handling fees, de-icing costs, parking

costs (including overnight Aircraft parking), VIP-handling (including lounge), food and accommodation for Crew not exceeding the costs covered according to the rules of the Danish State for travel costs etc. and other directly related operational expenses incurred during the charter period.

**"Flight Hour"** shall mean "block-to-block hour", i.e. the total time from the moment the Aircraft first moves under its own power for the purpose of taking off until the moment it finally comes to rest at the end of the flight and passengers are disembarked.

**"Fit for Purpose"** concerning the Full-Service Aircraft Charter shall mean that the personnel, Crew, Aircraft and the provided service meet the required standards for safety, maintenance, operation, comfort, as commonly accepted within the industry best practices for chartering of executive jets for State transportation. This is to ensure that DALO's objective in procuring the Full-Service Aircraft Charter can be achieved.

**"Full-Service Aircraft Charter"** shall mean the services specified in Annexes A and C.

**"Individual Chartering"** shall mean a specific chartering under the Contract.

**"Other Services"** shall mean the handling of all expenses (Direct Operating Costs) on behalf of DALO and subsequently invoicing DALO for each Individual Chartering.

**"Party"** shall mean DALO or the Supplier, jointly the "Parties".

**"Passengers"** shall mean the passengers to be transported pursuant to an Individual Chartering under this Contract.

**"Penalty"** shall mean a fixed and agreed amount that DALO is entitled to charge from the Supplier in case of delay, regardless of whether or not DALO can prove a loss resulting from the delay.

**"Person"** shall mean any physical or legal entity performing the Supplier's obligations under the Contract.

**"Price"** shall mean the price for 480 Flight Hours for one year, which covers the Aircraft, the Crew, maintenance, insurance and Other Services (in the following referred to as "the Flight Hour Allotment"), see Annex C.

**"Requisition"** shall mean DALO's written order for an Individual Chartering under the Contract.

**"Requisition Confirmation"** shall mean the Supplier's written confirmation that the Individual Chartering in DALO's Requisition shall be delivered.

**"Subcontractor"** shall mean any Person named in the Contract as a Subcontractor or any Person appointed as a Subcontractor for a part of the Delivery, including the legal successors in title to each of these Persons.

**"Working Day"** shall mean any day excluding Saturdays, Sundays, Danish public holidays, including – but not limited to – the Day of Christmas Eve, the Day of New Year's Eve, and Constitution Day (5<sup>th</sup> of June).

## **2. THE SUPPLIER'S OBLIGATIONS**

### **2.1 Generally**

The Contract concerns the provision of Full-Service Aircraft Charter for transportation for the Danish Government.

The Supplier shall provide Full-Service Aircraft Charter for 480 Flight Hours on a 12-month basis (the Flight Hour Allotment) with the first 12-month period commencing on Commencement and Other Services. The use of Flight Hours is at the discretion of DALO, and Flight

Hours may be exhausted in a nonlinear fashion i.e. periods with higher activity followed by lower activity.

The Flight Hour Allotment can be used by DALO for Individual Charters specifically requested by DALO through Requisitions.

The Supplier shall provide all the services specified in the Contract on the time mentioned in the Requisitions for Individual Chartering.

The Supplier shall ensure that any service provided under the Contract is Fit for Purpose as specified in the Contract, including the recitals, and conform in all respects to the requirements set out in Annex A and Annex C.

The Supplier shall ensure that the following licenses and certificates are held and continuously kept valid/current (the list is not exhaustive): Air Operator Certificate and Operating License (Supplier or Operator), certificate and type rating (for crew), airworthiness certificate, registration certificate, operational certificate (for aircraft) etc.

In the performance of the Contract, the Supplier shall comply with the requirements and specifications regarding labour clause, corporate social responsibility (CSR) and international sanctions set out in Annex B and submit information in this respect in accordance with the requirements set out in the said Annex B.

## **2.2 Compliance with applicable law**

The Supplier shall comply with all relevant laws, regulations, and standards, including any government requirements, EU law and EASA regulations applicable in Denmark at the time of provision of an Individual Chartering under the Contract. Such compliance shall include any requirements with respect to the legality and safety of the Full-Service Aircraft Charter.



The Supplier shall comply with all applicable laws governing the execution of the Contract no matter where the Supplier's business is carried out, including the Danish Working Environment Act (in Danish: lov om arbejdsmiljø).

### **2.3 Security Classification**

The Supplier must possess a facility security clearance at company level issued by the Danish Defence Intelligence Service at the level TIL TJENESTEBRUG (TTJ) ("NATO RESTRICTED" / "EU RESTRICTED") or a facility security clearance at minimum a corresponding level issued by the national security authority responsible for defence security in the country which has a security agreement with Denmark.

Further, any person taking part in the performance of the Contract must possess the appropriate personnel security clearance to the extent classified information is to be handled by the person or if the person is to access a classified area. This entails that such person must possess a personnel security clearance up to the level TIL TJENESTEBRUG (TTJ) ("NATO RESTRICTED" / "EU RESTRICTED") issued by the Danish Defence Intelligence Service or a personnel security clearance at minimum a corresponding level issued by the national security authority responsible for defence security in a country which has a security agreement with Denmark.

By "security agreement" is understood an agreement regarding mutual protection of classified information.

The security clearances (both the facility security clearance and the personnel security clearances) must be maintained throughout the term of the Contract.

Annex E stipulates the rules and regulations that apply to the Supplier concerning minimum requirements for protection of classified information.

The Supplier is obliged to fulfil all requirements concerning security and handling of classified information stated in Annex E.

Non-compliance with the provisions of Annex E is deemed to be a material breach of the Contract. Furthermore, failure to observe these requirements may be punishable by law.

#### **2.4 The Supplier's organisation and Subcontractors**

The Supplier shall maintain the organisation, the know-how embedded therein, and any other facilities and resources, including agreements with Subcontractors, required to perform the Contract.

The Supplier shall, subject to clause 2.4.1, be entitled to engage and replace Subcontractors for the performance of the Contract. The Supplier shall ensure that Subcontractors undertake to comply with obligations equivalent to those undertaken by the Supplier towards DALO in relation to labour clause, corporate social responsibility and international sanctions (Annex B) and security.

The Supplier's use of Subcontractors, including independent contractors, shall not limit the Supplier's liability in any event.

Subcontracting involving access for the Subcontractor to classified information is subject to the approval of DALO. Approval shall be obtained before beginning negotiations with a view to sub-contract any part of the work which would involve classified information. Subcontractors located or incorporated in countries that are not members of NATO or EU and have not signed a security agreement with Denmark may not be approved on grounds of security and other national security interests.

##### **2.4.1 Information regarding Subcontractors**

The Supplier shall prior to subcontracting any work under the Contract give DALO notice regarding the use of Subcontractors under the Contract to perform work or supply goods.

Such notice shall as a minimum include the following information about each of the Sub-contractor(s):

- (a) Name, legal identification code and address
- (b) Contact information (telephone number/e-mail) and legal representative
- (c) Full particulars of the work to be subcontracted
- (d) Approximated amount of the work to be subcontracted
- (e) Names of key personnel at the Subcontractor's facilities involved in the sub-contracted work, including their security status, cf. Annex E.

The information shall be provided to DALO no later than at Commencement (if known), or otherwise without undue delay when the Subcontractor has been chosen by the Supplier. Information concerning any changes in the information given and concerning any new Sub-contractor participating or replacing a Subcontractor shall also be provided to DALO without undue delay.

DALO may at any time demand that the information in (a)-(e) above and any changes herein is provided concerning each of the subcontractors in the chain of subcontractors used by the Subcontractor(s).

## **2.5 Delivery Time**

The Supplier shall provide the Full-Service Aircraft Charter on the date(s) and time(s) as stated in a Requisition for an Individual Chartering.

## **2.6 Place of Delivery**

The place of commencement of the provision of the Full-Service Aircraft Charter (airport of the departure) according to a Requisition of an Individual Chartering is Copenhagen Airport, Kastrup (EKCH).

However, commencement of the provision of the Full-Service Aircraft Charter can be any airport in the world. In such event, the Supplier may deduct Flight Hours to the requested departure airport from the Flight Hour Allotment.

## **3. PRICE**

The Supplier shall yearly deliver a 480 Flight Hour Allotment, which covers the Aircraft, the Crew, maintenance, insurance and Other Services, see Annex C, at a fixed yearly amount of

[XXXX] EUR

which shall constitute the Price.

Unused Flight Hours in a given year is forfeited.

The Supplier shall, in addition to the Price stated above, be entitled to reimbursement of Direct Operating Costs connected to Individual Chartering, e.g.

- food and accommodation for Crew not exceeding the costs covered according to the rules of the Danish State for travel costs etc.,
- fuel\*,
- airport fees,
- ATC-charges,
- de-icing, parking,
- VIP-handling (including lounge),
- overnight Aircraft parking

\* It should be noted that the price for fuel provided by DALO in Annex C.1 was solely for the purpose of tender evaluation. This price is therefore not binding on the Supplier under the terms of the Contract.

The Supplier is not entitled to an administrative fee (or any other overhead) in connection with the reimbursement of Direct Operating Costs, as this is part of the Price as Other Services (see above).

Further, the Supplier is entitled to invoice DALO for catering and SATCOM in accordance with the prices in Annex C.1.

All taxes, duties and government charges, that the Supplier is obligated to pay in in connection with the Contract, including custom, however exclusive of Danish VAT (in Danish: Moms), shall be included in the Price.

The Price shall be subject to price adjustments in accordance with Annex D.

The Supplier shall submit all invoices inclusive of all taxes, duties and levies and shall specify in the invoice how the VAT is calculated.

#### **4. REQUISITION FOR AN INDIVIDUAL CHARTERING**

DALO may place an order for an Individual Chartering by submitting a Requisition. The Requisition shall be sent to the Supplier by:

E-mail : [To be inserted after conclusion of the tender procedure]

The Requisition shall include a complete travel plan, including:

- Destination(s)
- Time for take-off
- Actual number of Passengers
- An accurate List of Passengers

- Luggage information
- Catering for Passengers
- Time and date for return flight to Copenhagen Airport

DALO shall give the Supplier all necessary information and assistance to complete traffic documents relating to the Individual Chartering as soon as possible after having placed a Requisition.

DALO is responsible to assure that Passengers have all required travel documents and, if necessary, visas and permits for entry or transit through another state and that they comply with all security measures.

DALO shall be responsible for ensuring that Passengers and their luggage arrive at the specified check-in point at the departure airport in sufficient time to be carried on the Individual Chartering.

The Supplier shall send a Requisition Confirmation to DALO no later than 4 (four) hours after receipt of the Requisition.

The Requisition Confirmation shall include:

- At what time the Passengers' luggage shall be delivered in the departure airport and where
- At what time the Passengers shall meet in the departure airport and where
- Estimated time of arrival at the destination airport
- Any other information necessary concerning the flight(s)

The Individual Chartering shall take place at the date and time stated in the Requisition.

The Supplier may furthermore allow DALO to place orders for Individual Chartering through the Supplier's electronic ordering system.

## **5. PAYMENT**

### **5.1 Payment conditions**

The Supplier may invoice 1/12 of the Price at the end of each month.

The Supplier may invoice Direct Operating Costs, SATCOM and catering at the end of each month.

DALO shall pay all invoices no later than 30 (thirty) Days after the Supplier has electronically forwarded the invoice, provided that it has been accepted and contains all relevant information.

Where DALO purchases additional Flight Hours in accordance with the Clause 14, the Supplier may send an invoice when the Flight Hours have been carried out.

Payment from DALO in accordance with the provisions of the Contract shall not in any way constitute approval by DALO of the quality or timely receipt of the Individual Chartering.

## **6. INVOICING**

### **6.1 Domestic Suppliers and foreign Suppliers with a Danish CVR no.**

Domestic Suppliers and foreign Suppliers with a Danish CVR no. shall submit invoices in accordance with the Danish Public Payments Consolidated Act No. 798 dated 28 June 2007, as amended, (lovbkg. nr. 798 af 28. juni 2007 om offentlige betalinger m.v.) concerning electronic invoicing to:

Forsvarsministeriets Regnskabsstyrelse (Danish Defence Accounting Agency)  
Arsenalvej 55  
9800 Hjørring  
Denmark

The invoice shall be submitted in OIUBL format or in PEPPOL format with reference to contract number 530000[XXXX], electronic invoicing address (EAN location number), and reference person / staff number to the contact person from DALO assigned to the Contract. Further information is available at:

<http://oiubl.info/classes/da/index.html>  
<https://peppol.eu/downloads/post-award/>

If the invoice is submitted from a scanning bureau, it is still the Supplier's responsibility that the invoice complies with applicable requirements concerning e-invoicing.

DALO will reject any invoice which does not comply with applicable requirements concerning e-invoicing.

Any other information or enquiries concerning payment, e.g. credit note, reminder etc., shall be submitted by email to [FRS-KTP-KRE-INVOICE@mil.dk](mailto:FRS-KTP-KRE-INVOICE@mil.dk).

## **6.2 Foreign Suppliers without a Danish CVR no.**

Foreign Suppliers without a Danish CVR no. shall submit invoices in PEPPOL format or in PDF format referring to contract number 530000[XXXX], and reference person / staff number to the contact person from DALO assigned to the Contract. Invoices sent in PDF format shall be submitted to both [FRS-KTP-KRE-INVOICE@MIL.DK](mailto:FRS-KTP-KRE-INVOICE@MIL.DK) and [FMI-KTP-SC-IMPORT@MIL.DK](mailto:FMI-KTP-SC-IMPORT@MIL.DK).

Invoices sent in PEPPOL format shall be submitted to [FMI-KTP-SC-IMPORT@MIL.DK](mailto:FMI-KTP-SC-IMPORT@MIL.DK).

If possible, the foreign Suppliers can submit the invoice electronically in OIUBL format.

If foreign Suppliers have a Danish CVR number the terms applicable to domestic Suppliers become effective, cf. clause 6.1.



If an electronic invoice does not comply with the requirements above, the invoice will be rejected and returned as incorrect, and no payment will take place. Likewise, no interest will be paid for the period until a correct electronic invoice has been submitted.

Any other information or enquiries concerning payment, e.g. credit note, reminder etc., shall be submitted by email to [FRS-KTP-KRE-INVOICE@mil.dk](mailto:FRS-KTP-KRE-INVOICE@mil.dk).

## **7. CYBER-ATTACK**

The Supplier represents and warrants that before signing the Contract DALO has been provided with information regarding any cyber-attacks the Supplier has been exposed to, where the firewall has been broken down or where the Supplier suspects that the attack was targeted on the Contract.

The Supplier represents and warrants that in the event the Supplier is exposed to cyber-attacks, where the firewall has been broken down or where the Supplier suspects that the attack was targeted on this Contract after signing the Contract the Supplier shall provide hereon information to DALO within 3 (three) Days from the occurrence of the attack / the Supplier's awareness of the attack.

The information given to DALO about the attack shall in detail describe the attack, including a list of the data, documents, pictures etc. that could have been compromised.

## **8. DEFECTS**

Failure of the Supplier to comply with terms and conditions of this Contract is a Defect under this Contract.

The Supplier shall be notified within reasonable time of any Defects found. Reasonable time shall never be less than 14 (fourteen) Days. Immediately hereafter, the Supplier shall

confirm the receipt of such notice and take necessary action to mitigate DALO's loss or the disruption caused by the Defects.

In case of Defect DALO shall be entitled to claim a price reduction, whereby DALO shall only pay such price for the defected Individual Chartering as is deemed fair and reasonable taking into account the nature and number of the Defects in question, including the ability to fulfill the Fit for Purpose obligation.

DALO's rights under this clause shall be without prejudice to DALO's use of any other remedies of breach.

### **8.1 Material Defects**

If the Defects are substantial in number, or the nature of the Defect(s) deprive DALO of the intended use of the Contract, this shall constitute a material breach of the Contract, entitling DALO to remedies as set out in clause 11.

## **9. DELAY**

### **9.1 The Supplier's Delay**

The Supplier will not be liable to DALO and the Passengers for delay or cancellation arising from any cause beyond the Supplier's control, including extraordinary circumstances that could not have been avoided even if all reasonable measures had been taken.

Such circumstances include in addition to the circumstances mentioned in Clause 13.2 – force majeure: meteorological conditions (fog, snow, storms, ice formation etc.), security risks, unexpected flight safety shortcomings (incl. technical problems, airport related problems such as runway closures and limitations, etc.), Air Traffic Control decisions, embargo, general insurance market failure to provide required level of cover.

If the Supplier fails to provide Individual Chartering to the agreed time, and this is not due to conditions mentioned above or force majeure, see clause 13.2, such delay shall constitute Delay in performance.

Where a Delay occurs or is expected to occur, the Supplier shall promptly take effective steps to avoid such Delay.

The Supplier shall furthermore promptly notify DALO in writing that Delay has occurred or is expected to occur and state the cause of such Delay and its expected duration. In the notification, the Supplier shall state the steps which will be taken by the Supplier to ensure that the Delay is avoided. In addition, the Supplier shall notify DALO on an ongoing basis about the Delay that has occurred or is expected to occur, including when Delivery is expected.

In the event of Delay of an Individual Chartering, DALO shall be entitled to charge a Penalty from the Supplier due to the Delay.

The Penalty for each commenced hour Delay of an Individual Chartering shall amount to 1/960 of the Price.

The total Penalty cannot exceed 10 % (ten percent) of the Price.

The Penalty shall be payable upon request from DALO. DALO shall be entitled to set off any Penalty amount against any amounts owed to the Supplier.

DALO shall not be entitled to claim damages for Delay in addition to the Penalty.

## **9.2 DALO's Delay**

In the event of delayed payment from DALO to the Supplier, the Supplier shall be entitled to interest at the default interest rate applicable to delayed payments (in Danish: "Mora-rente") fixed in clause 5 (1) in the Danish Interest Act.

If the payment from DALO is delayed, and a period of 3 (three) months have lapsed after the Supplier's written notice of the delay, the Supplier may terminate the Contract.

The Supplier shall without undue delay notify DALO in writing of the termination.

#### **10. CANCELLATION OF A REQUISITION FOR AN INDIVIDUAL CHARTERING**

DALO shall be entitled to cancel wholly or partly an Individual Chartering prior to departure upon notice in writing to the Supplier.

In case DALO cancels an Individual Chartering outside 72 hours before the departure, no cancellation fee shall be paid to the Supplier.

In case DALO cancels an Individual Chartering within 36-72 hours before the departure, cancellation fee in the amount of 10 % of the estimated Flight Hours connected with the Individual Chartering will be deducted from the Flight Hour Allotment.

In case DALO cancels an Individual Chartering within 36 hours before the departure, cancellation fee in the amount of 25 % of the estimated Flight Hours connected with the Individual Chartering will be deducted from the Flight Hour Allotment.

In case DALO cancels an Individual Chartering within 12 hours of departure, cancellation fee in the amount of 50% of the estimated Flight Hours connected with the Individual Chartering will be deducted from the Flight Hour Allotment.

In case DALO cancels an Individual Chartering within 6 hours of departure, cancellation fee in the amount of 100% of the estimated Flight Hours connected with the Individual Chartering will be deducted from the Flight Hour Allotment.

## **11. TERMINATION**

### **11.1 Termination for cause**

Where breach has occurred or is expected to occur, the Party in breach shall promptly notify the other Party in writing of the breach, the cause of the breach, and when the breach is expected to be remedied.

### **11.2 DALO's termination of a Requisition**

DALO shall be entitled to promptly terminate a Requisition, in whole or in part, if the Supplier is in material breach of such Requisition. The following breaches shall always be deemed to constitute material breach of the Requisition (the list is not exhaustive):

- a) If an Individual Chartering is delayed with six (6) hours or more (and this is not due to circumstances stated in clause 9.1 and 13.2).
- b) If the Supplier has committed several breaches which, separately, are not material, but which as a whole are material to DALO.
- c) If the nature of a Defect deprives DALO of the intended use of the Individual Chartering.
- d) If the Contract has been terminated by DALO, cf. clause 11.4.

Upon termination, the Supplier shall promptly reimburse DALO the payment of the Individual Charterings covered by the termination without any deduction. The Supplier shall not be entitled to payment for terminated Requisitions.

### **11.3 Supplier's termination of a Requisition**

The Supplier shall not be entitled to terminate a Requisition.

### **11.4 DALO's termination of the Contract**

DALO shall be entitled to terminate the Contract with a notice of 14 (fourteen) Days, if the Supplier is in material breach of the Contract, unless the Supplier has remedied such breach within this period.

However, in case of breach of the labour clause, CSR requirements and/or international sanctions, as set out below, such breach shall be handled in accordance with the procedure set out in Annex B.

The following breaches (the list is not exhaustive) shall always be deemed to constitute a material breach:

- a) If the Supplier fails to offer the Full-Service Aircraft Charter set out in Annex A and Annex C.
- b) If the Supplier has repeatedly committed material breach of a Requisition(s).
- c) In the event of repeated and/or serious non-compliance with the requirements related to the labour clause, CSR requirements and/or international sanctions, cf. Annex B.
- d) The Supplier's failure to take out or maintain insurance pursuant to clause 12.3.
- e) In the event of the Supplier's bankruptcy, unless the Danish Consolidated Act no. 11 of 6 January 2014 on Bankruptcy as amended (in Danish "Konkursloven"), prevents this. In this case the bankruptcy estate must, within 2 (two) Working Days after receipt of an inquiry in writing from DALO, announce whether or not the bankruptcy estate wants to become a party to the Contract.
- f) In the event of the Supplier's commencement of restructuring proceedings, unless the Danish Consolidated Act no. 11 of 6 January 2014 on Bankruptcy as amended (in Danish "Konkursloven"), prevents this. In this case, the reconstructor must, within 2 (two) Working Days after receipt of an inquiry in writing from DALO, announce whether or not the Supplier wants to remain a party to the Contract.
- g) Non-compliance with the security classification provisions in Annex E, cf. clause 2.3.
- h) Violation of the Supplier's obligations concerning publication, cf. clause 17.
- i) Violation of the Supplier's obligations concerning confidentiality, cf. clause 18.
- j) If, pursuant to Danish legislation on investment screening (at the conclusion of the Contract Act No. 842 of 10 May 2021 (the Investment Screening Act, in Danish "investeringsscreeningsloven")), an injunction is issued to terminate the Contract and/or the Supplier's possible authorisation to enter into the Contract is revoked.

If any services rendered are unfit for use due to the termination, the price paid for such services shall be repaid.

If DALO chooses to terminate the Contract, DALO is entitled to make claims for any loss or damages, cf. clause 12.2.

### **11.5 Supplier's termination of the Contract**

If the payment from DALO is delayed, and a period of 3 (three) months have lapsed after the Supplier's written notice of the delay, the Supplier may terminate the Contract and claim interest in accordance with clause 9.2.

### **11.6 Termination due to violation of the public procurement rules**

DALO shall be entitled to terminate the Contract and any outstanding Requisitions with a written notice of 1 (one) month, if DALO's decision to enter into the Contract is annulled (in Danish: "annulleret") by the Danish Complaints Board for Public Procurement or the courts.

DALO shall be entitled to terminate the Contract and any outstanding Requisitions, if the Danish Complaints Board for Public Procurement or the courts declare the Contract ineffective (in Danish: "uden virkning"). DALO shall then be entitled to terminate in whole or in part in accordance with the notice given in the decision. In this instance, the Contract and any outstanding Requisitions shall cease to have effect from the time stipulated in the decision.

The Supplier's claim for damages in these situations shall be settled in accordance with the general rules of Danish law, cf. however clause 12.2 and this clause 11.6.

Furthermore, the reservation for termination with a notice as stipulated above shall be taken into account when calculating the Supplier's loss. If the Supplier knew - or ought to have known - the factual or legal grounds leading to the Danish Complaints Board for Public Procurement or the court's decision declaring the Contract ineffective or DALO's decision

to enter into the Contract annulled (as the case may be), the Supplier shall not be entitled to raise any claim for damages against DALO.

The Parties have agreed that indirect losses shall not be compensated and any claim for damage/compensation by the Supplier shall not exceed the beneficial value of DALO's use of the Contract.

### **11.7 Termination due to compulsory grounds for exclusion**

#### Grounds for exclusion present at the time of award

Pursuant to § 185 (1), 2) of the Public Procurement Act, a contracting authority may terminate a contract where the Supplier was subject to one of the grounds for exclusion under §§ 135-137 at the time of award of the contract with subsequent exclusion of the Supplier from the procurement procedure.

If DALO ascertains that the Supplier or any Subcontractor(s) at the time of award of the Contract was subject to a compulsory ground for exclusion as stated in or equivalent to §§ 135 and 136 of the Public Procurement Act, DALO shall give the Supplier an appropriate time limit to document that the Supplier is reliable in accordance with or equivalent to § 138 of the Public Procurement Act.

If the Supplier has not provided documentation for the Supplier's reliability satisfactory to DALO within the time limit, DALO shall be entitled to terminate the Contract with a written notice of 1 (one) month.

Correspondingly, DALO shall give the Supplier an appropriate time limit to document that the Supplier is reliable in accordance with or equivalent to § 138 of the Public Procurement Act, if the compulsory ground for exclusion (a) concerns any Subcontractor(s) on which the Supplier is based in accordance with or equivalent to § 144 (5) of the Public Procurement



Act, or (b) concerns any Subcontractor(s) where the Supplier on DALO's request has submitted a declaration stating that the Subcontractor(s) are not subject to grounds for exclusion in accordance with or equivalent to § 177 (5) of the Public Procurement Act.

If the reliability of the Subcontractor in question has not been documented satisfactory to DALO within the time limit, the Supplier shall replace the Subcontractor and give notice to DALO with whom the Subcontractor is replaced by in accordance with or equivalent to §§ 177 (5) and 147 of the Public Procurement Act.

DALO may demand any Individual Chartering under the Contract that has not yet been carried out shall be suspended during the self-cleaning period. The Supplier is not entitled to any payment for suspended deliveries.

The Supplier is further not entitled to any damages/compensation for loss in connection with suspension or termination.

Grounds for exclusion emerged throughout the duration of the Contract.

If the Supplier or any Subcontractor(s) throughout the duration of the Contract becomes subject to a compulsory ground for exclusion in accordance with or equivalent to §§ 135 (1) or (2) of the Public Procurement Act, the Supplier shall immediately give written notice to DALO.

Furthermore, the provisions set out above under the headline "Grounds for exclusion present at the time of award" apply correspondingly.

## **12. DAMAGES AND INSURANCE**

### **12.1 Aviation Liability of the Supplier**

The Supplier shall be liable in accordance with the rules of Regulation (EU) N° 2027/1997, as amended by Regulation (EU) N° 889/2002, and if applicable the rules of Danish Law.

If, in this connection, a claim from a third party is raised against DALO, the Supplier shall indemnify DALO for any loss, provided that the Supplier is liable under the rules of Regulation (EU) N° 2027/1997, as amended by Regulation (EU) N° 889/2002, and if applicable the rules of Danish Law.

### **12.2 Other Liability**

In cases other than those regulated in Clause 12.1, the Parties shall be liable in damages pursuant to the general rules of Danish law.

Neither Party shall be liable for operating losses, consequential losses, or other indirect losses. However, this shall not apply to losses caused by intentional acts or gross negligence by the Party causing the loss, or if the loss relates to the Supplier's liability for product liability for personal injury.

The liability of the Parties during the term of the Contract shall be limited to 5 (five) million EUR.

The limitation of liability shall not apply in case of intentional acts or gross negligence.

With regard to product liability for damage to property, the limitation of liability shall apply only to liability in excess of the insurance cover.

The limitation of liability shall not apply to personal injury, nor in the event of the Supplier's non-compliance with the obligation to take out product liability insurance in accordance with clause 12.3.

The limitation of liability shall not include Penalty paid in accordance with clause 9.1.

### **12.3 Insurance**

The Supplier shall take out and maintain an aviation liability insurance, a product liability insurance and a general liability insurance at levels ensuring coverage for personal injury

and property damage caused by the Individual Charterings or the use of the Individual Charterings consistent with good industry practice.

The aviation liability insurance taken out shall meet the requirements in Regulation (EC) No 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators.

The Supplier shall on DALO's request provide documentation that the insurance requirement has been complied with.

### **13. MISCELLANEOUS**

#### **13.1 Assignment and change-of-control clause**

The Supplier shall not transfer any obligations or rights arising out of the Contract to any other party without the prior written approval of DALO.

If the ownership of the Supplier changes, in whole or in part, during the term of the Contract, the Supplier shall inform DALO thereof in writing.

If the Supplier or the owner(s) of the Supplier is a company with limited liability/has securities admitted to trading on a regulated market, this provision shall only apply if the change of ownership gives rise to a notification requirement under the Danish Companies Consolidated Act no. 763 of 23 July 2019 with amendments (in Danish: "Selskabsloven" med ændringer)/the Danish Consolidated Act no. 377 of 2 April 2020 regarding Capital Markets with amendments (in Danish: bekendtgørelse af lov om kapitalmarkeder "kapitalmarked-sloven" med ændringer) or would give rise to such a notification requirement if the Danish Companies Act/the Danish Act regarding Capital Markets did apply.

If the change of ownership of the Supplier in DALO's opinion might threaten the proper performance of the Contract in regard to safety and security approval, DALO shall be entitled to issue a written notice to the Supplier with a time limit of 30 (thirty) Days to remedy

the issue. If DALO has not received documentation within the time limit that appropriate remedial action has been taken, DALO shall have the right to terminate the Contract in its entirety with a written notice of 10 (ten) Days.

DALO shall also be entitled to terminate the Contract, if the new owner or controlling party is a person or a company incompatible with the status as supplier of war material, cf. also the Danish War Material Act, Consolidated Act no. 1004 of 22 October 2012 (in Danish: Lov om krigsmateriel mv.).

### **13.2 Force Majeure**

If a force majeure event occurs, the Supplier's and DALO's obligations towards each other shall be suspended for the time being, provided that the force majeure event is notified to the other party with supporting arguments and particulars describing the nature and extent of the force majeure.

Force majeure is defined as an event that is (a) beyond the control of the Parties, and of a certain qualified nature (war, hostilities, riots, pandemics, nuclear or natural disasters, etc.); (b) unforeseeable or not reasonably foreseeable on Commencement; and (c) should not be overcome through reasonable work arrangements or reasonable funds.

It is a condition for claiming force majeure that the notice, including the reasons, is provided within 30 Working Days after the event causing the force majeure event occurred, see para. (a) above.

It is specifically agreed that any export restriction shall not be regarded as a force majeure event, unless the Supplier documents that appropriate measures have been timely taken to obtain and maintain all relevant export and licenses and other clearances necessary for the Delivery, and upon the occurrence of such force majeure event, without undue delay, investigate whether substitute Individual Chartering can be lawfully obtained from other sources. In case such delivery of substitute Individual Chartering is possible, the Supplier shall deliver such without undue delay.

If the force majeure event continues beyond 60 (sixty) Days – not necessarily consecutive, but within the same 120 (one hundred and twenty) Days – each party shall be entitled to terminate the Contract.

In such instance, the Supplier shall be entitled to receive payment for Individual Chartering delivered until the force majeure event occurred.

Notwithstanding the foregoing, if the force majeure event only extends to parts of the Contract, but other parts can be delivered, DALO shall be entitled, but not obliged, to claim delivery of such parts on terms as stated in the Contract.

The Supplier shall then be entitled to ask for a renewed assessment of the prices of the parts in question.

Neither party shall make any claim against the other party based on a force majeure event.

### **13.3 Non-waiver and amendments**

Any consent to or waiver of any provision or breach shall not constitute consent to or a waiver of such provision or breach in the future. Any specific consent or waiver shall be in writing and shall only affect the relevant breach.

No delay or failure by DALO in exercising any of its rights under the Contract shall operate as a waiver of that right.

Additions or amendments to the Contract shall only be valid if agreed upon in writing by both parties.

However, changes regarding the Supplier's contact information (addresses, e-mail, point of contact), DALO's name, e-mail and point of contact can be made by e-mail between the

Parties. Such changes shall be valid when both Parties have confirmed receipt of such an e-mail.

#### **13.4 Precedence of documents**

The provisions of the Contract shall supersede any other correspondence exchanged by the Supplier and DALO.

This contract including its Annexes forms the entire Contract. The following order has been agreed upon in case of any discrepancies between the individual documents:

- i. The wording of this contract
- ii. Annexes to the Contract, where Annex A takes precedence over Annex C, in case of interpretation
- iii. Documents created during execution of the activities under the Contract, e.g. manuals, documentation, etc.

#### **14. OPTIONS**

Option 1:

DALO shall be entitled to renew the Contract on the same terms for 1 (one) year. Renewal shall not take place more than 2 (two) times. DALO shall give notice to the Supplier of renewal no later than 30 (thirty) Days prior to the expiry of the Agreement.

Option 2:

DALO shall be entitled to purchase up to 60 Flight Hours per year in addition to the 480 Flight Hours contained in the Flight Hour Allotment.

Any Requisition for an Individual Chartering outstanding at the time of expiry or termination of the Contract shall be Provided, unless otherwise agreed.

## **15. DURATION**

The Contract shall become effective at Commencement. The Contract shall expire without notice 4 (four) years after Commencement, unless DALO chooses to exercise Option 1 (in clause 14) for renewal of the Contract.

Any Requisition for an Individual Chartering outstanding at the time of expiry or termination of the Contract shall be Provided, unless otherwise agreed.

## **16. EXPIRY OF THE AGREEMENT**

Upon the expiry or termination of the Contract - regardless of its cause - the Supplier shall submit to DALO systematized information regarding all Individual Charterings. This information shall be submitted in a common spreadsheet format (such as Excel or equivalent).

## **17. PUBLICATION**

The Supplier's publication of or reference to the Contract by issuing press releases, advertising, conducting marketing or recruitment campaigns, etc. shall be subject to DALO's prior written consent.

## **18. CONFIDENTIALITY OBLIGATIONS**

The Parties agree to keep confidential all information exchanged between them in connection with this Contract. This includes, but is not limited to, technical data, business plans, plans of the Danish Government, personal information, and any other proprietary information ("Confidential Information").

The confidentiality obligations set forth in this Clause shall remain in effect for a period of five (5) years following the termination or expiration of this Contract.

#### **19. LAW AND VENUE**

Any dispute arising out of or in connection with the Contract shall be governed by Danish law, substantive as well as procedural, however, excluding choice-of-law rules and the United Nations Convention on the International Sale of Goods (CISG).

Any dispute as mentioned above, including any disputes regarding the existence, validity or termination hereof, shall be settled by the Danish ordinary courts of justice.

#### **20. AUTHORISING SIGNATURES**

The Contract shall be signed by the Supplier and DALO.

By their signatures to the Contract, the signatories warrant that they have the authority to commit the party to the Contract on whose behalf the Contract is signed.

An electronically stored version of the signed original Contract (e.g. PDF) shall have the same validity as the original signed copy.





For and on behalf of DALO:

For and on behalf of the Supplier:

Date:

Date:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

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Name in capital letters

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Name in capital letters

Witness to the signature

Witness to the signature

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