



IMPLEMENTING MEASURES OF CFM CONDUCT POLICIES

PREAMBLE

These Implementing Measures have been agreed upon by CFM and IATA to support and foster a competitive airline industry based on core values of passenger safety, competition on the merits, and transparency. CFM and IATA agree to protect these core values by means of these Implementing Measures.

CFM has issued Conduct Policies setting forth the principles CFM applies to its engine maintenance practices and policies. The Conduct Policies are available on CFM's website (www.cfmaeroengines.com).

These Implementing Measures provide the framework that will govern the implementation and enforcement of CFM's Conduct Policies in recognition of the Parties' core values of passenger safety, competition on the merits, and transparency.

The existence of these Implementing Measures does not constitute an admission of, or evidence of, violation by CFM under any relevant law, including any competition law.

GUIDANCE

Where CFM proposes to issue guidance in the Conduct Policies or these Implementing Measures, it will do so through AOWs or other appropriate communication. These AOWs and communication will be issued to all current recipients in the ordinary course of CFM communications. IATA will receive an advance copy and will be given an opportunity to review and comment thereon.

IMPLEMENTATION OF THE CFM CONDUCT POLICIES

I. LICENSES

1. CFM agrees to waive fees (both upfront fee and royalty) for Overhaul Shops for the use of its ESM (i.e. overhaul instructions and Fully Disclosed Repairs) charged under CFM's PLA and will not require any other form of financial compensation for such use by shops overhauling CFM engines.



2. CFM maintains a standard license agreement for the use of the ESM and the Fully Disclosed Repairs instructions contained therein.
3. CFM reserves the right to continue charging fees for technical support and other services provided under CFM's GSLA. These fees will remain reasonable in relation to the services provided and CFM's past practices. CFM will reduce the fees currently charged for the GSLA by the amount charged for the PLA, in order to eliminate from the GSLA charges for access to the ESM for Overhaul Shops. CFM will not arbitrarily change the fee structure in its GSLAs to compensate for this fee reduction.
4. CFM licenses its ESM on a non-discriminatory basis. CFM's licenses do not limit the use of the overhaul and part repair instructions in the ESM to engines that contain only OEM parts and repairs. CFM will amend language in CFM's ESMs in future revisions to make it clear and will remove any existing language in the ESM that is inconsistent with this principle. CFM reserves the right to reproduce relevant regulatory provisions addressing the use of the ESM. Customers may use the ESM to service their own engines and may service third party engines, without incurring the ESM upfront or royalty fees as described in paragraph 37, subject to the execution of a license agreement with CFM covering the servicing of third party engines.
5. CFM will include in the provisions of future CFM overhaul and part repair license agreements, including license agreements for substantiated repairs, a statement that the license is not limited to the overhaul of engines, or the repair of parts in engines, that contain only OEM parts and repairs.
6. CFM will issue guidance to state that CFM's licenses do not limit the use of the overhaul and part repair instructions in the ESM to engines that contain only OEM parts and/or repairs and that these principles will override any contrary interpretation of language in CFM's ESMs or existing agreements.
7. CFM will issue and maintain internal guidance and regularly train CFM employees and staff and issue guidance to licensed MRO Shops to operate in compliance with these principles when negotiating or implementing CFM agreements. CFM will share the training and guidance material with IATA and allow IATA to comment on the material.

II. WARRANTIES

8. CFM will include a statement in all future contracts to make clear that the mere use or presence of non-OEM parts and repairs does not render void CFM warranties. CFM will also amend language in future contracts as needed to eliminate potential ambiguity.



9. CFM will issue guidance to state that the principles of the Conduct Policies override any contrary interpretation of existing CFM agreements. This also applies to contract extensions.
10. CFM will include in its internal administrative operating practices related to warranty processing a statement expressing these principles.
11. CFM will issue and maintain internal guidance and regularly train CFM employees and staff to operate in compliance with this principle when negotiating or implementing CFM agreements. CFM will share the training material with IATA and allow IATA to comment on the material.

III. SERVICING

12. CFM will issue guidance that:
 - (a) CFM does not refuse to service engines because they contain non-OEM parts or repairs.
 - (b) CFM licenses, including CBSAs, do not limit the use of CFM ESMs and part repair licenses to engines containing only OEM parts and repairs.
 - (c) All airlines and MRO Shops may purchase all proprietary repairs developed by GE and SAE, including substantiated repairs, from GE, SAE or their licensees, irrespective of whether the purchased repaired part is to be installed in an engine containing non-OEM parts or repairs.
 - (d) When CFM services a module of an engine as contracted with the customer, it will only address that module and, unless otherwise agreed with the customer, it will not take any action on modules of the engine that are not covered by the contract irrespective of the presence of the non-OEM parts or repairs.
13. CFM's guidance will make clear that these principles override any contrary interpretation of CFM engine manuals, agreements or existing contractual provisions.
14. CFM will also communicate in marketing materials that, while complying with applicable airworthiness regulations, Operators are free to choose among OEM and third party service providers and OEM and non-OEM service products for the overhaul, maintenance or repair of their CFM engine in connection with promoting CFM's open MRO approach.
15. CFM will include a statement in its contracts to state that any CFM part repair licensee may perform a CFM-licensed repair, irrespective of whether that part will be installed in



an engine that also contains non-OEM parts or repairs; that CFM's licenses for use of the ESM and part repair instructions do not require licensees to only use OEM parts and repairs; that the mere use or presence of non-OEM solutions does not render void CFM warranties; and/or will amend existing language as appropriate.

16. CFM will issue and maintain internal guidance and regularly train CFM employees and staff to operate in compliance with these principles when negotiating or implementing CFM agreements. CFM will share the training material with IATA and allow IATA to comment on the material.

IV. TECHNICAL SUPPORT / DEPARTURE RECORDS

17. CFM will issue guidance that sets out the principles of the Conduct Policies.
18. CFM will include in relevant policies and procedures for DR requests an explicit statement expressing that the presence of non-OEM parts and repairs is only relevant to a DR request to the extent it affects CFM's ability to perform the relevant engineering analysis, and that the mere presence or use of non-OEM parts or repairs unrelated to the DR request does not preclude a DR consideration.
19. CFM will issue and maintain internal guidance and regularly train CFM employees and staff to operate in compliance with these principles. CFM will share the training material with IATA and allow IATA to comment on the material.
20. The DR process and its compliance with these principles will be audited by CFM parent companies through (i) their quality audits ISO 9000 and (ii) the audits carried out by the regulatory authorities. The Liaison Officer will ensure that such audits are implemented within the organizations of CFM's parent companies. Audit results and documentation will be made available to the Trustee upon request and on a confidential basis in the event of a complaint by a Beneficiary in relation to the application of paragraphs 23-25 of the Conduct Policies.

V. THIRD PARTY-DEVELOPED PARTS AND REPAIRS COMMUNICATION

21. CFM will communicate the following regulatory airworthiness provisions through a statement issued to its airline and MRO customers:
 - (a) Parts approved by the FAA under 14 CFR Part 21 and 14 CFR Part 43 and/or approved by the EASA under Part 21.A.109 and Part 21.A.451 are eligible for installation in CFM engines.



- (b) Parts that have been repaired with a repair approved by an FAA DER under 14 CFR Part 183 and/or an EASA DOA holder in accordance with Part 21, Subpart J and related Acceptable Means of Compliance and Guidance Material, are eligible for installation in CFM engines.
 - (c) CFM AOWs and other communications concerning third party-developed parts and repairs are drafted so as to be consistent with the above. They should not be interpreted as suggesting that the FAA and/or EASA have not approved such parts and repairs for use in CFM engines.
22. CFM reserves the right to reproduce relevant regulatory provisions addressing the use of the ESM when relevant in its communications.
23. CFM will not issue AOWs, or other official statements, to notify Operators of the existence of non-OEM parts or repairs, or CFM's position with respect thereto unless necessary to notify Operators of (i) relevant engineering-based analysis, or safety or operability issues, or (ii) the existence of new non-OEM parts or repairs influencing CFM LLP parts (without making any qualitative statement concerning such non-OEM parts or repairs).
24. CFM will regularly train its customer support organization, and other departments that make official statements on behalf of CFM related to non-OEM parts or repairs to ensure that communications related to non-OEM parts or repairs are based on data that validates the proposed communication. CFM will share the training material with IATA and allow IATA to comment on the material.
25. CFM will review, and if necessary, update any internal company policies that specify the process for AOWs.

VI. REPAIR DISCLOSURE IN CFM ESM

26. In the event that CFM removes a Fully Disclosed Repair from the ESM, it will disclose the technical basis for the removal of the repair to the Trustee upon request on a confidential basis.
27. CFM will adopt engineering practices to ensure that repair instructions for current part numbers are not removed from Fully Disclosed Repairs when upgraded parts and accompanying repairs are included in ESM revisions, unless there is a technical basis for removing the repair. In the event a previously disclosed repair is removed, CFM will issue guidance explaining the reason for the removal to customers. The full process may be reviewed by the Trustee upon request and on a confidential basis in the event of a complaint by a Beneficiary in relation to the application of paragraph 28 of the Conduct



Policies. CFM will train relevant engineering personnel on these practices on a regular basis.

28. CFM will review past revisions of the ESM and insert repairs that have been removed unless there was a technical basis for the removal. If CFM decides not to reintroduce a repair, it will disclose the technical basis for the removal of the part to the Trustee upon request and on a confidential basis.

VII. EXCLUSIVITY PROVISIONS AND MRO CONTRACTS

29. Paragraphs 33 and 35 shall not affect the validity of any existing MSA. CFM will however consult with airlines that currently have exclusive MSAs and offer them the possibility to terminate their current agreement and renegotiate non-exclusive agreements if they choose not to maintain the existing agreements.
30. CFM will communicate to MRO Shops that, in parallel to promoting CBSAs, it welcomes requests for PLAs and GSLAs.
31. CFM will address written requests, made within 6 months from the entry into force of these Implementing Measures, from customers that currently have non risk-transfer, non-exclusive, MSAs with volume-related discounts and offer them the possibility to either terminate and renegotiate their agreements on different terms, or maintain the existing agreements.

ENFORCEMENT OF THE CFM CONDUCT POLICIES

VIII. DURATION

32. These Implementing Measures and the Conduct Policies will have a 7-year total term.

IX. BENEFICIARIES

33. The Conduct Policies and the Implementing Measures are intended to inure to each of IATA, any airline member of IATA and the following beneficiaries (collectively "Beneficiaries"):

- (a) Any airlines;
- (b) "Actual Competitors", which are defined as entities manufacturing and selling PMA/EPA parts or DER/DOA repairs for CFM engines; and MRO Shops for CFM engines;



(c) "Potential Competitors," which are defined as MRO providers, DER/DOA providers and PMA/EPA holders that do not currently produce or provide PMA/EPA parts or DER/DOA repairs for CFM but that, as minimum requirements:

(i) Have the necessary FAA and/or EASA certifications to engage in the manufacturing of PMA/EPA or the provision of LCA engine part repair or overhaul services; and

(ii) Have written (internal or external) financing commitments for the manufacturing of PMA/EPA parts or DER repairs or for the provision of overhaul services for the relevant CFM engine, enabling them to start providing the product or service within a period of two years. Information necessary to determine whether this criterion is met will be protected through appropriate disclosure limitations.

(d) Lessors owning aircraft powered by CFM engines, provided they have a contractual relationship with an Overhaul Shop.

Provided that, Actual Competitors and Potential Competitors (points b. and c. above) shall only be considered Beneficiaries, and may only assert claims, for the engine models for which they actually compete or for which they establish the criteria i. and ii. of point c. above to be deemed a Potential Competitor.

Notwithstanding the foregoing, the following are not considered and shall not be considered as Beneficiaries, regardless of whether they satisfy the standards set forth above:

(a) LCA jet engine manufacturers; and

(b) Part manufacturers in relation to OEM parts they supply for CFM engines.

34. Any Beneficiary claiming the benefit of the Conduct Policies and the Implementing Measures, agrees to be bound by the terms and conditions of the Conduct Policies and the Implementing Measures, including in particular, but not exclusively, its provisions regarding dispute resolution, damages and penalties. CFM shall be bound by the Conduct Policies and Implementing Measures towards IATA and any other Beneficiary as from the entry into force of the Conduct Policies and the Implementing measures. Any Beneficiary shall have the right to claim against CFM for any breach of the Conduct Policies and/or Implementing Measures that occurs after the entry into force thereof, pursuant to the provisions thereof, whether or not that Beneficiary had by that point accepted the terms and conditions of the Conduct Policies and/or the Implementing Measures.

35. The Parties shall exercise good faith in the undertaking of all the duties, obligations, rights and responsibilities set forth herein.



X. DISPUTE RESOLUTION

36. Subject to para. 74 below, if a party that would otherwise qualify as a Beneficiary chooses to bring a claim in any forum other than the Arbitral Tribunal provided for in these Implementing Measures based on an alleged claim that also gives rise to a Conduct Policies or Implementing Measures Dispute, then that party shall be deemed to not be a Beneficiary anymore (solely in relation to that alleged conduct), and shall be prohibited from bringing any arbitration proceeding based on that same underlying conduct pursuant to these Implementing Measures.
37. Conversely, if a Beneficiary brings a claim to arbitration under these Implementing Measures, including through the Trustee under paragraph 91(d) of these Implementing Measures, it will agree not to raise any claim based on the same alleged conduct in any judicial or other forum.
38. IATA will not file a formal complaint before any court or antitrust agency with respect to conduct that took place before or during the application of these Implementing Measures that relates to the Conduct Policies, these Implementing Measures or IATA's Complaint to the European Commission in case AT.40332, for the duration of these Implementing Measures. Any and all such claims by IATA against CFM shall be finally resolved by arbitration under these Implementing Measures. No other Party or Beneficiary is restricted in any way on the basis of this provision.

In relation to conduct which IATA believes is not subject to arbitration (under the clause above), IATA agrees in any event to discuss its concerns with CFM in good faith, and before the filing of a formal complaint before any court or antitrust agency, to enable CFM to address these concerns where possible.

39. In the event of a Conduct Policies or Implementing Measures Dispute between CFM and a Beneficiary, CFM, IATA and Beneficiaries shall always first seek in good faith to reach an amicable resolution of the dispute through the Liaison Officer.
40. If there is a dispute that cannot be resolved on an amicable basis within a period of 45 working days through the Liaison Officer, with possible agreed upon extension, the Beneficiary concerned may (i) directly initiate arbitration as provided herein or (ii) bring the matter to the attention of the Trustee. Without limiting the rights under paragraph 91, the Beneficiary may also ask the Trustee for a non-binding position based on written submissions from the Beneficiary and CFM to be communicated to both parties. If the Beneficiary requests a non-binding opinion from the Trustee and that opinion finds CFM to be in violation of a Conduct Policy, CFM may opine and decide to implement the Trustee's opinion. In such a case, CFM will have a period of 60 working days to implement the non-binding position before arbitration may be initiated. If CFM decides not to



implement the Trustee's opinion, CFM shall inform the Trustee and the Beneficiary concerned without undue delay after receipt of the opinion.

If CFM cures the alleged violation of the Conduct Policies or these Implementing Measures raised by a Beneficiary before the Liaison Officer and/or the Trustee within the above-mentioned time-limits to the satisfaction of the Trustee, then there is no recourse to arbitration, unless the Beneficiary does not accept the position of the Trustee. If CFM fails to cure an alleged violation to the satisfaction of the Trustee, or if the Beneficiary does not accept the position of the Trustee and does not consider the alleged violation cured, then the Conduct Policies or the Implementing Measures Dispute may be submitted by the Beneficiary for final and binding arbitration to either, at the election of the Beneficiary: (i) arbitration administered by the International Chamber of Commerce ("ICC") in accordance with its Rules of Arbitration then in effect (in such case, the "ICC Rules"), or (ii) ad hoc arbitration conducted under the UNCITRAL Rules of Arbitration then in effect (in such case, the "UNCITRAL Rules"); *provided that*, in either of those cases, the arbitration shall be finally resolved under the applicable Rules by 3 arbitrators appointed in accordance with the said Rules. The legal seat of arbitration shall be Geneva, Switzerland. Without prejudice to the legal seat of arbitration, the physical location of the arbitral hearing will be, at the election of the Beneficiary (or in the case of an anonymous Beneficiary, at the election of the Trustee) any one of New York, London, Paris or Geneva. The decisions and awards of the Arbitral Tribunal shall be final and binding, and, in accordance with Article 192 of the Swiss Federal Act on Private International Law, the parties to the arbitration explicitly agree to fully waive and exclude all challenges or actions for annulment against an award based on the grounds listed in Article 190 of the Swiss Federal Act on Private International Law with the Swiss Federal Supreme Court. The language of the arbitration shall be the English language. CFM shall be permitted to bring an arbitration under this clause to enforce the terms of these Implementing Measures or Conduct Policies against a Beneficiary that has accepted any benefits of the Conduct Policies or these Implementing Measures solely to enforce the requirements of paragraph 73 of these Implementing Measures, and only as to the specific claim being pursued.

41. The Arbitral Tribunal shall endeavour to render its award expeditiously.
42. Any party to an arbitration proceeding concerning the Conduct Policies or the Implementing Measures consents to consolidation in front of the first appointed Arbitral Tribunal of different arbitration proceedings when they concern the same underlying alleged conduct. Article 10 of the ICC Rules shall apply.
43. The Arbitral Tribunal will be able to issue an injunction order that would restrain CFM from continuing the practice or conduct at issue or compel compliance in some other form, provided that no such order shall require CFM to act or omit to act in any manner that is inconsistent with any legal or regulatory obligation or directive imposed upon it.



44. The Arbitral Tribunal will also be able to award compensatory damages and contractual penalties, as set out below in Section XIII.
45. The Arbitral Tribunal's injunction order and/or award can be enforced in any court with jurisdiction over the respondent with accompanying legal consequences for non-compliance.
46. The Arbitral Tribunal will have the power to order the losing party to bear the reasonable attorney's fees, costs and related expenses of the prevailing party as well as the cost of the arbitration process (arbitrators' and advisors' fees and costs) or to allocate the reasonable attorney's fees, costs and related expenses in accordance with its rules.
47. No claim shall or may be raised before the Arbitral Tribunal for any act or omission with respect to the subject matter covered by the Conduct Policies or these Implementing Measures that occurred prior to the date of entry into force of the Conduct Policies and Implementing Measures. No claim for any act or omission with respect to the subject matter covered by the Conduct Policies or these Implementing Measures may be brought following expiry of these Implementing Measures.
48. The arbitration clause in this Section X and the procedural aspects of any arbitral proceedings conducted under this Section X shall be governed by Swiss law (without prejudice to the application of French law as substantive governing law of the Conduct Policies and the Implementing Measures as provided for in paragraph 99 below).

XI. CFM LIAISON OFFICER

49. A Liaison Officer will be appointed to receive and address questions or concerns Beneficiaries may have with respect to CFM's Implementing Measures.
 - (a) Any Beneficiary will be able to bring information to the attention of the Liaison Officer with the request to investigate a concern and find an amicable solution.
 - (b) The Liaison Officer will be entrusted with the task of seeking to promptly and efficiently answer questions and address the concerns raised on a without prejudice basis.
 - (c) The Liaison Officer will have the ability to receive information that will enable him/her to answer customer questions or address customer's concerns, directly or by communication with other CFM organizations.
 - (d) The Liaison Officer will have a dedicated, full time responsibility to answer customer questions and address customer concerns as his/her highest priority.



- (e) The Liaison Officer will coordinate to obtain information necessary to answer questions and to address potential concerns raised by customers.
- (f) Where the Liaison Officer finds that further steps or improvements are justified, the Liaison Officer shall make the appropriate recommendation(s) to CFM. The Liaison Officer shall follow up with the Beneficiary.

XII. TRUSTEE

- 50. CFM and IATA shall have appointed, or will soon appoint, an independent Trustee who is entrusted with the task of monitoring and enforcing compliance with the Conduct Policies, and receiving complaints from IATA, airline members of IATA or other Beneficiaries as specified in the following provisions.
- 51. Any Beneficiary will be able to bring alleged failures on CFM's part to comply with the Conduct Policies to the Trustee's attention, and may request the Trustee to take up the issue for resolution through amicable negotiations between the disputing parties. The contact details for the Trustee are available on CFM's website.
- 52. The Trustee will (i) at the time of appointment and throughout the term of its mandate, be impartial and independent of IATA, CFM and all Beneficiaries; (ii) possess the necessary (to be determined) qualifications, technical and regulatory expertise to carry out its mandate; and (iii) neither have nor become exposed to a Conflict of Interest.
- 53. The Trustee will be appointed for the term of the Conduct Policies and Implementing Measures as set forth in paragraph 68 above.
- 54. The costs relating to the Trustee shall be borne by CFM.
- 55. The duties and responsibilities of the Trustee with respect to Beneficiaries are:
 - (a) monitoring and enforcing compliance with the Conduct Policies, on the basis of complaints from Beneficiaries in relation to the application of the Conduct Policies and the Implementing Measures, and receiving and acting on complaints from IATA or other Beneficiaries, as set forth herein; the Trustee's work plan will detail the scope of the Trustee's activities, i.e. (i) the Trustee's means, frequency and method of reporting on complaints received and on the actions undertaken in relation to those complaints, (ii) the Trustee's review and assessment of the implementation of actions undertaken to address the complaints; (iii) the information obtained from CFM in relation to a complaint received; and (iv) the identity of advisors appointed to assist the Trustee. The work plan will also identify the categories of information that can be considered reasonably necessary for the Trustee to review compliance with the Conduct Policies and Implementing Measures.



(b) requesting and receiving from CFM, IATA, airline members of IATA and other Beneficiaries the information that is reasonably necessary to monitor the effective implementation of, and compliance with, the Conduct Policies by CFM. The Trustee may not disclose such information;

(c) if the Trustee finds that CFM did not comply with the Conduct Policies, the Trustee promptly reports such noncompliance in writing to IATA and CFM and may propose to CFM measures that the Trustee would consider appropriate to ensure CFM's compliance;

(d) if requested by a Beneficiary, initiating arbitration proceedings as set forth in Section X of these Implementing Measures on behalf of any of IATA, an airline member of IATA or any other Beneficiary. When the Beneficiary deems it necessary to remain anonymous, the Trustee shall bring such arbitrations without disclosing the identity of the Beneficiary unless the Trustee considers it would be unjustified or unreasonable to bring such arbitration on an anonymous basis. If the Trustee considers it would be unreasonable or unjustified to bring such arbitration on an anonymous basis, it shall not disclose the identity of the Beneficiary without the Beneficiary's prior written consent, and the Beneficiary shall retain the right to proceed to arbitration independently. When the Trustee brings an arbitration on behalf of an anonymous Beneficiary, such Beneficiary shall not be entitled to, and the Trustee shall not be permitted to seek (nor the Arbitral Tribunal be permitted to grant) actual damages or contractual penalties, but shall be entitled to recover costs awarded in its favour in the award of the Arbitral Tribunal, in accordance with paragraph 82 of the Implementing Measures. Subject to complying with the applicable confidentiality obligations, the Trustee, when acting on behalf of IATA, airline members of IATA or other Beneficiaries in the arbitration proceeding, will be entitled to use the information it receives pursuant to the Conduct Policies and the Implementing Measures.

(e) in connection with a particular dispute and at the expense of the parties concerned (i.e., CFM and the relevant Beneficiary), the Trustee may appoint advisors (in particular for legal or technical advice), subject to the parties' approval (this approval not to be unreasonably withheld or delayed) if the Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations, provided that any fees and other expenses incurred by the Trustee are reasonable. Only the Trustee will be entitled to issue instructions to the advisors.

56. Beneficiaries may share confidential and proprietary information concerning CFM with the Trustee. The Trustee may not disclose that information.

XIII. DAMAGES AND CONTRACTUAL PENALTIES

57. The Arbitral Tribunal set forth in Section X shall be entitled to award predetermined contractual penalties for the violation of Conduct Policies and these Implementing



Measures provisions. Contractual penalties will be awarded to IATA and airlines (to the exclusion of other Beneficiaries) that successfully establish a violation in arbitration, according to the category of violation as set forth in Annex A:

- (a) USD 150,000 for Level 1 violations,
- (b) USD 1 million for Level 2 violations, and
- (c) USD 2 million for Level 3 violations.

Failure to comply with other provisions of the Conduct Policies or these Implementing Measures is subject only to the order of corrective action by an Arbitral Tribunal (Level C). If following the issuance of a corrective action order by an Arbitral Tribunal, a Beneficiary brings an arbitration alleging CFM's failure to comply with the corrective action ordered, and the Arbitral Tribunal finds a failure on the part of CFM to comply with the order, the Arbitral Tribunal may award a contractual penalty of USD 300,000.

For the avoidance of doubt, the above-mentioned penalties and orders for corrective action can only be awarded or ordered, respectively, in the event that CFM fails to address a concern or complaint raised through amicable resolution, and the Arbitral Tribunal establishes a violation of the Conduct Policies or the Implementing Measures.

- 58. The contractual penalties would be escalated by USD 150,000 (Level 1), USD 1 million (Level 2), or USD 2 million (Level 3), respectively, for each subsequent violation of the same Conduct Policy.
- 59. Total contractual penalties are capped at USD 150 million over the 7-year term of the Implementing Measures.
- 60. The Arbitral Tribunal may only award a contractual penalty for a violation of a single instance of conduct to the first claimant (other claimants will only be eligible to claim actual damages for such instance) or collectively to the claimants in case multiple parties initiate a single arbitration proceeding (the amount of the penalty will be shared out among them).

For the avoidance of doubt, nothing in this provision limits the Arbitral Tribunal's authority to award contractual penalties for subsequent conduct violating the same provision, in accordance with paragraph 94.

- 61. Contractual penalties awarded to a claimant shall not be deducted from any actual damages claimed by such claimant for the same breach.
- 62. Total actual damages are capped at USD 300 million over the 7-year term of these Implementing Measures. Any monetary damages awarded to IATA by an Arbitral Tribunal constituted under the terms of a settlement agreement between IATA and CFM shall be counted towards this cap.

XIV. CHOICE OF LAW

63. The Conduct Policies and the Implementing Measures shall be governed by, and construed and interpreted in accordance with the laws of France without giving effect to principles of conflicts of laws that would compel the application of the laws of another jurisdiction.

XV. ENTRY INTO FORCE

64. The Conduct Policies and the Implementing Measures will enter into force on February 28, 2019, unless the Settlement Agreement enters into force after September 3, 2018, in which case the implementation period will be extended with one day for every day that the Settlement Agreement has not entered into force after September 3, 2018.
65. Should the European Commission formally open proceedings in case AT.40332 or in the event that either contractual penalties or actual damages awarded by the Arbitral Tribunal exceed the caps identified in paragraphs 95 and 98, each of IATA and CFM will have the right to terminate these Implementing Measures and the Conduct Policies with immediate effect. In the case of CFM, CFM shall terminate these Implementing Measures and Conduct Policies by providing written notice of the termination to IATA, and issuing an announcement concerning the same.

XVI. GENERAL PROVISIONS

66. CFM is a beneficiary of these Implementing Measures and has enforcement rights in relation to the provisions of the Implementing Measures against IATA. CFM is also a beneficiary of these Implementing Measures and has enforcement rights in relation to the provisions of the Implementing Measures against other Beneficiaries but only with respect to paragraph 73 of the Implementing Measures.
67. Neither CFM nor IATA shall be liable for any failure or delay in performance of its obligations hereunder if such failure or delay is due to or caused by any event, condition or circumstance that is beyond the reasonable control of the party affected, was not created by the party affected, and, despite all reasonable attempts by the affected party to mitigate, suspend or terminate such event, condition or circumstance, affects or prevents the performance by such affected party of any of its obligations under the Conduct Policies or the Implementing Measures, either in whole or in part ("Event of Force Majeure"); provided that, if an Event of Force Majeure exists, the affected party



shall continue to perform such obligations under the Conduct Policies and the Implementing Measures that it is still capable of reasonably performing despite the existence of the Event of Force Majeure. The affected party shall endeavor to give reasonable notice to the other party of any Event of Force Majeure.

68. The following provisions of the French Civil Code (Code civil) are expressly and irrevocably waived and shall not be applicable to the Conduct Policies and the Implementing Measures (nor to any agreement or document entered into by all or some of the Parties in connection with the Conduct Policies or the Implementing Measures):

article 1186 para. 2 and 3 of the Code civil (regarding the right to claim that a contract has lapsed as a result of any other contract contributing to the completion of the transactions contemplated hereunder having terminated, lapsed or being ineffective for any reason whatsoever),

article 1195 of the Code civil (regarding the occurrence of unforeseen circumstances referred to in such article and each party agrees to assume any risk which may arise from any of such unforeseeable circumstances), and

article 1226 of the Code civil (regarding the right for a creditor to terminate a contract at its own risk), and accordingly no termination, lapse or variation of the Conduct Policies or the Implementing Measures (or of any agreement or document entered into in connection with this Agreement) shall be permitted on the grounds of such provisions of the Code civil.

69. The principles of the Conduct Policies override any contrary interpretation of any existing agreement between CFM and any Beneficiary or preexisting policy applied by CFM in relation to the subject matter of the Conduct Policies.

* * *