

Bird & Bird & Maintenance Repair Overhaul (MRO) and Supply Chain Contracts

That's Bird & Bird & Maintenance Repair
Overhaul (MRO) and Supply Chain Contracts

Sharing your
passion & working
your way & in for the
long haul & across
the whole industry &
crossing the globe
& touching the
metal & helping
you to fly



Our mission is to combine our deep knowledge of the aviation sector and our legal expertise to develop commercial solutions that make long-term business sense.

Introduction

Bird & Bird is a global law firm. Altogether we have over 900 lawyers and legal practitioners working on our clients' issues and business goals worldwide. We select and develop our people to possess a rare and invaluable grasp of strategic commercial issues. By combining this talent with exceptional legal expertise and deep industry knowledge, our advice is always informed, up to date, focused and relevant. Our recommendations are practical, realistic and clear.

Bird & Bird & Aviation

Our Aviation team has hands-on experience working within aviation companies and our people are steeped in the way the industry works. We act for many leading aviation businesses, including airlines, aircraft manufacturers, lessors, financiers, groundhandlers, MROs, freight forwarders, insurers, airports, tour operators, industry associations and online booking providers. Our clients in these organisations come to us because we know their business and we share a genuine passion and enthusiasm for the sector.

We relish using our aviation knowledge and experience to get to grips with business issues quickly. We provide timely, practical and commercially realistic advice and support in pursuit of sensible, workable solutions for transactions, ventures, and disputes. We like to be at the leading edge of business and legal developments and to be innovative for our clients' benefit.

Our people join forces to work on client matters across the world, meaning that all of our clients have access to the very best aviation legal expertise available from our firm.

MRO and supply chain contracts

Our Aviation and Aerospace Group advises on all legal and commercial issues that arise in the MRO sector, acting for airlines, manufacturers, leasing companies, financiers, MRO organisations and fixed-base operators. Drawing on our experience in aviation liability, aviation regulation, aircraft asset management and financing and defence contracting/PFI, combined with our expertise in the all the areas of law that are relevant to MRO and similar contracts, we advise on and prepare all documentation to ensure our clients' contractual arrangements are commercially sound and provide appropriate protection.

Because our team is rich with individuals who have worked in industry, our advice is typically hands-on and based on a deep commercial understanding of the aviation sector. Our services related to MRO and supply chain contracts include:

Commercial

- Drafting “umbrella” Technical Services Contracts (“TSCs”) to cover all potential services
- Devising and agreeing workable processes for the selection of specific services and the interaction of the generic terms of the TSC with bespoke terms such as:
 - Defining terms within individual purchase orders
 - Fixing a price and agreeing mechanisms for “capped out” price inflation and benchmarking
 - Documenting appropriate service levels
 - Apportioning risk on delivery and redelivery and other key commercial terms
 - Negotiating complex issues of IPR relating to ingrained IT systems and third party rights
 - Drafting a Full Support Contract where the MRO organisation takes full technical and engineering responsibility for the operator's aircraft

Regulatory

- Understanding and advising on the complexities of the regulatory regime applicable to maintenance of aircraft at local, national and EU levels
- Advising on the requirements for certification of maintenance providers and the impact of outsourcing of maintenance functions on that certification
- Advising on the transition between the JAA and EASA and the interface with other bodies such as the FAA

“Bird & Bird Aviation lawyers are described as “efficient, open minded and very good communicators”

Chambers Europe 2010

Liability/Insurance

- Negotiating and agreeing the allocation of risk and cost of Hull, Liability, Product Liability and Hangar Keepers insurance
- Agreeing the allocation of risk in relation to the provision of ancillary services, eg towing of aircraft during maintenance and transport of units/parts
- Establishing and negotiating enforceable indemnities supported by credit, guarantees or insurance.

Liquidated damages/Limitation of liability

- Negotiating liquidated damages for delay or specified non-performance and agreeing limits/exclusions of liability (including liability caps) enforceable in accordance with relevant legal systems (eg whether such clauses are effective under the English Unfair Contract Terms Act or comparable legislation in other jurisdictions)
- Agreeing the extent of warranties to be provided (which, in relation to GTAs/TSCs, may need to work practically across a diverse range of services).

“You can really rely on their deep, specialised aviation knowledge.”

Chambers and Partners 2010

Power by the hour

- Advising on the challenges of these contracts; in particular it is essential for a financier that it can continue a PBH arrangement following breach by an operator and that the equipment stays on the programme
- Establishing mechanisms for monitoring operator performance where this is a relevant factor within the risk allocation model in force
- Revising contracts to recognise PBH arrangements
- Aligning PBH arrangements, or alternatively a Cap Cost arrangement with any block or staggered warranties that may be applicable and addressing the issues arising in phase-in and phase-out of any such arrangement through careful drafting.

Rotables pooling and Joint Ventures

- Advising on the issues arising as a result of the different interests of financiers and airlines, eg determining the correct point of title transfer on swapping unserviceable/serviceable units and agreeing the extent of the rights of the repairer to reject an unserviceable unit on which title has already passed
- Advising on risk allocation, warranties and IPR.

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