

Sling Flying Adventures (Pty) Ltd

Terms and Conditions applicable to and governing the Hirer's Hire & Fly of SFA Aircraft (version: A.1 – 2019/03/05)

I, (full name) _____ “the Hirer”,
have read and understood these terms and conditions and agree to be bound by them.

1. Interpretation and Definitions

- 1.1. No provisions contained in these Terms and Conditions applicable to and governing the Hirer's Hire & Fly of SFA Aircraft which form part of the Agreement concluded between the Hirer and SFA shall constitute a stipulation for the benefit of any person who is not a Party to this Agreement.
- 1.2. A reference to a Party includes the Parties' permitted successors-in-title.
- 1.3. The rule of construction that the contract shall be interpreted against the Party responsible for the drafting or preparation of this Agreement shall not apply.
- 1.4. The headnotes to the clauses of the Agreement are inserted for reference purposes only and shall in no way govern or affect the interpretation of this Agreement.
- 1.5. Unless inconsistent with the context, an expression which denotes a natural person includes an artificial person and vice versa.
- 1.6. The singular includes the plural and vice versa.
- 1.7. Unless inconsistent with the context, the expressions set forth below shall bear the following meanings:
 - 1.7.1. **“the Administrator”** means the SFA representative who's name and contact details appear on the first page of Schedule “B” which is attached to the Hire and Fly Agreement executed by the Hirer and SFA.
 - 1.7.2. **“Aircraft Booking”** means the booking or reservation of the Aircraft by the Hirer on the SFA website or the booking or reservation of the Aircraft by the Hirer with SFA's Duty Manager or Administrator.
 - 1.7.3. **“Aircraft's Rental Rate”** shall mean either the Aircraft's Hourly Rental Rate or the Aircraft's Daily Rental Rate as determined by the context.
 - 1.7.4. **“the Agreement”** means the Hire and Fly Agreement executed by the Hirer and SFA together with Schedules “A”, “B” and “C” attached thereto, these Terms and Conditions and The Operational Rules.
 - 1.7.5. **“Base Airport”** means Tedderfield Airpark, situated at 23 Nettleton Road (R550), Eikenhof.
 - 1.7.6. **“Daily Rental Rate”** means the minimum daily rental at which SFA rents the Aircraft for Hire & Fly, which rates are published on SFA's website from time-to-time and which appear in Schedule “C” to the Hire and Fly Agreement executed by the Hirer and SFA .
 - 1.7.7. **“Deposit”** means the sum required to be paid by the Hirer to SFA at the time the Hirer makes an Aircraft Booking.
 - 1.7.8. **“Duty Manager”** means the SFA representative who's name and contact details appear on the first page of Schedule “B” which is attached to the Hire and Fly Agreement executed by the Hirer and SFA.
 - 1.7.9. **“Hire and Fly”** means the Hirer's private use of the Aircraft for the Rental Period, subject to the Agreement.
 - 1.7.10. **“Hirer”** means the person who enters into the Hire and Fly Agreement executed by the Hirer and SFA.
 - 1.7.11. **“Hourly Rental Rate”** means the hourly rental rate at which SFA rents the Aircraft for Hire & Fly, which rates are published on SFA's website from time-to-time and which appear in Schedule “C” to the Hire and Fly Agreement executed by the Hirer and SFA.
 - 1.7.12. **“Operational Time”** means the period from engine start to shutdown, adjusted to the nearest 0.1 on the Aircraft's Hobbs meter.
 - 1.7.13. **“Minimum Rental”** means the minimum rental the Hirer shall pay SFA for the Hire & Fly of the Aircraft determined in accordance with the provisions of clause 3.4 of these Terms and Conditions of contract (Ref: 1.0).
 - 1.7.14. **“Operational Rules”** means SFA's Operational Rules relating to Hirers' use of Aircraft.
 - 1.7.15. **“Parties”** means SFA and the Hirer collectively and Party shall mean either one of them as determined by the context.
 - 1.7.16. **“Pilot”** means the Hirer.
 - 1.7.17. **“Prime Rate”** means the rate of interest, nominal annual compounded monthly in arrears, charged from time to time by the Bank to its customers, as certified by any manager of the Bank (whose appointment or authority need not be proved), and whose certificate shall be final and binding on the Parties, absent manifest error.
 - 1.7.18. **“Rental Period”** means the period the Hirer books or reserves the aircraft for Hire & Fly, which period will be reckoned in one hour increments.
 - 1.7.19. **“the SFA Insurance Policy”** means SFA's Aviation Hull All Risks, Hull War & Allied Perils and Third Party & Passenger Legal Liability Insurance policy in place in respect of the Aircraft.
 - 1.7.20. **“these Terms and Conditions”** means the terms and conditions applicable to the Hirer's Hire and Fly set out in this document.
 - 1.7.21. **“Website” or “SFA's Website”** means the website www.flysling.com.

2. Agreement to Hire and Fly

- 2.1. The Hirer agrees to hire the Aircraft from SFA for Hire & Fly and SFA, in turn, agrees to rent the Aircraft to the Hirer for that purpose upon the terms contained in the Agreement.
- 2.2. The Hirer warrants that he/she:
 - 2.2.1. holds the appropriate pilot licence and medical certificate to pilot the Aircraft and is in all respects lawfully entitled to fly the Aircraft;
 - 2.2.2. shall be the Pilot for the duration of the Agreement;

- 2.2.3. suffers from no physical or mental disability or conditions that would affect the safe operation of the Aircraft during the Rental Period;
- 2.2.4. is familiar with the Aircraft's flight systems and the Pilot Operating Handbook;
- 2.2.5. has not had:
 - 2.2.5.1. an aircraft accident; or
 - 2.2.5.2. his/her Pilot licence endorsed; or
 - 2.2.5.3. committed any aviation violation(s) in the last five years.
- 2.3. The Hirer shall operate the Aircraft in accordance with:
 - 2.3.1. all applicable aviation laws and regulations and warrants that he/she is familiar with the applicable aviation laws and regulations governing the operation of the Aircraft; and
 - 2.3.2. SFA's Operational Rules.
- 2.4. SFA shall be liable for all fuel and oil costs/charges and all fueling/oiling will be made by properly licenced facilities and personnel.
- 2.5. SFA shall, in its sole discretion, be entitled to cancel the Agreement at any time including any time prior to the Hirer taking possession of the Aircraft from SFA. In the event of SFA cancelling the Agreement prior to the Hirer taking possession of the Aircraft from SFA, the Hirer shall be entitled to a refund of his/her deposit and all sums paid to SFA for the Hire & Fly of the Aircraft.
- 2.6. The Hirer shall use the Aircraft during the Rental Period and shall return it to SFA at the Base Airport by no later than the end of the Rental Period.

3. Payments

- 3.1. Prior to each Hire and Fly, the Hirer shall ensure that SFA is paid and in possession of :
 - 3.1.1. a deposit of R5 000 (five thousand Rands); or
 - 3.1.2. if it should exceed R5 000, a sum equal to the Minimum Rental for the Rental Period.
- 3.2. Should there be any refund due to the Hirer by SFA upon the aircraft being returned by the Hirer to SFA, such refund shall be paid into the bank account provided by the Hirer in this Agreement within 5 business days.
- 3.3. The Hirer shall be entitled to a 5% discount on the Aircraft's Hourly Rental Rate when purchasing a block of 10 or more hours in advance.
- 3.4. Unless otherwise agreed in writing, the Hire and Fly Agreement executed by the Hirer and SFA, the Minimum Rental in respect of a given Rental Period shall be:
 - 3.4.1. 50% of the Aircraft's Hourly Rental Rate multiplied by the Rental Period, if the Rental Period is 6 hours or less;
 - 3.4.2. the Aircraft Daily Rental Rate in respect of each day on which the Aircraft is rented if the Rental Period exceeds 6 hours.
- 3.5. In respect of any given Rental Period the Hirer shall be liable to pay SFA the greater of-
 - 3.5.1. the Aircraft Operational Time multiplied by the Aircraft's Hourly Rental Rate; and
 - 3.5.2. the Minimum Rental.
- 3.6. Payment of all outstanding amounts in accordance with the provisions of paragraph 3.5 above shall be made by the Hirer forthwith upon the Hirer returning the Aircraft to SFA and SFA shall provide the Hirer with an invoice in respect the amount due.
- 3.7. In the event that full payment of the amount due is not paid for whatsoever reason upon the Hirer returning the Aircraft to SFA, interest shall accrue on the outstanding amount at the Prime Rate. Should SFA be obliged to institute proceedings for the recovery of any amount due by the Hirer to SFA, the Hirer shall be liable for all costs on the attorney and own client scale.
- 3.8. In the event the Hirer remains in possession of the Aircraft beyond the Rental Period, the Hirer expressly agrees to pay SFA for such additional period at the Aircraft's Hourly Rental Rate.
- 3.9. In the event the Hirer cancels his/her Aircraft Booking:
 - 3.9.1. more than 24 hours before the Rental Period is due to commence, SFA shall make a full refund of the Deposit;
 - 3.9.2. less than 24 hours but more than 5 hours before the Rental Period is due to commence, the Hirer shall pay a late cancellation fee of 20% of the Minimum Rental for the Rental Period;
 - 3.9.3. less than 5 hours before the Rental Period is due to commence, the Hirer shall pay a late cancellation fee of 30% of the Minimum Rental for the Rental Period.
- 3.10. In the event the Hirer wishes to cancel his/her Aircraft Booking, he/she shall do so by calling the Administrator or Duty Manager and requesting and receiving a text or email confirmation of the cancellation of the Aircraft Booking.
- 3.11. The Hirer shall be liable for all taxes, levies, charges or penalties imposed by any authority including, but not limited to, any taxation, airport or air navigation authority upon or in connection with the operation of the Aircraft by the Hirer.
- 3.12. All payments made by the Hirer in terms of the agreement shall be made by credit card or into SFA's bank account, details of which are as follows –

Account Holder	Sling Flying Adventures (Pty) Ltd
Bank	First National Bank
Branch	Commercial Account Services
Branch code	210554
Account no	62790861069
SWIFT	FIRNZAJJ

4. Return of the Aircraft and Aircraft condition

- 4.1. The Hirer shall return the Aircraft to SFA at the Base Airport at the end of the Rental Period or any agreed extensions in the same condition as at the time the Hirer took possession of the Aircraft, reasonable wear and tear excluded.
- 4.2. The Hirer shall be liable for any and/or all damage to the Aircraft during the Rental Period or while in possession of the Aircraft and agrees to pay any and all costs and charges in respect of repairs to the Aircraft arising from such damage.

5. The Pilot

- 5.1. The Hirer shall be the only pilot authorised to fly the Aircraft. The Hirer shall not permit any passenger(s) to manipulate any of the Aircraft's control or communications systems whether on the ground or in flight.
- 5.2. Before taking possession of the Aircraft at the commencement of the Rental Period, the Hirer must upload all the requested information/documentation to the SFA website or have provided the Administrator or Duty Manager with copies of such documents.

6. Operational Restrictions

- 6.1. During the Rental Period:
 - 6.1.1. the Hirer shall not use the Aircraft:
 - 6.1.1.1. in any business or other remunerative endeavour; and/or
 - 6.1.1.2. in any air race or other competition; and/or
 - 6.1.1.3. for any unlawful purpose or activity.
 - 6.1.2. the Hirer shall not re-hire the Aircraft.
 - 6.1.3. the Hirer shall be permitted to carry no more than the number of passengers provided for in the Aircraft Pilot Operating Handbook on board the Aircraft and shall ensure the weight and balance provisions of the said Pilot Operating Handbook are met at all times during any flight.
 - 6.1.4. the Hirer shall ensure that the Aircraft is not used for any purpose for which it is not designed or reasonably suited, and shall not operate it outside the tolerances and limitations for which it was designed. The Hirer is expressly prohibited for using the Aircraft for any aerobatic manoeuvre(s) or portions of aerobatic manoeuvre(s);
 - 6.1.5. the Hirer shall plan to operate the Aircraft only when the current and forecasted weather indicates VFR conditions local and en route (ceiling of at least 1 500 ft and visibility of 5 miles or greater), unless the Hirer is instrument rated, current for IFR and specifically approved, in writing, by SFA for IFR flight and the Aircraft is approved for IFR flight;
 - 6.1.6. the Hirer shall not take-off or land the Aircraft on any area other than the suitable runways of a designated, constructed, maintained airport or airfield;
- 6.2. The Hirer shall contact SFA's Duty Manager as soon as practically possible in the event of a mechanical or any other problem arising with the Aircraft or in respect of any aspect of the Hire & Fly of the aircraft.
- 6.3. The Hirer shall not make or authorize to be made, any repairs to the Aircraft without prior written consent from SFA for such repairs.
- 6.4. On returning the Aircraft to SFA, the Hirer shall report all damage caused to the Aircraft while in his/her possession.
- 6.5. The Aircraft may not be kept away from the Base Airport overnight without the prior written approval of SFA.

7. Insurance

- 7.1. The Hirer expressly acknowledges he/she has been provided with a copy of the SFA Insurance Policy, has read and understood its contents and will comply with its terms and conditions to the extent that any of them are applicable to the Hirer.
- 7.2. The Hirer will ensure that the Aircraft is operated in accordance with the insured uses and will not use the Aircraft for any purpose or in any manner not fully covered by the SFA insurance policy.
- 7.3. The Hirer warrants that he/she is in possession of an excess liability insurance policy which is sufficient to cover the insurance deductible in respect the SFA Insurance Policy.
- 7.4. Notwithstanding the Hirer being in possession of excess liability cover as more fully described in clause 7.3 above, in the event SFA is required to make a claim under the SFA Insurance Policy which claim arises from the Hirer's use of the Aircraft, then and in such event the Hirer remains personally liable to pay the insurance deductible reflected in the SFA Insurance Policy to SFA while the Hirer pursues any claim he/she may have against his/her excess liability insurer.
- 7.5. In the event an insurance claim arises under the SFA Insurance Policy in respect of the Hirer's Hire & Fly of the Aircraft, the Hirer shall provide SFA with whatever assistance and/or information may be necessary in relation to such claim.
- 7.6. Should any insurance claim lodged by SFA be rejected by its insurer or cover be denied arising from the Hirer's Hire & Fly of the Aircraft, where such rejection or denial of cover is as a result of the conduct of the Hirer, the Hirer shall be liable to SFA for all loss and/or damage incurred while the Agreement is in force in the event that the insurer does not pay SFA any claim.

8. Liability and indemnities

- 8.1. The Hirer expressly agrees and acknowledges that SFA will not be liable for any loss or damage, including but not limited to loss or life, personal injury (whether to persons in the Aircraft or on the ground), property damage, including damage to property on the ground or in the Aircraft, arising from the Hirer's possession and/or use of the Aircraft.
- 8.2. SFA shall not be liable to the Hirer for any loss or damage, including but not limited to loss or life, personal injury and damage to property that the Hirer or the passenger(s) carried by the Hirer in the Aircraft may suffer as a result of:
 - 8.2.1. A breach by SFA of its obligations under this Agreement; or
 - 8.2.2. The negligent acts or omissions of SFA.
- 8.3. The Hirer will indemnify, defend and hold SFA harmless against any and all claims, liabilities, demands, losses, penalties and/or any costs of any nature which may be brought against SFA arising from and in any way associated with this Agreement and/or the Hirer's use or possession of the Aircraft.
- 8.4. The indemnity given by the Hirer to SFA in the Agreement will not apply if the loss/damage is caused by the gross negligence or wilful misconduct of SFA.
- 8.5. The obligations of the Hirer to indemnify, defend and hold SFA harmless for liability arising from the Agreement and/or the Hirer's use of the Aircraft will survive any termination of the Agreement.

9. Governing law

9.1. The agreement shall be governed by and interpreted in accordance with the laws of the Republic of South Africa.

10. Domicilium

- 10.1. The Hirer chooses the residential address in clause 1 of the Hire and Fly Agreement executed by the Hirer and SFA as his/her chosen *Domicilium citandi et executandi*.
- 10.2. SFA chooses Hangar 8 Tedderfield Air Park, Nettleton Road, Eikenhof, Johannesburg South, Gauteng as its *Domicilium citandi et executandi*.
- 10.3. Any notices to be served in terms of the agreement shall be in writing and shall be deemed sufficiently served if delivered by hand to the party to be served at the addresses set out above, or if sent by email during business hours. The date of delivery shall be deemed to be the date of delivery or the date the email was sent. Notwithstanding anything to the contrary contained in this agreement, a written notice or communication actually received by one of the Parties from another including by way of email shall be adequate written notice or communication to such Party.

11. General

- 11.1. The Agreement constitutes the sole record of the Agreement between SFA and the Hirer and supersedes all previous Agreements. Neither SFA nor the Hirer shall be bound by any representation, express or implied term, warranty, promise or the like not recorded herein.
- 11.2. No addition to, variation of, novation, or agreed cancellation of the Agreement shall be of any force or effect unless in writing and signed by or on behalf of SFA and the Hirer in a single document.
- 11.3. No indulgence which SFA may grant to the Hirer shall constitute a waiver of any of the rights of SFA.
- 11.4. SFA shall be entitled to cede all its rights, duties and obligations, as is contained in the Agreement, to any third party which it may deem appropriate. The Hirer shall not be entitled to cede any of its rights, duties and obligations as are contained in this Agreement.
- 11.5. If any part of the Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect.

Signed on this _____ day of _____ 2019,

at (place) _____

The hirer's signature _____

