

Liability and Indemnity Jet Aviation Australia Pty Ltd

In this Article, all references to the Aircraft Operator / Aircraft Owner / Aircraft Representative (Hereinafter referred to as the “Client”) or the Handling Company shall include their respective related bodies corporate and contractors and each of their directors, officers, employees, servants, agents and subcontractors. “Act or omission” shall include negligence.

1. Except as stated in paragraph 4, the Client shall not make any claim against the Handling Company and shall indemnify the Handling Company against any legal liability for claims or suits, including costs and expenses incidental thereto, in respect of:
 - a. delay, injury or death of persons carried or to be carried by the Client; and
 - b. injury or death of any employee of the Client; and
 - c. damage to or delay or loss of baggage, cargo or mail carried or to be carried by the Client; and
 - d. damage to or loss of property owned or operated by, or on behalf of, the Client; and
 - e. any indirect, consequential or incidental loss or damage;

arising from an act or omission of the Handling Company in the performance (including non-performance) of this Agreement, regardless of whether such liability arises in contract (including under an indemnity, undertaking or warranty), in tort (including negligence or strict liability), at equity, under statute or otherwise at law, unless act or omission of the Handling Company was in breach of the Agreement and done with intent to cause damage, death, delay, injury or loss or recklessly and with the knowledge that damage, death, delay, injury or loss would probably result.

PROVIDED ALWAYS THAT the Handling Company shall have no obligation, liability or responsibility, whether arising in contract (including under an indemnity, undertaking or warranty), in tort (including negligence or strict liability), at equity, under statute or otherwise at law for loss of use, loss of profits, loss of business, loss of opportunity to make a profit, loss of business opportunity, loss of revenue, downtime costs, loss of capital, loss of goodwill, or for any other financial or economic loss damages with respect to any act or omission or any breach of the Agreement, or any non-conformance or defect in any work under this Agreement, supplies, spare parts, equipment, any services (including technical assistance and consulting) and all data and documentation and all other deliverables or other things provided under this Agreement.;

2. The Client shall not make any claim against the Handling Company and indemnifies the Handling Company against any legal liability for claims or suits, including costs and expenses incidental thereto, in respect of (regardless of whether such liability arises in contract (including under an indemnity, undertaking or warranty), in tort (including negligence or strict liability), at equity, under statute or otherwise at law) damage, death, delay, injury or loss to third parties caused by the operation of the Client's aircraft arising from an act of omission of the Handling Company in the performance (including non-performance) of this Agreement unless done with intent to cause damage, death, delay, injury or loss or recklessly and with knowledge that damage, death, delay, injury would probably result.
3. Without prejudice to Article 5 below, the Handling Company shall not make any claim against the Client and shall indemnify it (subject as hereafter provided) against any claim or suits, including costs and expenses incidental thereto, in respect of:
 - a. injury to or death of any employee of the Handling Company, its servants, its agents or its sub-contractors; and
 - b. damage to or loss of property owned or operated by or on behalf of the Handling Company and any consequential loss or damage arising from an act of omission of the Client in the performance of this Agreement,

unless done with the intent to cause damage, death, delay, injury or loss or recklessly and with knowledge that damage, death, delay, injury or loss would probably cause.

4. Notwithstanding paragraph 1(d), the Handling Company shall indemnify the Client against any physical loss of or damage to the Client's Aircraft caused by the Handling Company's negligent operation of ground support equipment PROVIDED ALWAYS THAT the Handling Company's liability shall be limited to any such loss of or damage to the Client's Aircraft in an amount not exceeding the level of deductible under the Client's Hull All Risk Policy which shall not, in any event, exceed USD 1,500,000 except that loss or damage in respect of any incident below USD 3,000 shall not be indemnified. For the avoidance of doubt, save as expressly stated, this paragraph 4 does not affect or prejudice the generality of the provisions of paragraph 1.
5. In respect of all claims, whether due or not, resulting from contractual relations with Client, the Handling Company shall have, in addition to its legal right of retention, a contractual right of lien to any object in its possession provided to the Handling Company, independently of Client's proprietary rights ("Right of Lien"). The Client consents and the Handling Company shall be entitled to enforce such Right of Lien for the purpose of securing any of its claims against Client, including claims resulting from prior business relations with Client.
6. On request of the Client, the Handling Company may arrange for the provision of services other than Aircraft Handling Services (e.g. catering services, taxi services and the arrangement of hotel accommodation)("hereinafter referred to as "Special Services"), subject to the following terms and conditions.
 - a. It is agreed that if the Special Services are provided by third parties, the Handling Company shall only act as an agent on behalf of the Client in engaging the third party to provide the Special Services.
 - b. The Handling Company shall not be liable towards the Client for any type of damage or loss resulting from the provision of Special Services by third parties (including damage or loss resulting from the non-performance by the third party). The Client shall indemnify the Handling Company against any claim or suits, including costs and expenses, from third parties who were engaged to provide the Special Services.
 - c. Unless otherwise agreed between the Parties, the Handling Company shall engage its preferred suppliers for the provision of the Special Services.
 - d. A preferred supplier shall be a supplier who has obtained the relevant licenses that are required by Australian law or any other relevant law.
7. This agreement shall in all respects be governed by and interpreted in accordance with the laws of New South Wales, Australia including all related non-contractual matters and all matters of construction, validity and performance applicable to contracts made and to be performed therein. All disputes arising out of or in connection with this Agreement shall be submitted to the exclusive jurisdiction of the courts of New South Wales, Australia.
8. To the fullest extent permitted by law, the warranties, conditions, representations, obligations and liabilities of the Handling Company and the remedies of the Client set forth in this Agreement, are exclusive and in substitution for, and the Client hereby waives, releases and renounces all other warranties and other obligations and liabilities of the Handling Company, and any other rights, claims and remedies of the Client against the Handling Company, express or implied, arising by law, statute or otherwise, with respect to any breach of the Agreement, or any non-conformance or defect in any work under this Agreement, supplies, spare parts, equipment, any services (including technical assistance and consulting) and all data and documentation and all other deliverables or other things provided under this Agreement, including but not limited to:
 - a. any implied warranty of merchantability or fitness;

- b. an implied warranty arising from the course of performance, course of dealing or usage of trade;
 - c. any obligation, liability, right, claim or remedy in tort, whether or not arising from the negligent act or omission of the Handling Company; and
 - d. any obligation, liability, right, claim or remedy for loss or damage to any property of the Client, including without limitation, any Aircraft.
9. All limitations and exclusions of liability will operate for the benefit of the Handling Company and each of the Handling Company's related bodies corporate, subcontractors, and each of their employees, directors, officers, agents and contractors and the benefit of such limitations and exclusions of liability will be held on trust for each of the Handling Company's related bodies corporate, subcontractors and each of their employees, directors, officers, agents and contractors. The Handling Company may enforce any limitations and exclusions of liability for and on behalf of any Handling Company's related bodies corporate, subcontractors, and each of their employees, directors, officers, agents and contractors.