

**AMENDMENT N° 13.005.SBHA06
TO SUPPORT BY THE HOUR (SBH) CONTRACT ("Amendment No. 6")
Agreement N° 13.005.SBH**

This Amendment N° 6 (the "Amendment") to the Support by The Hour Agreement #13.005.SBH dated as of 20th day of May 2013 (the "Agreement"), is by and between Safran Helicopter Engine USA, Inc., a Delaware corporation *formerly known as Turbomeca USA, Inc.* ("Safran HE USA") and City of Austin on behalf of the Austin Police Department, a State of Texas Agency ("Customer"). Safran HE USA and Customer are parties to a Support By the Hour Agreement. This Amendment shall be made effective as of the 15th day of **September 2019** (the "Amendment Effective Date").

All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement.

The parties hereto hereby agree to amend the Agreement as follows:

1. Article 3.1 "Duration" shall be **AMENDED** to extend the contract term until completion on the 1st day of December 2019 ("Completion Date")

Except as expressly set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. If there is a conflict between this Amendment and the Agreement or any earlier amendment, the terms of this Amendment shall prevail.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be signed by their duly authorized officers or representatives as of the Amendment Effective Date.

City of Austin Procurement

BY: 

Ms. Marian Moore
Procurement Specialist IV

DATE: 9/13/19

Safran Helicopter Engines USA, Inc.

BY: 

Mr. Thierry Derrien
President & CEO

DATE: 9/16/2019

AMENDMENT No. 5
TO
SBH AGREEMENT #13.005.SBH ("Amendment No. 5")
MA 8700 NS130000034

This Amendment No. 5 (the "Amendment") to the *Support By The Hour Agreement #13 005 SBH* dated as of the 20th day of May, 2013 ("Agreement"), is by and between Safran Helicopter Engines USA, Inc., a Delaware corporation formerly known as Turbomeca USA, Inc. ("Safran HE USA") and City of Austin on behalf of the Austin Police Department, a State of Texas Agency ("Customer"). Safran HE USA and Customer are parties to a Support by the Hour Agreement. This Amendment shall be effective as of May 1, 2019 (the "Amendment Effective Date").

All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement.

The parties hereto hereby agree to amend the Agreement as follows:

1. Article 3 shall be modified to extend the contract term through September 15, 2019.

Except as expressly set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. If there is a conflict between this Amendment and the Agreement or any earlier amendment, the terms of this Amendment shall prevail.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be signed by their duly authorized officers or representatives as of the Amendment Effective Date.

AGREED TO:

City of Austin Procurement

Signature: 

Name: Marian Moore

Title: Procurement Specialist IV

Date: 5/6/19

Safran Helicopter Engines USA, Inc.

Signature: 

Name: Thierry Derrien

Title: President & CEO

Date: 5/10/2019



Amendment No. 4
to
Contract No. NS130000034
for
Support by the Hour for Austin Police Department
between
Safran Helicopters Engines USA, Inc.
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be May 21, 2018 through May 20, 2019. Zero options will remain.
- 2.0 The total contract amount is increased by \$113,427.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 05/20/2013 – 05/20/2016	\$340,280.00	\$340,280.00
Amendment No. 1: Option 1 – Extension 05/20/2016 – 05/20/2017	\$113,427.00	\$453,707.00
Amendment No. 2: Name Change 04/19/2017	\$0.00	\$453,707.00
Amendment No. 3: Option 2 – Extension 05/20/2017 – 05/20/2018 Note: Added Attachment "A"	\$113,427.00	\$567,134.00
Amendment No. 4: Option 3 – Extension 05/21/2018 – 05/20/2019	\$113,427.00	\$680,561.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date:

Printed Name: Thierry DERRIEN
Authorized Representative

Safran Helicopters Engines USA, Inc.
2709 Forum Drive
Grand Prairie, Texas 75052
renee.wilson@safrangroup.com
(972) 606-8283

Sign/Date:

Danielle Lord
Procurement Manager

City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701



Amendment No. 3
to
Contract No. NS130000034
for
Support by the Hour for Austin Police Department
between
Safran Helicopters Engines USA, Inc.
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be May 21, 2017 through May 20, 2018. One option will remain.
- 2.0 The City hereby incorporates Attachment "A", amendment to vendor "Support By the Hour" agreement, into the above mentioned contract.
- 3.0 The total contract amount is increased by \$113,427.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 05/20/2013 – 05/20/2016	\$340,280.00	\$340,280.00
Amendment No. 1: Option 1 – Extension 05/20/2016 – 05/20/2017	\$113,427.00	\$453,707.00
Amendment No. 2: Name Change 04/19/2017	\$0.00	\$453,707.00
Amendment No. 3: Option 2 – Extension 05/20/2017 – 05/20/2018 Note: Added Attachment "A"	\$113,427.00	\$567,134.00

- 4.0 MBE/WBE goals do not apply to this contract.
- 5.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 6.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date:

Printed Name:

Authorized Representative

Safran Helicopters Engines USA, Inc.
2709 Forum Drive
Grand Prairie, Texas 75052
renee.wilson@safrangroup.com
(972) 606-8283

Sign/Date:

Linell Goodin-Brown

Contract Compliance Supervisor

City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701



Amendment No. 2
to
Contract No. NS130000034
for
Support by the Hour for Austin Police Department
Between
Turbomeca USA, Inc.
and the
City of Austin

1.0 The Contract is hereby amended as follows: Change the vendor information as requested and documented by the vendor.

	From	To
Vendor Name	Turbomeca USA, Inc.	Safran Helicopters Engines USA, Inc.
Vendor Code	TUR8306567	TUR8306567
FEIN		

2.0 All other terms and conditions of the Contract remain unchanged and in full force and effect.

BY THE SIGNATURE affixed below, this Amendment No. 2 is hereby incorporated into and made a part of the Contract.

A handwritten signature in cursive script that reads "Linell Goodin-Brown".

Linell Goodin-Brown
Contract Compliance Supervisor
City of Austin, Purchasing Office

4-20-17

Date



Amendment No. 1
to
Contract No. NS130000034
for
Support by the Hour for Austin Police Department
between
Turbomeca USA, Inc.
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be effective May 21, 2016 to May 20, 2017. Two options will remain.
- 2.0 The total contract amount is increased by \$113,427.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 05/20/2013 – 05/20-2016	\$340,280.00	\$340,280.00
Amendment No. 1: Option 1 – Extension 05/21/2016 – 05/20/2017	\$113,427.00	\$453,707.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date:

Printed Name: Cedric Todor
Authorized Representative

Turbomeca USA, Inc.
2709 Forum Drive
Grand Prairie, Texas 75052
stephanelewis@turbomeca.com
972-606-7627

Sign/Date:

Linell Goodin-Brown
5-20-16
Linell Goodin-Brown
Contract Compliance Supervisor
City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701



Financial and Administrative Service Department
Purchasing Office

PO Box 1088, Austin, Texas, 78767

September 23, 2013

TURBOMECA USA, INC.
Mr. Russell Spray
2709 North Forum Drive
Grand Prairie, TX 75052

Dear Mr. Spray:

The City of Austin has approved the execution of a contract with your company for Support by the Hour for Turbomeca Gas Turbine Arrius Engine in accordance with the referenced solicitation.

Responsible Department:	Austin Police Department
Department Contact Person:	Albert Banda
Department Contact Email:	Alberto.Banda@austintexas.gov
Department Contact Telephone:	512-974-5273
Project Name:	Support by the Hour for Austin Police Department
Contractor Name:	Turbomeca USA, Inc.
Contract Number:	NS130000034
Initial Contract Period Amount:	\$340,279.50
Initial Contract Period:	05/20/2013 – 05/20/2016
Extension Options:	Three (3) 12-month extension options
Requisition Number:	8700-13053100402
Solicitation Number:	Sole source
Agenda Item Number:	43
Council Approval Date:	8/29/2013

Thank you for your interest in doing business with the City of Austin. If you have any questions regarding this contract, please contact the person referenced under Department Contact Person referenced above.

Sincerely,

Lynn Rich
Buyer I
512-974-2076

CITY OF AUSTIN POLICE DEPARTMENT

**SUPPORT BY THE HOUR CONTRACT
FOR TURBOMECA GAS TURBINE
ARRIUS ENGINE SERIAL NUMBER 34135
INSTALLED ON AIRCRAFT SERIAL NUMBER 1240**

This *Support By the Hour* Agreement (“Agreement”) is made effective as of the 20th day of May, 2013 by and

Between: **TURBOMECA USA, INC. (“TMUSA”)** a Delaware Corporation with its principal office at:

2709 North Forum Drive

Grand Prairie, Texas 75052

Telephone: (972) 606-7600

Facsimile: (972) 606-7692

Represented by: **Mr. J. Russell Spray**
In his capacity of: President and Chief Executive Officer

On the one hand,

And **CITY OF AUSTIN ON BEHALF OF THE AUSTIN POLICE DEPARTMENT (“Customer”)**
with principal offices at:

715 East 8th Street

Austin, Texas 78701

Telephone: (512) 530-2602

Facsimile: (512) 530-2601

Represented by: Kurt Rothert

In his capacity of: Lieutenant

On the other hand,

Hereinafter collectively referred to as “the Parties”.

WHEREAS, TMUSA is engaged in the business of providing depot level maintenance of aeronautical engines; and

WHEREAS, Customer desires to limit major engine maintenance and overhaul expenses and TMUSA desires to provide the opportunity to Customer to limit major engine maintenance and overhaul expenses through the assessment of monthly charges based on a fixed rate for each hour of equipment operation or operational cycle; and

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth in this Agreement; the receipt and sufficiency of which are hereby acknowledged, TMUSA and Customer hereby agree as follows:

ARTICLE 1 – DEFINITIONS

- 1.1. “ACCESSORY” means any Engine accessory or item of Equipment as defined in Exhibit I.
- 1.2. “AIRCRAFT” means the **EC120** aircraft that Covered Equipment is installed in.
- 1.3. “AIRCRAFT ON GROUND (AOG)” is a situation where the Equipment is unable to remain in service or is ineligible for return to service.
- 1.4. “CONSUMABLES” means all expendable material, non-repairable components such as, but not limited to, nuts, bolts, sheet metal work, fuel and lubricants or low-cost parts such as, but not limited to, packing, gaskets, seals filters, etc.
- 1.5. “CORE UNIT” means Equipment that must be returned to TMUSA. This Equipment can be the Customer’s Equipment which is sent for Repair, the Equipment loaned by TMUSA or the repairable accessory in exchange to the one provided by TMUSA as Standard Exchange Equipment.
- 1.6. “COVERED EQUIPMENT” means the Equipment specified in Exhibit I hereto and other Equipment included as Covered Equipment in accordance with Article 2.2 hereof.
- 1.7. “CYCLE” denotes an operation gas generator cycle as reported in the Engine Log Book, in accordance with TURBOMECA instructions as outlined in the Engine Maintenance Manual held by the Customer. Cycles are recognized since the last general overhaul (CSO) and since new (CSN).
- 1.8. “EQUIPMENT” denotes according to context, an engine, a module, an accessory, LRU or a spare part, and includes any component part thereof.
- 1.9. “FOREIGN OBJECT DAMAGE (FOD)” means damage to the Engine resulting from the ingestion of any foreign object.
- 1.10. “LIFE-LIMITED PART” means a part which must be changed after its service life has expired.
- 1.11. “LRU” denotes any engine Line Replacement Unit or item of Equipment as defined in Exhibit I hereto.
- 1.12. “MANDATORY MODIFICATIONS” are modifications required by a mandatory Service Bulletin from TURBOMECA, modifications required by TURBOMECA’s suppliers or required by the Airworthiness Authorities. In any case, Mandatory Modifications are limited to the Equipment covered by this Agreement.
- 1.13. “MODULE” denotes a sub-assembly of the basic engines as described in the Engine Maintenance Manual.
- 1.14. “ON CONDITION EQUIPMENT” shall refer to Equipment which is not subject to TBO.
- 1.15. “OPERATING HOURS” denotes an hour of operation as recorded in the Engine Log Book in accordance with TMUSA instructions as outlined in the Engine Maintenance Manual held by the Customer. Operating hours are recognized since the last general overhaul (TSO) and since new (TSN).
- 1.16. “OVERHAUL” whether scheduled or unscheduled, shall mean the work required which will enable the Equipment to begin a new Time-Between-Overhaul (“TBO”) period.

- 1.17. "REFERENCE DOCUMENTS" denotes the following TURBOMECA documents, and any amendments thereto collectively, "Reference Documents":
- 1) Engine Maintenance (field or modular maintenance),
 - 2) Service Letters,
 - 3) Turbomeca Service Bulletins,
 - 4) Maintenance Tools Catalog; and
 - 5) Maintenance Spare Parts Catalog.
- 1.18. "REPAIR" shall mean the work defined in TURBOMECA's Repair Manual which will enable the Equipment to return to service.
- 1.19. "SCHEDULED REMOVAL" means the removal of Equipment performed in accordance with the time intervals specified in the TURBOMECA Maintenance Manual.
- 1.20. "SERVICEABLE EQUIPMENT" means Equipment in airworthy condition.
- 1.21. "SPARE PART" denotes spare parts to be used for field and/or modular maintenance procedures. Authorized spare parts are identified in the Spare Parts Catalog issued by TURBOMECA.
- 1.22. "STANDARD EXCHANGE" denotes replacement of malfunctioning Covered Equipment with serviceable, repaired/overhauled repairable Equipment in working condition delivered from TMUSA stock irrespective of the previous operator, place of operation, reason for its being handed in, operating hours/cycles available, or modification standard.
- 1.23. "TBO" denotes Time Between Overhaul as defined in the Engine Maintenance Manual and Service Letters.
- 1.24. "TMUSA OWNED EQUIPMENT" denotes Equipment owned by TMUSA.
- 1.25. "TOOLS" are identified in the Engine Maintenance Tools Catalog.
- 1.26. "UNSCHEDULED REMOVAL" means the removal of Equipment performed outside the time intervals or limit intervals as specified in TURBOMECA's Maintenance Manual.
- 1.27. "TURBOMECA" designs and manufactures gas turbine helicopter engines with the registered Trade Name of Turbomeca gas powered Engine. Turbomeca is also the French affiliate and parent company of Turbomeca USA.

Note: Words used in the singular shall include plural and vice versa unless contrary intention should appear.

ARTICLE 2 – PURPOSE AND SCOPE OF THE AGREEMENT

- 2.1. Purpose. The purpose of this Agreement is to specify the conditions under which TMUSA will provide to Customer, and Customer will obtain from TMUSA, maintenance and overhaul support for Covered Equipment (as hereinafter defined) at a fixed hourly or cyclical rate.
- 2.2. Scope. This Agreement applies only to the Covered Equipment. The inclusion as Covered Equipment of any Equipment not listed in Exhibit I hereto must be made in writing, and signed by TMUSA and Customer.

- 2.3. This Agreement does not cover the field maintenance described in TURBOMECA's Maintenance Manual which is to be performed by the Customer.
- 2.4. Property Rights in Covered Equipment. Covered Equipment that is removed from the Customer's helicopter remains the property of the Customer. Covered Equipment that is removed from Customer's helicopter and is replaced with Standard Exchange Equipment becomes the property of TMUSA and the replaced Standard Exchange Equipment becomes the property of Customer.

ARTICLE 3 – DURATION

- 3.1. The term of this Agreement shall commence on the 20th day of May 2013 ("Effective Date") and shall continue until completion on the 20th day of May 2016 ("Completion Date").
- 1) Beyond this initial three (3) year period, this Agreement may be renewed for three consecutive one year periods subject to the approval of TMUSA and Customer's Purchasing Officer or his designee.
 - 2) Upon expiration of the initial term or period of extension, TMUSA agrees to hold over under the terms and conditions of this Agreement for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 days unless mutually agreed on in writing).
- 3.2. The awarding or continuation of this Agreement is dependent upon the availability of funding. Customer's payment obligations are payable only and solely from funds Appropriated and available for this Agreement. The absence of Appropriated or other lawfully available funds shall render the Agreement null and void to the extent funds are not Appropriated or available. Customer shall provide TMUSA written notice of the failure of Customer to make an adequate Appropriation for any fiscal year to pay the amounts due under the Agreement, or the reduction of any Appropriation to an amount insufficient to permit the Customer to pay its obligations under the Agreement. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to Customer.

ARTICLE 4 – CONDITIONS TO QUALIFY FOR THIS AGREEMENT

- 4.1. Similar Equipment. As a condition to this Agreement, Customer shall enter in a *Support By the Hour* Agreement with TMUSA for any and all Equipment relating to a EC-120 aircraft owned or operated by Customer that is the same or similar to Covered Equipment.
- 4.2 All Equipment covered under this Agreement shall be serviceable.

ARTICLE 5 – DEFINITION OF SERVICES

- 5.1. The services provided by TMUSA to Customer under this Agreement are as follows:
- 1) Repair of Equipment for unscheduled removals requiring Level 3 or 4 maintenance;
 - 2) Overhaul of Equipment;
 - 3) Replacement of Life-Limited Parts;
 - 4) Use of a rental engine and/or modules at program hourly rate when required during repairs or overhaul of Covered Equipment;

- 5) Standard Exchange of Repairable Accessories as appropriate to replace Repairable Accessories covered by this Agreement;
 - 6) Supply of consumables and non-repairable LRUs to include a provisioning at Customer's site; and
 - 7) Incorporation of mandatory modifications;
 - 8) Training of field technicians; and
 - 9) Use of special tooling.
- 5.2. Mandatory Bulletins. Mandatory modifications are included in the scope of this Agreement.
- 5.3. TMUSA may decide to perform maintenance at the Customer's primary facility which is not field maintenance as described in the Maintenance Manual to avoid the exchange or return of Covered Equipment to TMUSA. In the event TMUSA elects to perform maintenance at Customer's facility, TMUSA shall bear all related expenses for technician's labor and travel.
- 5.4. Premature Wear or Failure. In the event of a breakdown or deterioration of the Covered Equipment due to defects in design, material, or workmanship in the manufacture, repair or overhaul of the Covered Equipment ("Premature Wear or Failure"), TMUSA will replace or repair the Covered Equipment, provided, however, that the choice between replacement or repair of Covered Equipment shall be made at the sole discretion of TMUSA.
- 5.5. Repair or Replacement. In the event that any Covered Equipment reaches TBO or exhibits Premature Wear or Failure, TMUSA will, at its sole discretion and consistent with its obligations hereunder, determine the extent of repair or replacement required.
- 5.6. TMUSA's Right to Replace Parts. TMUSA reserves the right, at its sole discretion, to use new or serviceable used replacement parts in the course of repair or overhaul performed pursuant to this Agreement.
- 5.7. Force Majeure. Neither party shall be liable for a delay or failure to perform hereunder due to causes beyond its reasonable control, including but not limited to, fires, explosions, floods, earthquakes, embargoes, wars (declared or undeclared), riots, insurrections, or civil commotion.
- 5.8. Publications Revisions. TMUSA agrees to provide, at no additional charge, revision service for Turbomeca publications including the Engine Maintenance Manual, Spare Parts Catalog, Service Bulletins, Service Letters, and General Information Letters, for each year this Agreement remains in effect.
- 5.9. Technician Training. TMUSA agrees to provide Customer one (1) position per year in the Arrius 2 Field Maintenance training course per engine enrolled. Customer is responsible Customer's technician's travel, transportation, lodging, meals and expenses incurred while attending the Field Maintenance Course at TMUSA.
- 5.10. Use of Special Tooling. TMUSA agrees to lend, at no additional charge, special engine tools to Customer for carrying out field and/or modular maintenance works described in the Engine Maintenance Manual for each year this Agreement remains in effect. Customer is responsible for repair or replacement of special engine tooling if lost or damaged due to misuse, abuse, or breakage while in Customer's possession. Customer agrees to promptly return special engine tools borrowed from TMUSA within five (5) business days after receipt of tooling at Customer's

facility. Beyond this time period, Customer shall be invoiced the daily rate in effect at that time for use of tooling as listed in the Turbomeca Price Catalogue.

5.11. Exclusions. The following supplies and services are excluded from the scope of this Agreement:

- 1) Procurement of spare Equipment not covered elsewhere in this Agreement;
- 2) Replacement of parts due to erosion, corrosion or FOD or items listed in Article 11.4 herein below;
- 3) Replacement of missing parts upon return of engine;
- 4) Monitoring of Covered Equipment by spectrometric oil analysis or by particulate analysis;
- 5) Supplying of fuels or lubricant materials (other than for Covered Equipment testing);
- 6) Purchase of tools for carrying out field and/or modular maintenance of the Covered Equipment;
- 7) Carrying out field maintenance works to include engine removal described in the Engine Maintenance Manual;
- 8) Monitoring of hours and cycles for purposes of determining the requirement of on condition or scheduled inspections, expiration of life-limits or TBO;
- 9) Calendar inspections of engine, modules or repairable accessories; and
- 10) Non-mandatory modifications.

5.12. TMUSA may decide to perform maintenance work that is not field maintenance as described in TURBOMECA's Maintenance Manual at Customer's facility or base to avoid the return or exchange of Equipment to TMUSA's factory. This work will be performed by one of TMUSA's field technicians and in this case, TMUSA shall bear the related expenses.

5.13. Regarding the maintenance work not included in the scope of this Agreement, Customer may place an order to TMUSA to perform an intervention on site. Such intervention will be invoiced according to TURBOMECA's price list at such time.

5.14. Replacement Engine and/or Modules. In the event Customer's engine and or/modules requires removal for scheduled or unscheduled maintenance, TMUSA shall supply Customer with an engine or module as is appropriate to operate until Customer's module or engine is repaired or overhauled. TMUSA shall provide the engine for Customer's use at the current Fixed Hourly Rate then in effect as described in Article 11.1 of this Agreement. Customer shall be required to execute a Lease Agreement, if applicable, as attached hereto as Exhibit II and comply with all insurance requirements prior to the shipment of the engine or module.

ARTICLE 6 – OBLIGATIONS OF CUSTOMER

6.1. Scheduled Removal. Customer is not entitled to remove serviceable Equipment for overhaul before the Equipment reaches the end of its TBO period.

- 1) Requests for use of a rental engine or module shall be sent at least sixty (60) calendar days before the scheduled date of removal in writing to TMUSA.

6.2. **Unscheduled Removals.** In the event of an Unscheduled Removal, Customer shall perform the relevant troubleshooting prior to removal. Removal of Covered Equipment without prior approval of TMUSA may result in Customer being responsible for all associated removal and maintenance costs for the removed Equipment if the removal cause is not confirmed by TMUSA.

6.3. **Field Maintenance.** Customer shall be responsible for field maintenance of Equipment covered by this Agreement and the Equipment shall be operated and maintained in accordance with TURBOMECA's Maintenance Manual and by using Tools as specified in such documentation. The following TURBOMECA documents shall be used as reference:

TURBOMECA's Maintenance Manual
TURBOMECA Service Letters
TURBOMECA Service Bulletins
Maintenance Spare Parts Catalogue of the Engine
Maintenance Tools Catalogue of the Engine.

- 1) Any maintenance operation performed by the Customer must be performed by technicians qualified by TMUSA. Technicians' qualification level must be compliant with TURBOMECA's Maintenance Manual. TMUSA shall provide Customer with the most current TURBOMECA Maintenance Manuals and amendments.

6.4. **Reporting.**

- 1) **Monthly Report.** Each month Customer shall submit to TMUSA a written report, in the form of Exhibit III, incorporated by reference, of Covered Equipment's operation, as of the last day of the prior calendar month, including: beginning hours, run time, ending hours, CSO, CSN, TSO and TSN ("the Monthly Report"). The Monthly Report must be received by TMUSA by the tenth (10th) calendar day of the month. In the event the Monthly Report is not received by TMUSA by the tenth (10th) calendar day of the month, TMUSA will invoice Customer based on an average of previously reported hours and cycles flown. This invoice will be due within thirty (30) days from the invoice date. In the event an adjustment is required, the adjustment will be made during the next billing process once a Monthly Report is received from Customer.
- 2) **Notice of Incident.** Customer agrees to inform a TMUSA representative within twenty-four (24) hours of any incident occurring to, or caused by, the Covered Equipment or any other TMUSA Owned Equipment in the custody of Customer. A written report shall be submitted as soon as practical. Notice must precede return of any failed Equipment to TMUSA.
- 3) **Notice of Modification.** The Customer agrees not to undertake any modification or carry out any servicing, maintenance or repair to TMUSA Owned Equipment, components or Covered Equipment which is not provided for in the Reference Documents for the specific equipment, without prior written agreement and approval by TMUSA. Such agreement and approval shall not be unreasonably withheld.
- 4) **Recordkeeping.** Covered Equipment or component documentation such as log book, module sheets and component log cards will be fully maintained in an up-to-date status by Customer. TMUSA will update the module sheets and component log cards, if required and as required, after a repair event is performed.

- 5) Operation and Maintenance Records. Customer shall keep records of Covered Equipment operation, maintenance and running time, and shall permit TMUSA to inspect and copy such records at any reasonable time upon request.
- 6) Change of Ownership and Liens. Customer shall not, except in compliance with Article 14.1 herein, make or suffer to be made any change in the ownership, leasehold, operational interest, or financial interest or utilization of the Covered Equipment or any aircraft on which Covered Equipment is installed without prior written notice to and written approval by TMUSA. Customer shall not do any act that would result in the imposition of any lien, security interest, or other encumbrance on any TMUSA Owned Equipment.

6.5. Customer Insurance Requirements.

- 1) Preservation of TMUSA Owned Equipment. Customer agrees to safely keep, carefully use, and keep in good mechanical and working condition at all times any and all TMUSA Owned Equipment with which Customer is entrusted.
- 2) Insurance in Transit. Customer agrees to provide and maintain ALL RISK PHYSICAL DAMAGE INSURANCE in the amount of full replacement value for all TMUSA Owned Equipment or supplies while in the custody of Customer or in transit to TMUSA. Such insurance is to take effect at the time and place of shipment to TMUSA and shall remain in effect until delivery of said property to TMUSA.
- 3) Insurance In Use. Customer further agrees that during such time any TMUSA Owned Equipment or supplies are installed in Customer's aircraft, Customer shall maintain the following:
 - (a) ALL RISK GROUND AND FLIGHT HULL INSURANCE thereon in an amount sufficient so that TMUSA will recover fully the amount of any loss of said Equipment or supplies; and
 - (b) Customer shall also maintain at all times Aircraft and Bodily Injury and Property Damage Insurance, including Passengers, in an amount of at least \$10,000,000.00 Combined Single Limit.
- 4) Required Insurance Provisions. Any and all insurance policies required herein shall include the following provisions:
 - a) Except in cases of negligence which is not directly attributed to Turbomeca, S.A. or TMUSA, Customer waives its right to bringing any action against Turbomeca, S.A. and/or TMUSA implicating them in any injury, expense or damages suffered because of operation or preservation of the TMUSA Owned Equipment;
 - b) Customer will provide TMUSA with proof of adequate insurance coverage evidencing that the coverage respects the indemnification clause contained in Article 10 of this Agreement;
 - c) All policies must provide that TMUSA be given thirty (30) days advance written notice of material change in or cancellation of the above coverage; and
 - d) In the event of loss, any deductible is to be paid solely by the Customer.

6.6. TMUSA Insurance Requirements. TMUSA shall provide Customer with Certificates of Insurance evidencing the following:

- 1) Specific Coverage Requirements. TMUSA shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of TMUSA.
 - a) Commercial General Liability Insurance. The minimum bodily injury and property damage per occurrence are \$1,000,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries). The policy shall contain the following provisions and endorsements.
 - i. Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.
 - ii. Contractors/Subcontracted Work
 - iii. Products/Completed Operations Liability for the duration of the warranty period.
 - iv. Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage.
 - v. Thirty (30) calendar days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage.
 - 2) Business Automobile Liability Insurance. TMUSA shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements:
 - a) Waiver of Subrogation, Endorsement TE 2046A, or equivalent coverage.
 - b) Thirty (30) calendar days Notice of Cancellation, Endorsement TE 0202A, or equivalent coverage.
 - 3) Worker's Compensation and Employers' Liability Insurance. Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee. The policy shall contain the following provisions and endorsements:
 - a) TMUSA's policy shall apply to the State of Texas.
 - b) Waiver of Subrogation, Form WC 420304, or equivalent coverage.
 - c) Thirty (30) calendar days Notice of Cancellation, Form WC 420601, or equivalent coverage.
 - 4) Endorsements. The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for Customer's review and approval.
 - 5) Certificate: The following statement must be shown on the Certificate of Insurance.

- a) A Waiver of Subrogation is issued in favor of the City of Austin for general liability, auto liability and workers compensation policies.
- 6) **Property Insurance:** TMUSA shall provide All Risk Property coverage including, but not limited to, fire, wind, hail, theft, vandalism, and malicious mischief for all real and personal property owned by the Customer and in the care, custody, and control of TMUSA. The Customer shall be added to the property policy as a Loss Payee as their interest may appear.

ARTICLE 7 – ORDERS AND NOTIFICATIONS

- 7.1. Notifications. All messages or notifications with respect to Customer's intent to sell, notification of sale of Covered Equipment, intent to transfer, changes to company name or changes of address shall be sent electronically to contracts@turbomeca.com. Such notifications will be considered as having been delivered when an automated reply is received by Customer. All other notifications shall be sent by letter or facsimile as provided in this Section 7.1. Such notifications will be considered as having been delivered when they are handed personally, sent by registered mail, or sent by FAX to the address given below:

TURBOMECA USA, INC.
2709 North Forum Drive
Grand Prairie, Texas 75052
Manager of Support By the Hour
FAX: (972) 606-7668

Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under this Agreement to Customer shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Notices to Customer shall be sent to Customer to the address given below:

Customer's Address:

CITY OF AUSTIN – PURCHASING OFFICE
Post Office Box 1088
Austin, Texas 78767
Attn: Contract
Administrator

- 7.2. Orders for Replacement Equipment. Whenever Equipment needs to be replaced, repaired or overhauled, Customer shall notify TMUSA in writing and submit a purchase order containing the following information:
- 1) Aircraft and engine serial number from which Equipment is being removed;
 - 2) Part number, serial number and description of equipment being removed;
 - 3) Quantity required;
 - 4) Required delivery date;
 - 5) Reason for removal; and
 - 6) Address for replacement Equipment to be shipped.
- 7.3. Orders for Non-Covered Services. To the extent that the Customer requests any goods and/or services that are not covered under this Agreement, the Customer shall issue separate purchase orders for such goods or services. Purchase orders issued pursuant to this Section 7.3 shall contain the same information as those orders issued pursuant to Section 7.2

ARTICLE 8 – DELIVERY BY TURBOMECA

- 8.1. Conditions of Shipment to Customer. Unless otherwise specified in an order, TMUSA will ship at TMUSA's risk and expense, Covered Equipment and supplies in packaging which conforms to the manufacturer's specification for long distance airfreight, freight prepaid, to the following address (the "Customer Shipping Address"): **AUSTIN POLICE DEPARTMENT, 715 East 8th Street, Austin TX 78701**
- 8.2. Delivery Lead-Time.
- 1) Standard. In the case of scheduled removal of Covered Equipment pursuant to this Agreement, TMUSA will make every effort to ensure that Replacement Equipment delivery to Customer will take place two (2) days before the removal date declared by Customer on the purchase order for replacement, so long as the request for such Replacement Equipment was received by TMUSA at least sixty (60) days in advance of the scheduled removal date.
 - 2) Emergency "AOG". On occasions when an unscheduled failure occurs to Covered Equipment, and the aircraft is out of service due to the unscheduled failure, TMUSA will make every effort to have the replacement item(s) delivered to the freight carrier within twenty-four (24) hours following TMUSA's receipt of a written order (including FAX) from Customer.
- 8.3. Notification of Delivery. TMUSA will notify Customer of details of delivery of "AOG" Replacement Equipment.

ARTICLE 9 – RETURN OF EQUIPMENT TO TURBOMECA

- 9.1. Shipment to TMUSA. Customer shall ship, at its own risk and expense, to include all customs, duties and taxes, Covered Equipment and other Equipment in packaging which conforms to the manufacturer's specification for long distance air freight, to TMUSA at the following address (the "TMUSA Shipping Address"):
- TURBOMECA USA, INC.
2709 North Forum Drive
Grand Prairie, Texas 75052
- 9.2. Documentation. Any Covered Equipment delivered to TMUSA pursuant to this Agreement is to be accompanied by COMPLETE AND UP-TO-DATE DOCUMENTATION.
- 1) Engines and Modules. For engines and modules, documentation shall include the engine or module logbook together with its appendices and, if Covered Equipment is to be repaired, the Customer's order and the engine removal report reference.
 - 2) Other Covered Equipment. For other Covered Equipment, documentation shall include the engine or module logbook together with its appendices and, if Covered Equipment is to be repaired, the Customer's order and a completed MMIR reporting form.
- 9.3. Promptness of Return. Any Covered Equipment delivered to TMUSA pursuant to this Agreement must be complete, including its documentation as stated in Article 9.2 above, and MUST BE SHIPPED TO THE TMUSA SHIPPING ADDRESS WITHIN FIFTEEN (15) DAYS counting from the day the replacement equipment is received at Customer's facility. Beyond this time limit (in the case of a return) or beyond the time limit specified in Article 13.6 (with respect to termination), Customer will be liable, without any further notice, to a daily fee equal to three hundred dollars (\$300.00) per day.

- 9.4. Costs Incurred on Return. Costs incurred by TMUSA for the examination, diagnosis and handling of Covered Equipment which has been returned to TMUSA with unconfirmed defects, will be invoiced separately, and paid by Customer.

ARTICLE 10 – RESPONSIBLE PARTIES. AIRWORTHINESS AND WARRANTY

- 10.1. **TMUSA EQUIPMENT. CUSTOMER SHALL BE RESPONSIBLE FOR ALL LOSS AND/OR DAMAGE TO TMUSA OWNED EQUIPMENT, WHEN DAMAGE OCCURS DURING CUSTOMER'S CUSTODY OF THE EQUIPMENT OR COMPONENTS, EXCEPT FOR NORMAL WEAR OR DAMAGE TO THE EQUIPMENT BY REASON OF TMUSA'S NEGLIGENCE. SHOULD THE TMUSA OWNED EQUIPMENT (OR ANY COMPONENTS OR PARTS THEREOF) BE LOST OR DESTROYED DURING CUSTOMER'S CUSTODY OF SAME, CUSTOMER SHALL, THROUGH ITS INSURANCE CARRIER, PAY TMUSA, ON DEMAND, THE REPLACEMENT VALUE OF THE EQUIPMENT OR COMPONENTS OR PARTS LOST OR DESTROYED.**


INITIAL

- 10.2. **CLAIMS. TO THE EXTENT ALLOWED BY TEXAS LAW, THE CUSTOMER AGREES THAT IT SHALL INDEMNIFY, DEFEND AND HOLD TMUSA HARMLESS FROM AND AGAINST ANY AND ALL LIABILITY, COSTS, EXPENSES, CLAIMS OR DEMANDS BY CUSTOMER OR ANY THIRD PARTY OF ANY NATURE WHATSOEVER, EXCEPT FOR SUCH LIABILITY RESULTING SOLELY FROM TMUSA'S NEGLIGENCE, FOR DAMAGES BY REASON OF THE INJURY OR DEATH OF ANY PERSON OR DAMAGE TO ANY PROPERTY BELONGING TO CUSTOMER, TMUSA OR ANY THIRD PARTY ARISING OUT OF CUSTOMER'S USE, OPERATION OR CONTROL OF COVERED EQUIPMENT OR TMUSA OWNED EQUIPMENT.**


INITIAL

- 10.3. Damages. As further consideration for this Agreement, it is specifically agreed that neither Customer nor TMUSA shall be liable to the other for any special, consequential, incidental, or indirect damages, including but not limited to, any damages arising out of loss or use of property.

- 10.4. Airworthiness. TMUSA warrants to Customer that:

- 1) All work performed by TMUSA will be in compliance with applicable published airworthiness specifications in effect at the time said work is performed;
- 2) All work performed by TMUSA will be in compliance with applicable published directives and regulations of the Federal Aviation Administration in effect at the time the work is performed;
- 3) All work performed by TMUSA will conform to standards of good workmanship which are customarily recognized in the industry at the time work is performed;
- 4) Equipment, if sold or supplied to Customer by TMUSA, is either new or in serviceable condition at the time of delivery.

- 10.5. Warranty. Both parties agree that:

- 1) The rights and remedies expressly provided to Customer under this Agreement in respect of the performance of the Services shall be the sole rights and remedies of Customer.

- 2) The only warranty granted by TMUSA in relation to the Covered Equipment and Services provided by TMUSA under this Agreement shall, for the duration of this Agreement, consist in the Standard Exchange or repair obligations set out in Article 5 herein.
- 3) Upon expiration or termination of this Agreement, TMUSA grants and the Customer accepts in respect of any Covered Equipment and Services delivered under this Agreement the remaining warranties granted by TURBOMECA at Engine purchase, if any.
- 4) This Agreement is separate from the Turbomeca limited warranty. No other agreement or understanding varying or extending the terms of the Turbomeca limited warranty shall be binding on TMUSA unless expressed in writing and executed by a duly authorized representative of TMUSA.

ARTICLE 11 – PRICING CONDITIONS

- 11.1. Hourly Rate. The current Hourly Rate per operating interval on Arrius 2F Covered Equipment PER HOUR (the “Hourly Rate”) for 1.0 Ng cycles per hour shall be \$181.58 per hour for 1.0 Ng cycle per hour based on 2013 economic conditions.

Beyond January 1, 2014, the Hourly rate shall be escalated based and adjusted based on the current economic conditions. The Hourly Rate will then be revised on the first of January each new year and escalated based on the percentage of increase in standard exchange pricing. In consideration for the services to be performed under this Agreement, TMUSA shall be paid an amount not-to-exceed \$340,280 for the initial thirty-six (36) month term and \$113, 427 annually for the three (3) extension options for a total not-to-exceed Agreement amount of \$680,559 for all fees and expenses; except for those fees and expenses relating to amounts covered by insurance, or additional, supplemental, and miscellaneous charges as set forth in this Agreement.

Cycles in excess of 1.0 Ng cycles per hour shall be invoiced to Customer at the rate of \$4.42 per 0.5 cycles per hour based on 2013 economic conditions and escalated annually based on current economic conditions.

- 11.2. Balance Between Hours/Cycles Declared and Hours/Cycles Logged. When Covered Equipment is returned to TMUSA, if the total hours/cycles declared and paid disagrees with the entries in the log book or log card, TMUSA and Customer will jointly agree to issue an invoice adjustment applying the Fixed Rate in effect at the time of adjustment to the difference in operating hours or cycles.
- 11.3. Premature Overhaul. If Covered Equipment is removed for overhaul at Customer’s convenience prior to its scheduled TBO, Customer shall be invoiced for the difference in the actual hours and cycles consumed on the Covered Equipment up to the time of removal and the scheduled TBO, based on the current Fixed Hourly Rate.
- 11.4. Supplemental Charges for Abnormal Wear, Accident, Modification or Transformation.
- 1) Exclusions. This Agreement specifically excludes from coverage the repair or replacement of Covered Equipment arising from failures of Covered Equipment due to causes beyond normal wear and tear, including, without limitation, failure of Covered Equipment which:
 - a) Has not been operated in accordance with the procedures and standards set forth in the Reference Documents;
 - b) Has not been maintained in accordance with the procedures and standards set forth in the Reference Documents;
 - c) Has been subject to misuses, accidents, incidents, abuse, or force majeure (acts of nature) by any party other than TMUSA;

- d) Has not been properly stored, installed, maintained, utilized or packed for transport by any party other than TMUSA in accordance with the procedures and standards set forth in the Reference Documents;
 - e) Has suffered damage due to corrosion, erosion or foreign object damage, beyond acceptable manufacturer specifications, unless such damage was caused while the equipment was in the possession or control of TMUSA; or
 - f) Has suffered primary breakdown or deterioration of any component that was not acquired by Customer from TMUSA or other sources specifically approved by TMUSA in writing in advance of acquisition.
- 2) **TMUSA Discovery of Exclusion.** TMUSA shall advise Customer upon the discovery of any observed damage to Covered Equipment, which appears to have been caused by any of the reasons, set forth in SubArticle 11.4(1) above. In such cases, Customer shall be responsible for the parts and labor costs of any such repair or replacement of the Covered Equipment ("Excluded Costs") actually caused by any of the reasons set forth in SubArticle 11.4(1), and reimbursement to TMUSA of the Excluded Costs shall be made by Customer in addition to other payments made pursuant to this Agreement. If TMUSA labor is required to repair or replace any Covered Equipment as a result of damage caused by any of the reasons set forth in SubArticle 11.4(1), Customer shall pay TMUSA the lesser of (1) TMUSA's actual direct labor expenses or (2) the TMUSA labor rates published in the current TURBOMECA Price Catalog.
- 3) **Invoicing and Adjustments Upon Discovery of Exclusion.** To take into account the normal wear and tear of some items which are covered in the hourly fee, a credit will be granted to Customer on the amount invoiced for each item that is prematurely replaced for abnormal wear, except in cases of modification of Covered Equipment. This credit will apply only to major items whose list price is greater than or equal to six thousand dollars (\$6,000.00), based on 2008 economic conditions. This value will be revised according to the current economic conditions as outlined in Article 11.1 above. The credit will be calculated as follows:

If the item has a life or use limit:

$$\text{CREDIT} = \frac{\text{ITEM PRICE}}{\text{LIFE LIMIT}} \times \text{SERVICE LIFE LIMIT ELAPSED AT TIME OF ITS REPLACEMENT}$$

If the item has no life or use limit:

$$\text{CREDIT} = \frac{\text{ITEM PRICE}}{\text{PRICE}} \times 35\% \times \frac{\text{TSO}}{\text{TBO}}$$

- 4) **Discovery of Exclusion for Equipment on Loan.** TMUSA shall advise Customer upon discovery of any observed damage to Equipment on loan which appears to have been caused by any of the reasons set forth in SubArticle 11.4(1) above. In such cases, Customer shall be responsible for the parts and labor costs of any such repairs or replacement of the Covered Equipment ("Excluded Costs") actually caused by any of the reasons set forth in SubArticle 11.4(1), and reimbursement to TMUSA of the Excluded Costs shall be made by Customer in addition to other payments made pursuant to this Agreement. If TMUSA labor is required to repair or replace any TMUSA Equipment as a result of damage caused by any of the reasons set forth in SubArticle 11.4(1), Customer shall pay TMUSA the lesser of (1) TURBOMECA Price Catalogue.

11.5. Miscellaneous Expenses.

- 1) **Taxes.** Customer is a tax exempt governmental entity. Customer will furnish a tax exemption certificate upon written request.

- 2) Missing Parts. In the event Covered Equipment is delivered to TMUSA which is not complete because it is missing parts or components, TMUSA will replace any missing parts or components and shall be entitled to charge Customer no more than catalog list price (with any applicable discounts) for the same.
- 3) Labor and Transportation. Customer agrees to bear its reasonable and customary labor and transportation costs for the removal, installation, normal modular and "on condition" maintenance and troubleshooting.

ARTICLE 12 – CONDITIONS FOR PAYMENT

- 12.1 Payment Address. Customer shall send all payments due under this Agreement electronically. For ACH or EFT payments, payments should be sent to:

Citibank N.A.
One Penns Way
New Castle, DE 19720

Account# [REDACTED]
ABA# [REDACTED]

- 1) Each payment should indicate the Covered Equipment serial numbers and the invoice numbers that it covers.
- 12.2. Monthly Payments.
- 1) Customer will be invoiced and shall pay to TMUSA monthly, an amount equal to the Fixed Rate multiplied by the actual hours and cycles of Covered Equipment operation (the "Fixed Rate Charges") as set forth in the Monthly Report and specified in this Agreement, plus any supplemental fees and other charges that may be applicable in accordance with this Agreement.
 - 2) Customer shall notify TMUSA in writing if an invoice is disputed within thirty (30) days of receipt of invoice. Invoices not disputed within this period shall be deemed to be valid under this Agreement until full payment of the amount due has been received from Customer. If coverage is suspended, Customer shall not be entitled to claim any damage or loss resulting directly or indirectly from suspension. Furthermore, TMUSA shall be entitled to terminate this Agreement under Article 13 below.
 - 4) Interest on all amounts past due thirty (30) days or more shall be invoiced and paid at the rate of the lesser of one (1) percent per month or the maximum lawful rate pursuant to Texas Government Code Section 2251.025.
 - 5) Customer shall be responsible for all sums, including attorney fees, reasonably incurred by TMUSA as a result of Customer's default in settling any invoice or invoice installment when due, on any non-disputed invoice or non-disputed invoice installment except for invoices prior to execution of this Agreement; provided that a court of competent jurisdiction enters a final order granting such sums.

ARTICLE 13 – TERMINATION

- 13.1. Default By Customer. If Customer fails to comply with any of the terms or provisions of this Agreement within thirty (30) days of receipt of written notice of any such default, TMUSA may terminate this Agreement by written notice (the "Cancellation Notice") to Customer, without any liability whatever on the part of TMUSA beyond the termination date.

- 13.2. Default By TMUSA. If TMUSA fails to comply with any of the terms or provisions of this Agreement within thirty (30) days of receipt of written notice of any such default, Customer may terminate this Agreement by written notice (the "Cancellation Notice") to TMUSA, without any liability whatever on the part of Customer beyond the termination date.
- 13.3. Loss of Covered Equipment. In the event Covered Equipment is lost or destroyed, Customer has the option to replace with like equipment of equal value based on hours and cycles. If not, the Agreement will be deemed "Terminated" as of the date of loss.
- 13.4. Customer Duties on Termination. Within ten (10) business days after the Termination Date, Customer must return any and all Equipment and supplies belonging to TMUSA to the TMUSA Shipping Address, and pay in full the amount accrued and outstanding charges to TMUSA under this Agreement.

ARTICLE 14 – ASSIGNMENT AND TRANSFER

- 14.1. Sale or Transfer of Covered Equipment. In the event of a sale or transfer of Covered Equipment (the "Transfer") to a third party (the "Transferee"), TMUSA has the right, but not the obligation, to allow Transferee to obtain coverage under this Agreement.
- 14.2. Notice of Intent to Transfer. Customer shall notify TMUSA of Customer's intentions to Transfer, and shall pay all sums normally due TMUSA up to date of Transfer, at least fifteen (15) days prior to Transfer.
- 14.3. Termination of Coverage. In the event that TMUSA does not offer the Transferee, or Transferee does not accept coverage under this Agreement, the notice by TMUSA to Customer, or Transferee to TMUSA, of any such decision shall be the Cancellation Notice and this Agreement shall terminate pursuant to Article 13.3 of this Agreement.

ARTICLE 15 – SOLE CONTRACT/AMENDMENTS

- 15.1. There are no other agreements or understandings, either oral or written, between TMUSA and the Customer affecting this Agreement. This Agreement cancels and supersedes all previous agreements between TMUSA and the Customer relating to the subject matters covered herein.
- 15.2. In the event Customer demands additional services which are not covered by this Agreement, the conditions for the performance of such services will be subject to a specific agreement.
- 15.3. No change, addition to or deletion of any portion of this Agreement shall be valid or binding unless the same is approved in writing by both Parties. The official text of this Agreement is in the English language. If this Agreement is translated into another language for the convenience of Customer or its personnel, the English version shall prevail in the event of a dispute arising out of the interpretation of this Agreement.

ARTICLE 16 – MISCELLANEOUS

- 16.1. Place of Performance and Governing Law. This Agreement is made in the State of Texas and shall for all purposes be governed by and construed in accordance with the laws of such State and the laws of the United States applicable to transaction in the State of Texas.
- 16.2. Change or Modification. No change or modification of this Agreement shall be valid or binding upon the parties hereto unless such change or modification is in writing and signed by all the parties hereto. No waiver of any term or condition of this Agreement shall be enforceable unless it is in writing signed by the party against which it is sought to enforce. No pre-printed or similar terms on any invoice, purchase order or other document shall have any force or effect to change the terms, covenants and conditions of this Agreement.

The waiver by either party of a breach of any provision of this Agreement by the other shall not operate or be construed as a waiver of any subsequent breach by such other party.

- 16.3. **Dispute Resolution.** If a dispute arises out of or relates to this Agreement, or the breach thereof, the parties agree to negotiate prior to prosecuting suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below.
- 1) If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, Customer and TMUSA agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in this Agreement prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. The parties will share the costs of mediation (including mediation fees and expenses, and the fees and expenses of the mediator) equally; provided, that each party shall bear its own costs of participation (including, without limitation, its own attorneys fees or expert fees).
- 16.4. **Severability.** Both parties acknowledge and agree that each agreement or covenant set forth in this Agreement constitutes a separate agreement or covenant independently supported by good and adequate consideration and that each such agreement or covenant shall, if necessary, be severable from the other provisions of this Agreement. This existence of any claim or cause of action of one party against the other party, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement of those separate agreement and covenants. If any provision of this Agreement is held to be illegal, invalid, or unenforceable the remaining provisions of this Agreement shall remain in full force and effect and shall not be effected by the illegal, invalid, or unenforceable provision or by its severance. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there shall be added as part of this Agreement, a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.
- 16.5. **Assignability.** The rights and benefits of either party under this Agreement may not be assigned, nor the duties thereunder delegated by such parties, without written consent, signed by the parties hereto.
- 16.6. **Headings.** The Article leading used in this Agreement are for reference and convenience only and shall not affect the interpretation of this Agreement.
- 16.7. **Amendments.** This Agreement, and any attachments hereto, set forth the complete understanding and agreement of the parties hereto and shall be amended only in writing, signed by both parties.
- 16.8. **Gender.** Whenever in this Agreement the context so requires, the male gender shall include the female and the neuter; the female gender shall include the male and the neuter; and the neuter shall include the male and the female.
- 16.9. **Number.** The use in this Agreement of the singular number shall include the plural, and the plural number shall include the singular wherever appropriate.
- 16.10. **Counterparts.** This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which shall constitute one and the same document.

- 16.11. Non-Suspension or Debarment Certification. Customer is prohibited from contracting with or making prime or sub-prime awards to parties that are suspended or debarred from doing business with the Federal, State or City of Austin Contracts. By entering into this Agreement, TMUSA certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas or the City of Austin.
- 16.12. Advertising. TMUSA shall not advertise or publish, without Customer's prior consent, the fact that the Customer has entered into this Agreement, except to the extent required by law.
- 16.13. Gratuities. Customer may, by written notice to TMUSA, cancel this Agreement without liability if it is determined by Customer that gratuities were offered or given by TMUSA or any agent or representative of TMUSA to any officer or employee of the Customer with a view toward securing this Agreement or securing favorable treatment with respect to awarding or amending or the making of any determinations with respect to the performing of such Agreement. In the event this Agreement is cancelled by Customer pursuant to this provision, Customer shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by TMUSA in providing such gratuities.
- 16.14. Prohibition Against Personal Interest in Contracts. No officer, employee, independent consultant, or elected official of Customer who is involved in the development, evaluation or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Agreement resulting from the solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of TMUSA shall render this Agreement voidable by Customer.
- 16.15. Compliance with Health, Safety and Environmental Regulations. TMUSA and its respective employees shall comply fully with the applicable Environmental Safety and Health regulations set forth by the Occupational Safety and Health Administration, Texas Commission on Environmental Quality and Environmental Protection Agency.
- 16.16. Equal Employment Opportunity. Neither TMUSA or TMUSA's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the Customer shall be considered, nor any Purchase Order issued, or any contract awarded by the Customer unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. TMUSA shall sign and return the Non-Discrimination Certification attached hereto as Exhibit A. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of this Agreement and TMUSA's suspension or debarment from participation on future Customer contracts until deemed compliant with Chapter 5-4.

ARTICLE 17 – CONFIDENTIALITY

The parties hereby agree not to disclose the terms and conditions hereto, as well as the technical documentation, the operation rules, and all information of any nature whatsoever associated with this Agreement, to third parties, without prior written approval from the other Party hereto, subject to any obligations the Texas Public Information Act, Chapter 552, Texas Government Code.

The obligation contained in this article shall survive the termination of this Agreement for ten (10) years.

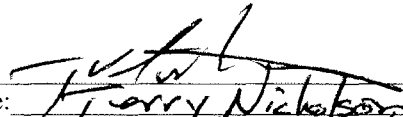


IN WITNESS WHEREOF, the undersigned have executed this Agreement to be effective as of the date set forth above.

TURBOMECA USA, INC.

CITY OF AUSTIN

By: 
J. RUSSELL SPRAY
President & CEO

By: 
Name: Harry Nickerson
Title: Sr. Budget Specialist

DATE: 11 Sep 13

DATE: 9/24/13



Exhibit A

City of Austin, Texas

EQUAL EMPLOYMENT/FAIR HOUSING OFFICE

NON-DISCRIMINATION CERTIFICATION City of Austin, Texas

Human Rights Commission

To: City of Austin, Texas, ("OWNER")

I hereby certify that our firm conforms to the Code of the City of Austin, Section 5-4-2 as reiterated below:

Chapter 5-4. Discrimination in Employment by City Contractors.

Sec. 4-2 Discriminatory Employment Practices Prohibited. As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations and agrees:

- (B) (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other form of compensation, and layoff or termination.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, veteran status, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with OWNER's Human Rights Commission in connection with any investigation or conciliation effort of said Human Rights Commission to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with OWNER subject to the terms of this chapter.

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Nondiscrimination Policy set forth below.

City of Austin

Minimum Standard Non-Discrimination in Employment Policy:

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment

advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE A COPY TO THE CITY OF THE CONTRACTOR'S NON-DISCRIMINATION POLICY ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION POLICY, AS SET FORTH HEREIN, **OR** THIS NON-DISCRIMINATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES (THE FORM OF WHICH HAS BEEN APPROVED BY THE CITY'S EQUAL EMPLOYMENT/FAIR HOUSING OFFICE), WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

Sanctions:

Our firm understands that non-compliance with Chapter 5-4 may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4.

Term:

The Contractor agrees that this Section 0800 Non-Discrimination Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payments, the Contractor's Non-Discrimination Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 11 day of September, 2013

CONTRACTOR

Authorized Signature

Title

TURBOMECA USA, INC.
J. Kenneth Spivey
PRESIDENT & CEO



EXHIBIT I
COVERED EQUIPMENT

This Agreement covers the following Equipment:

Description	Aircraft S/N	Engine S/N	TSO	CSO
Arrius 2F Engine	1240	34135	0.0	TBD

All Repairable and Non-Repairable accessories are covered under this Agreement as outlined in Service Letter No. 2032/01/ARRIUS2F/10 (3rd issue) as revised. At this time the Repairable accessories listed are:

Control and Monitoring Harness	Oil Pump
Fire Detection HarnessT45	Lubrication Unit
Conformation Box	Valve Assembly
Right injector half-manifold	Exhaust Pipe
Left injector half-manifold	
Preference Injector Valve Assembly	
Fuel Control Unit	



EXHIBIT II

**TURBOMECA USA, INC. AND
CITY OF AUSTIN, AUSTIN POLICE DEPARTMENT
LEASE AGREEMENT IN ASSOCIATION WITH SUPPORT BY THE HOUR CONTRACT – TMUSA –
Contract No. 13.005.SBH**

This agreement is entered into and is made effective as of the _____ between Turbomeca USA, Inc., Grand Prairie, Texas, a Delaware corporation (“TMUSA”) and _____ “Lessee”)

1. **LEASED EQUIPMENT** TMUSA shall supply to Lessee, and Lessee shall lease from TMUSA for the purpose described herein below, certain turboshaft engines, modules and accessories, hereinafter referred to as “Equipment”, and more particularly described under Lease Equipment as follows:

Leased Equipment:
Engine/Module Type:

Serial Number:

TSN/TSO:

CSN/CSO:

Customer Property:
Engine/Module Type:

Serial Number:

TSN/TSO:

Reason for Removal

PO #

TMUSA shall, at its sole option, furnish newly manufactured, remanufactured or used equipment which shall be deemed to be airworthy.

2. **TERM** This agreement shall be effective as of the date of signature by both Parties and shall remain in full force until Lessee’s Property has been repaired and returned to Lessee and Leased Equipment has been returned to TMUSA or until terminated in accordance with Article 12 herein below.
3. **FEES** As consideration for the Lease of the Equipment and subject to the Support by the Hour Contract, Lessee shall pay to TMUSA a Lease amount as follows:

- a. **Hourly Rate.** The current Hourly Rate per operating interval on Arrius 2F Covered Equipment PER HOUR (the “Hourly Rate”) for 1.0 Ng cycles per hour shall be \$181.58 per hour up to 1.0 Ng cycles per hour based on 2013 economic conditions.

Beyond January 1, 2014, the Hourly rate shall be escalated based and adjusted based on the current economic conditions. The Hourly Rate will then be revised on the first of January each new year and escalated based on the percentage of increase in standard exchange pricing.

Cycles in excess of 1.0 Ng cycles per hour shall be invoiced to Customer at the rate of \$4.42 per 0.5 cycles per hour based on 2013 economic conditions.

- b. Lessee shall deliver its Lessee Property to TMUSA within ten (10) calendar days of receipt of the Leased Equipment. In the event Lessee does not deliver Lessee Property to TMUSA within the

allotted timeframe, Lessee shall pay a daily fee of \$300.00 (three hundred) USD per day for each day beyond the 15th (fifteenth) day the property is not received at TMUSA in addition to the Lease Charges as reference in Article 3.a. herein above.

- c. Lessee shall return Leased Equipment in accordance with Article 7.d. herein below.

4. INVOICING AND PAYMENT

- a. Lessee shall provide TMUSA, by facsimile transmission addressed to "TMUSA Accounting Manager" at 972-606-7608, on or before the third (3rd) day of each month, the operating hours and cycles for the Leased Equipment for the immediately preceding month using the Monthly Operating Report, the form of which is attached hereto and made a part hereof as Exhibit 1.
- b. In the event that Lessee fails to timely provide the report specified in 4.a. above or fails to accurately report the hours and cycles for the Leased Equipment, Lessee shall be subject to and liable for an additional charge equal to the greater of the amount due based on the accurate report multiplied by 1.5% (one and one-half percent) per month or any portion thereof as of the date the Monthly Operating Report was due or \$150.00 (one hundred fifty) USD.
- c. If required by law, Lessee shall pay and bear all federal, state and local sales, use, excise, personal property and other taxes and all governmental assessments, fees and charges imposed on or in connection with any equipment covered by this Lease Agreement. Lessee shall file any necessary returns connected therewith and shall reimburse TMUSA for any and all such charges paid by TMUSA with respect to such taxes, charges and assessments, including any and all charges for interest and penalties resulting from any late filing or payment due to Lessee's fault or negligence.
- d. In the event that the Lease designated in Article 1 hereinabove is not the result of a claim under warranty, Lessee shall be responsible for any and all costs associated with the shipment of the Leased Equipment, including without limitation, freight, insurance, and transfer charges, from and to TMUSA's facility in Grand Prairie, Texas. In the event that this Lease designated in Article 1 above is accepted as a repair under warranty, then TMUSA shall be responsible for all costs associated with shipment for the return of customer's property to their premises.
- e. TMUSA shall issue to Lessee an invoice, on a monthly basis, for payment at Lessee's billing address. All amounts due to TMUSA under this Lease Agreement shall be due and payable to TMUSA within thirty (30) days from invoice date. Interest on all amounts past due shall be invoiced and paid at the rate of the lesser of one (1) percent per month or the maximum lawful rate pursuant to Texas Government Code Section 2251.025.
- f. Lessee shall remit all payments to TMUSA Texas electronically at:

Citibank N.A.
One Penns Way
New Castle, DE 19720

Account# [REDACTED]
ABA# [REDACTED]

- 5. CHANGES OF PRICES, TERMS AND CONDITIONS** This Agreement can only be modified by a writing signed by both parties. Lessee may terminate this Lease Agreement upon the effective date of such amendment and upon giving a fifteen (15) days prior written notice to TMUSA at the address specified in 4.f. above.

6. OWNERSHIP OF EQUIPMENT

- a. This is an Agreement to lease only and shall not in any way be construed as a contract or agreement for the sale of Equipment.
- b. Lessee acknowledges and agrees that TMUSA is the owner of all Equipment leased hereunder, all of which shall remain subject to possession and control by TMUSA.
- c. Lessee further acknowledges and agrees that it does not have the possessory right to use and operate the Equipment, which possessory right shall be forfeited upon termination or expiration of this Lease Agreement in any manner.
- d. Lessee shall not sell, transfer, sublease or pledge as security any Equipment covered by this Agreement and shall neither make nor permit any alterations to Equipment without the prior written consent of TMUSA.
- e. Lessee shall not relocate the Equipment to a site other than that where the Equipment was first delivered under this Agreement without the prior written consent of TMUSA, which such consent may be withheld by TMUSA for any reason whatsoever.
- f. Lessee shall provide to TMUSA prior written notice of any change in the ownership or identity of Lessee upon which TMUSA shall have the option of terminating this Lease Agreement upon written notice to Lessee.
- g. Lessee shall be responsible for all risk of loss to Leased Equipment during the term of this Lease Agreement.
- h. TMUSA may substitute Leased Equipment of like kind and quality for any of the Equipment leased under this Lease Agreement. Lessee shall afford TMUSA unrestricted access to the Leased Equipment.

7. RETURN OF EQUIPMENT

- a. Upon the expiration or termination of this Lease Agreement, Rental Equipment shall be returned forthwith and without delay, at Lessee's expense, to TMUSA at a location designated by TMUSA and in accordance with return of Rental Equipment guidelines set forth in this Article.
- b. Lessee shall return Rental Equipment in the same condition as when received by Lessee, ordinary wear and tear excepted. If upon expiration or termination of the Lease Agreement, Rental Equipment is returned in unsatisfactory condition, after inspection by TMUSA, Lessee shall pay as an additional charge of any and all costs incurred by TMUSA to clean, repair and replace any damage to Rental Equipment.
- c. Rental Equipment is leased as complete and acknowledged as such by lessee. Lessee shall return Rental Equipment in like configuration. Lessee shall pay as an additional charge of any and all costs incurred by TMUSA to replace any missing parts.
- d. Lessee shall return Rental Equipment to TMUSA within fifteen (15) days following the expiration or termination of this Lease Agreement for any reason. In the event Lessee fails or refuses to return Rental Equipment within said fifteen (15) day period, an amount equal to \$300 per day shall be assessed against Lessee as liquidated damages, and not as a penalty, for each day until Rental Equipment is returned to TMUSA.
- e. Prior to Lessee removing Rental Equipment from Lessee's aircraft, Lessee shall carry out the following checks in accordance with the Turbomeca Maintenance Manual: i) Ground Run Checks; (ii) Vibration Checks; (iii) FCU or HMU Characteristics Control; and (iv) Power Assurance Check; and (v) Usual checks after last daily flight.
- f. Lessee shall record in the logbook power ratings as confirmed prior to Rental Equipment removal.
- g. Lessee's failure to perform, record and report the power assurance checks will result in Lessee being subject to and liable for an additional charge in an amount corresponding to the cost incurred by TMUSA to perform the necessary checks on TMUSA's test bench.

- h. Upon return of the Rental Equipment, TMUSA shall inspect said equipment and if applicable shall invoice Lessee for any missing, replaced or damaged components or accessories in accordance with the current Turbomeca Price list.

8. INSURANCE

- a. Lessee shall, during the term of this Lease Agreement, provide and maintain All Risk Physical damage Insurance in the amount of full replacement value for all Leased Equipment while in the custody of Lessee or in transit to and from TMUSA. Such insurance is to take effect at the time and place of shipment to Lessee and shall remain in effect until Leased Equipment is returned to TMUSA.
- b. Lessee shall, during the term of this Lease Agreement, maintain All Risk Ground And Flight Hull Insurance with respect to Leased Equipment in an amount sufficient so that TMUSA will recover fully the amount of any loss of said Leased Equipment or supplies.
- c. Lessee shall, during the term of this Lease Agreement, maintain at all times Aircraft and Bodily Injury and Property Damage Insurance, including Passengers, in an amount of at least \$10,000,000.00 Combined Single Limit.
- d. Any and all insurance policies required herein shall include the following provisions: (i) all policies must include TMUSA, and its affiliate, Turbomeca S.A., a corporation organized under the laws of France, as additional named insured; (ii) with respect to All Risk Physical Damage And All Risk Ground Flight Hull Insurance, policies are to be endorsed with Loss Payable Clause in favor of TMUSA, as its interest may appear; (iii) all policies must provide Contractual Liability Insurance evidencing that coverage is provided as respects the indemnification clause contained in Article 9 herein below; (iv) Lessee and its respective insurance carriers each shall and hereby do waive any rights of subrogation they each may have against TMUSA and its affiliate Turbomeca S.A., except where any such claim giving rise to possible subrogation is due solely and directly to the failure of Leased Equipment where such failure is not due to any fault or negligence of the Lessee; (v) the insurance required hereunder shall be primary and not contributing with any insurance carried by TMUSA; (vi) all policies must provide that TMUSA will be given thirty (30) days advance notice of material change in or cancellation of the above coverage; and (vii) in the event of loss, any deductible is to be paid solely by the Lessee.

9. INDEMNIFICATION TO THE EXTENT ALLOWED BY TEXAS LAW, LESSEE SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS TMUSA, ITS PARENT, SUBSIDIARIES AND AFFILIATES AND EACH OF THEIR RESPECTIVE DIRECTORS, OFFICERS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL LIABILITY, COSTS, EXPENSES, CLAIMS OR DEMANDS BY LESSEE OR ANY THIRD PARTY OF ANY NATURE WHATSOEVER, EXCEPT FOR SUCH LIABILITY RESULTING SOLELY FROM TMUSA'S NEGLIGENCE, FOR DAMAGES BY REASON OF THE INJURY OR DEATH OF ANY PERSON OR DAMAGE TO ANY PROPERTY BELONGING TO LESSEE, TMUSA OR ANY THIRD PARTY ARISING OUT OF LESSEE'S USE, OPERATION OR CONTROL OF LEASED EQUIPMENT.

10. OPERATION OF EQUIPMENT

- a. Unless otherwise consented to in writing by TMUSA, Lessee shall operate Leased Equipment only in North or Central America.
- b. Lessee shall permit only licensed and safe operators of the helicopter containing Leased Equipment. c. Lessee shall not permit any Leased Equipment to be used in violation of federal, state or municipal statutes, laws, ordinances, rules, regulations, or contrary to the provision of any applicable insurance policy.
- d. Lessee shall indemnify and hold TMUSA, its parent, subsidiaries and affiliates and each of their respective directors, officers and employees, harmless from any and all fines, forfeitures, damages or penalties resulting from violation of such laws, ordinances, rules or regulations.

- e. Lessee shall notify TMUSA immediately of any and all accidents involving Leased Equipment. Such notice shall be in writing and include full details of the accident and the names and addresses of all parties and witnesses. Lessee shall keep TMUSA and the insurer fully informed of all claims, suits or proceedings arising out of any accident involving Leased Equipment. Lessee shall forward to insurer and TMUSA a copy of every demand, notice, summons or other process received in connection with any and all claims, suits or other legal proceedings resulting from an accident involving Leased Equipment leased under this Agreement.

11. REPAIRS AND MAINTENANCE

- a. Lessee shall be responsible for all expenses arising out of the operation of the Leased Equipment, including, without limitation, any equipment failures caused by:
 - 1. Lessee failing to operate Leased Equipment in accordance with the application manual and procedures established by TMUSA;
 - 2. Lessee's negligence with respect to Leased Equipment;
 - 3. Lessee's failure to properly transport, store, install, maintain, or utilize Leased Equipment in accordance with the current operating recommendation and directions of TMUSA;
 - 4. Leased Equipment suffering damage due to the ingestion of a foreign body (FOD) or lightening strike;
- b. TMUSA shall invoice Lessee and Lessee shall be liable for and shall pay to TMUSA all amounts incurred by TMUSA to repair or overhaul Leased Equipment due to any of the above-described causes.

12. TERMINATION

This Lease Agreement may be terminated as follows:

- a. TMUSA may terminate this Lease Agreement without further liability upon written notice to Lessee, with such termination having immediate effect in the event that Lessee fails or refuses to deliver within fifteen (15) days from the date of receipt of Leased Equipment its Customer Property as described in Article 1 above that is to be repaired or overhauled.
- b. TMUSA may terminate this Lease Agreement without further liability, upon written notice to Lessee, with such termination having immediate effect, in the event that Lessee fails or refuses to provide its authorization to perform such repair or overhaul within ten (10) days following its receipt of TMUSA's cost estimate for such repair or overhaul of its Customer Property.
- c. TMUSA may terminate this Lease Agreement without further liability upon written notice to Lessee with such termination having immediate effect, in the event that Lessee breaches any of the terms or conditions of this Lease Agreement or if TMUSA deems the Lease Agreement or the TMUSA's ability to recover the Leased Equipment to be in jeopardy.
- d. Either party may terminate this Lease Agreement for its own convenience and without further liability, upon thirty (30) days prior written notice to the other party.
- e. Upon the expiration or termination of this Lease Agreement, Lessee shall immediately return Leased Equipment to TMUSA at the location provided by TMUSA. In the event that Lessee fails or refuses to return Leased Equipment within ten (10) days, TMUSA may enter the premises where Leased Equipment is located, with or without Lessee's consent, and remove or disable Leased Equipment and Lessee shall be liable for any and all charges associated with TMUSA's actions taken to recover its Leased Equipment. .

13. NON-ASSIGNABILITY This Lease Agreement is not assignable by the Lessee.

14. ATTORNEY'S FEES AND COSTS Lessee shall pay all costs and expenses relating to enforcement or preservation of TMUSA's rights under this Lease Agreement. In consideration of the award and execution of this



Agreement and in consideration of the waiver of its right to attorney fees by the Customer, TMUSA knowingly and intentionally waives its right to attorney fees under Section 271.153 of the Texas Local Government Code in any administrative proceeding, alternative dispute resolution proceeding, or litigation arising out of or connected to this Agreement.

15. EXTRAORDINARY RELIEF Except for the obligation of payment, neither TMUSA nor Lessee shall be liable for non-performance caused by circumstances beyond its control, including but not limited to work stoppages, fire, civil disobedience, riots, rebellions and acts of God.

16. LIMITATION OF LIABILITY AND OF REMEDY AND DISCLAIMER OF WARRANTIES The liability of TMUSA under this Lease Agreement whether based in contract, tort, breach of warranty or otherwise, including but not limited to any action or inaction of TMUSA relative to its performance therewith, or from the manufacture, installation or technical direction of installation, maintenance, repair or use of any Leased Equipment covered by or furnished under this Lease Agreement, is limited to the repair or replacement of the Leased Equipment, parts, supplies, engines or LRU on which liability is based. THE WARRANTIES EXPRESSED HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DESCRIPTION, QUALITY, PRODUCTIVENESS, OR OTHERWISE. IN NO EVENT SHALL TMUSA NOR LESSEE BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF USE, LOSS OF PROFIT AND CLAIMS OF THIRD PARTIES) HOWSOEVER BASED, WHETHER IN NEGLIGENCE, TORT, BREACH OF WARRANTY OR BREACH OF CONTRACT BY LESSEE, TMUSA OR OTHERWISE.

17. NOTICES All notices required pursuant to this Lease Agreement shall be mailed to: TURBOMECA USA, INC. at its office address, 2709 Forum Drive, Grand Prairie, Texas 75052, ATTN: Russ Spray President and CEO; and to the Lessee at the Lessee's billing address. All notices made pursuant to this Lease Agreement will be effective upon mailing.

18. SEVERABILITY If any term or provision of this Lease Agreement or the application thereof shall be invalid or unenforceable, the remainder of the Lease Agreement or the application of such term or provision of the Lease Agreement shall be valid and enforceable to the fullest extent of the law.

19. BIND SUCCESSORS This Lease Agreement shall inure to the benefit of and be binding upon the respective parties and their successors in interest, assigns and legal representatives.

20. ENTIRE AGREEMENT This instrument shall constitute the entire Lease Agreement between TMUSA and Lessee and except as otherwise provided herein, may be amended only by a written instrument executed by both parties. No waiver of any term or condition of this Lease Agreement shall be enforceable unless it shall be in writing signed by the party against which it is sought to enforce. The waiver by either party of a breach of any provision of this Lease Agreement by the other shall not operate or be construed as a waiver of any subsequent breach by such other party.

GOVERNING LAW This Lease Agreement shall be interpreted in accordance with and governed by the laws of the State of Texas, U.S.A. without regard to its choice of law rules. The parties hereto agree that any controversy with respect to performance under the terms of this Lease Agreement, or arising out of this Lease Agreement will be handled in accordance with Article 16.5 of the Support By the Hour Agreement.



TURBOMECA USA, INC.

CITY OF AUSTIN

DATE: _____

DATE: _____

**EXHIBIT III
TURBOMECA USA, INC.
(FAX) 972-606-7608**

***Support By the Hour (SBH)* AGREEMENT
MONTHLY OPERATING REPORT**

Date _____
Aircraft _____ No. _____
Customer Name _____

Reporting Month _____
Engine Model _____
Telephone No. _____

Engine No. 1		Hours			Cycles		
	S/N	Start	End	Usage	Start	End	Usage
Engine							
MO1							
MO2							
MO3							
MO4							
MO5							

Engine No. 2		Hours			Cycles		
	S/N	Start	End	Usage	Start	End	Usage
Engine							
MO1							
MO2							
MO3							
MO4							
MO5							

**THIS FORM MAY BE E-MAILED TO sbhhours@turbomeca.com.
MONTHLY REPORTS MUST BE RECEIVED BY TMUSA BY THE 10TH
DAY OF EACH MONTH FOR THE PRECEEDING MONTH'S FLIGHT
ACTIVITY.**

**CITY OF AUSTIN
FSD - PURCHASING OFFICE**

CERTIFICATION OF EXEMPTION

DATE:	<u>5/31/2013</u>	DEPT:	<u>Austin Police Department</u>
TO:	<u>Purchasing Officer or Designee</u>	FROM:	<u>Albert Banda</u>
BUYER:	<u>Jeffery Dilbert</u>	PHONE:	<u>512/974-5273</u>

Chapter 252 of the Local Government Code requires that municipalities comply with the procedures established for competitive sealed bids or proposals before entering into a contract requiring an expenditure of \$50,000 or more, unless the expenditure falls within an exemption listed in Section 252.022.

Senate Bill 7 amended Chapter 252 of the Local Government Code to exempt from the requirements of such Chapter expenditures made by a municipally owned electric utility for any purchases made by the municipally owned electric utility in accordance with procurement procedures adopted by a resolution of its governing body that sets out the public purpose to be achieved by those procedures. The Austin City Council has adopted Resolution No. 040610-02 to establish circumstances which could give rise to a finding of critical business need.

This Certification of Exemption is executed and filed with the Purchasing Office as follows:

1. The undersigned is authorized to submit this certification.
2. The undersigned certifies that the following exemption is applicable to this purchase.

(Please check which exemption you are certifying)

- | | |
|--|--|
| <input type="checkbox"/> a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality | <input type="checkbox"/> equipment; books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits |
| <input type="checkbox"/> a procurement necessary to preserve or protect the public health or safety of municipality's residents | <input type="checkbox"/> a purchase of rare books, papers, and other library materials for a public library |
| <input type="checkbox"/> a procurement necessary because of unforeseen damage to public machinery, equipment, or other property | <input type="checkbox"/> paving, drainage, street widening and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements |
| <input type="checkbox"/> a procurement for personal, professional, or planning services | <input type="checkbox"/> a public improvement project, already in progress, authorized by voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes as authorized by the voters |
| <input type="checkbox"/> a procurement for work that is performed and paid for by the day as the work progresses | <input type="checkbox"/> a payment under a contract by which a developer participates in the construction of a public |
| <input type="checkbox"/> a purchase of land or right-of-way | |
| <input checked="" type="checkbox"/> a procurement of items available from only one source, including: items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; gas, water, and other utility services; captive replacement parts or components for | |

- improvement as provided by Subchapter C, Chapter 212
- ☐ personal property sold: at an auction by a state licensed auctioneer; at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or under an interlocal contract for
- ☐ cooperative purchasing administered by a regional planning commission established under Chapter 391
- ☐ services performed by blind or severely disabled persons
- ☐ goods purchased by a municipality for subsequent retail sale by the municipality
- ☐ electricity
- ☐ advertising, other than legal notices
- Critical Business Need (Austin Energy Only)

☐

3. The following facts as detailed below support an exemption according to Section 252.022 of the Local Government Code for this purchase. Please verify the steps taken to confirm these facts. If you are citing the following exemptions, please provide the additional information requested below. A more detailed explanation of these exemptions is attached

- **Preserve and Protect the Public Health and Safety** – Describe how this purchase will preserve and protect the public safety of residents.
- **Sole Source** – Describe what patents, copyrights, secret processes, or natural monopolies exist. Attach a letter from vendor supporting the sole source. The letter must be on company letterhead and be signed by an authorized person in company management.
- **Personal Services** – Describe those services to be performed personally by the individual contracted to perform them.
- **Professional Services** – Describe what mainly mental or intellectual rather than physical or manual and/or disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence are required to perform this service.
- **Planning Services** – Describe the services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan, or regional land areas.
- **Critical Business Need** – Describe the procurement necessary to protect the competitive interests or position of Austin Energy.

The purpose of this Sole Source is to provide the City of Austin Police Department with a Maintenance Agreement for the Arrius 2F engine. Turbomeca Engine Corporation is the original equipment manufacturer and sole service provider for the Arrius 2F engine. They are the only company that holds the required repair certificates from the FAA to perform repairs on this engine. Any other company providing repair service on this engine would be in violation of FAA regulations. With respect to the Arrius family of engines, Turbomeca USA, Inc., is the only Turbomeca authorized and FAA approved repair and overhaul facility in North America.

4. Please attach any documentation that supports this exemption.
5. Please provide any evaluation conducted to support the recommendation. Include the efforts taken to ensure the selected vendor is responsible and will provide the best value to the City.

6. Because the above facts and documentation support the requested exemption, the City of Austin intends to contract with Turbomeca USA, Inc. for 36 months with three (3) twelve (12) month extension options, estimated at \$680,559.00 total contract cost.

Recommended Certification

Albert Banda 5/21/13
Originator Date
Albert Banda, Contract Compliance Specialist Sr.

Approved Certification

Alice Suter 6/17/13
Department Director or designee Date
Alice Suter on behalf of Chief of Police Art Acevedo

Michael McDonald 8/2/13
Assistant City Manager / General Manager Date
or designee
Michael McDonald, ACM

Purchasing Review
(if applicable)

[Signature] 9/13/13
Buyer Date

JM
Manager Initials

Exemption Authorized
(if applicable)

[Signature] 07/30/13
Purchasing Officer or designee Date

3/26/13



25 March 2013

To Whom It May Concern:

This letter serves as a sole source document for products designed and manufactured by Turbomeca.

Established in 1938, Turbomeca specializes in the design, production, sale and support of low to medium power gas turbine engines for helicopters. The Eurocopter EC120 helicopter operated by the Austin Police Department was manufactured with the Arrius 2F family of Turbomeca engines.

With respect to the Arrius 2F family of engines, there are no FAA authorized Arrius 2F Repair Centers other than Turbomeca USA, Inc. within the United States qualified to perform all levels of repair and overhaul of the engine and fuel control unit. All engine repairs and overhauls must be performed at our authorized Repair Centers. In addition, technical documentation and manuals required to perform repairs and/or overhauls on the Turbomeca engines are proprietary to Turbomeca and not available to non-authorized Repair Centers.

If you have further questions with regards to this letter, please contact our legal counsel at:

Safran USA, Inc.
Attn: General Counsel
2850 Safran Drive
Grand Prairie, Texas 75052
Office: (972) 606-7103

Best Regards,

A handwritten signature in black ink, appearing to read 'J. Russell Spray', written over a horizontal line.

J. Russell Spray
President & CEO

TURBOMECA USA, INC.
2709 Forum Drive
Grand Prairie, Texas 75052-7027

Tel (972) 606-7600
Fax (972) 606-7692
www.turbomeca-usa.com



MEMORANDUM

Austin Police Department *Administrative Bureau*

TO: Alice Suter, Assistant Director, acting on Behalf of Art Acevedo,
Chief of Police

FROM: Albert Banda, Contract Compliance Specialist Sr.

DATE: April 9, 2013

SUBJ: Signature on sole source memo to purchase DNA Supplies from
ABI/Life Technologies for the next 36 months with an additional 3/12
month options to extend by the City of Austin Police Department
Forensic/DNA Unit, in the amount of \$38,116.20 annually for a total
estimated cost of \$228,697.20.

Chief or Assistant Director Alice Suter, attached for your review and signature is a sole source memo for the above referenced purchase. This purchase is for purchase of DNA Supplies in the annual amount of \$38,116.20, for a total cost of \$228,697.20.

I have attached as backup the PRF, quote and sole source documentation.

Please call me when ready for pick up.

If you have any questions, please contact me at 974-5273.

AB/ab