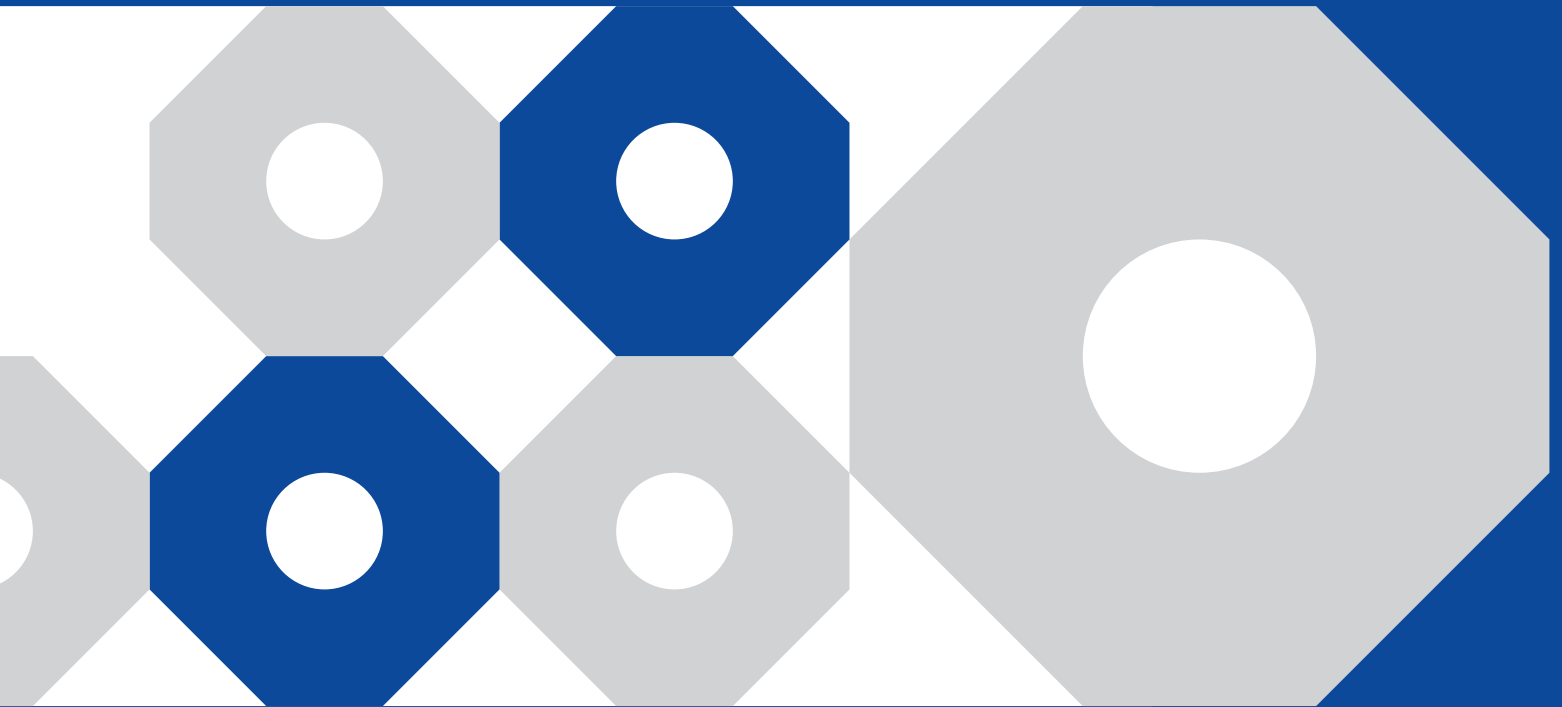


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IATA-CFM Agreement  
on Engine Maintenance:  
**IATA's Guide to Key Principles**



## **IATA-CFM Agreement on Engine Maintenance: IATA’s Guide to Key Points**

In 2018, IATA and CFM concluded an agreement relating to CFM’s practices in the aftermarket for parts and services in relation to all CFM engine models. The agreement included specific Conduct Policies and Implementing Measures (“CPs and IMs”) that CFM has published setting out the core policies or guidelines that it applies in its aftermarket practices, particularly in relation to non-OEM competition.

IATA commends CFM for its publication of the CPs and IMs, and its commitment to an open MRO model. As noted in its Preamble to the Conduct Policies, CFM “expects their communication will facilitate their awareness among CFM’s customers, and supports IATA’s intention to expand the application of these policies to other stakeholders in the aerospace industry. The Conduct Policies are designed to foster robust and open competition on the merits in relation to the jet engines aftermarket practices.”

According to the CFM Preamble, “The Conduct Policies aim at continuously promoting an open competitive aftermarket for parts and services in relation to all CFM engine models, through the issuance of transparent statements and processes in compliance with applicable laws and regulations, in all aspects such as licensing, warranties, servicing, technical support, repairs, communication and contracting.” CFM also notes that the Conduct Policies “reaffirm the applicable EASA/FAA regulations, including on the responsibilities of the various actors in the industry.”

IATA has prepared this Guide to assist member airlines and other beneficiaries by calling attention to key points in the CPs and IMs. It is not intended to serve as a definitive explanation of the CPs and IMs, but is instead IATA’s reference to what it regards as their principal elements. The CPs and IMs are available on IATA’s and CFM’s websites,<sup>1</sup> and should be consulted for a complete understanding of the undertakings therein.<sup>2</sup> In keeping with the IATA-CFM agreement, no provision of the CPs or IMs may be construed or asserted by any party as an admission, or evidence, of a violation of competition law or any other laws by CFM.

This Guide contains six sections, designed to provide relevant information about the Conduct Policies and the Implementing Measures to different user groups:

- (1) General Information About the Policies;
- (2) Information for Purchasers of Engines and Risk Transfer Agreements;
- (3) Information for Purchasers of Engine MRO Services;

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<sup>1</sup> <https://www.iata.org/mctg> (under “AGREEMENTS”) and <https://www.cfmaeroengines.com/cfm-conduct-policies-implementing-measures/>.

<sup>2</sup> In the event of any conflict between this Guide and the Conduct Policies and the Implementing Measures, the provisions of the Conduct Policies and the Implementing Measures take precedence.

- (4) Information for Overhaul Shops and other MRO Shops;
- (5) Information for all Warranty Claims; and
- (6) Procedures for Raising Concerns or Disputes.

## **I. About the Conduct Policies and Implementing Measures**

1. The Conduct Policies and the Implementing Measures apply to all CFM engine models, including the CFM56 and the LEAP series engines. GE has also agreed to apply the Conduct Policies to its own commercial aircraft engines, including the GENx.<sup>3</sup>
2. The Conduct Policies and the Implementing Measures entered into force on February 28, 2019 for a seven-year term.
3. The Conduct Policies and the Implementing Measures are for the benefit of all airlines, whether IATA members or not, and also qualifying MRO shops, manufacturers of PMA/EPA parts, suppliers of DER/DOA repairs, and aircraft lessors.<sup>4</sup> Should you believe that practices are not in line with the Conduct Policies or the Implementing Measures, you should contact, in the first instance, the CFM Liaison Officer or, if needed, the (independent) Trustee to resolve the matter.
4. In such circumstances, and to the extent you consider it necessary to remain anonymous vis à vis CFM, you may reach out to the Trustee and have the Trustee engage with CFM on your behalf, including vis-à-vis the CFM Liaison Officer.

## **II. Purchasers of Engines and Risk Transfer Agreements**

5. CFM performs its causation analysis of warranty claims on a non-discriminatory basis. CFM does not condition the warranties attached to new engines on your exclusive use of OEM parts and or repairs.
  - See paragraphs 9 through 11 of the *CFM Conduct Policies*
6. CFM does not enter into exclusive Material Service Agreements with airlines, except at the request of the airline.
  - See paragraph 33 of the *CFM Conduct Policies*

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<sup>3</sup> While GE has agreed to apply the Conduct Policies, the Implementing Measures, and the procedural rights and remedies they confer, do not apply to GE engines.

<sup>4</sup> Paragraph 69 of the Implementing Measures provides a definition of the beneficiaries of the Conduct Policies and the Implementing Measures.

7. CFM offers customers alternatives to risk transfer agreements, and in particular its Rate Per Flight Hour (RPFH) agreements, upon request. When negotiating these agreements, if CFM offers you a risk transfer agreement (included in the list published on the CFM website in connection with the Conduct Policies) you may ask CFM for an alternative product (e.g., time and materials), and CFM will provide one.

- See paragraph 34 of the *CFM Conduct Policies*

### **III. Purchasers of Engine MRO Services**

8. CFM supplies engine MRO services on a non-discriminatory basis. CFM does not refuse to service your engine because it contains non-OEM parts or repairs.

- See paragraph 14 of the *CFM Conduct Policies*

- **Note** that CFM continues to offer only OEM solutions for parts and repairs. But CFM (including GE and Safran) does not refuse to provide parts repairs, and does not refuse to sell replacement parts, on the basis that those parts or repairs will be used in an engine with non-OEM parts.

9. CFM performs its causation analysis of warranty claims on a non-discriminatory basis. CFM does not condition the warranties attached to any CFM engine on the exclusive use of OEM parts and or repairs.

- See paragraphs 9 through 11 of the *CFM Conduct Policies*

### **IV. Overhaul Shops and other MRO Shops**

#### **a. Engine Shop Manuals and Licensing**

10. CFM has waived fees for the use of its engine shop manuals (ESMs) (i.e., overhaul instructions and fully disclosed repairs) by certified overhaul shops and CFM does not request any form of compensation (e.g., fee or royalty payment) for the use of its EMSs from certified overhaul shops overhauling CFM engines.

- See paragraph 37 of the *CFM Implementing Measures*

11. CFM does not remove any fully disclosed repair instruction from the ESM without a technical basis for doing so. If you believe that a fully disclosed repair has been removed from the ESM without technical basis, please contact, in the first instance, the Liaison Officer or, if deemed necessary, the Trustee. This also includes fully disclosed repair instructions removed prior to this agreement being in force.

- See paragraphs 26 and 28 of the *CFM Conduct Policies* and paragraph 64 of the *CFM Implementing Measures*

12. When CFM introduces a new/upgraded part version and then issues a newly available repair for the newer part version, it will ensure that the original repair instruction for the original part version remains available in the ESM, unless there is a technical basis for removing the repair.

➤ See paragraph 28 of the *CFM Conduct Policies* and paragraph 63 of the *CFM Implementing Measures*

13. CFM will update its ESMs to reflect Departure Records (“DRs”) when it is technically feasible to do so.

➤ See paragraph 24 of the *CFM Conduct Policies*

14. MRO shops can use CFM’s ESMs and perform licensed repairs for CFM engines that also contain non-OEM parts and repairs. (CFM’s overhaul and part repair instructions are not intended to apply to non-OEM parts and repairs, however.)

➤ See paragraphs 7, 8 and 20 of the *CFM Conduct Policies*

15. CFM’s licenses for use of the ESM and part repair instructions on CFM parts do not require licensees to use only OEM parts and repairs in their CFM engines.

➤ See paragraph 21 of the *CFM Conduct Policies*

16. For licensed repairs that require substantiation, CFM will assist licensees to substantiate all relevant repairs for which they hold a license. CFM does not refuse to assist you with the substantiation process.

➤ See paragraph 30 of the *CFM Conduct Policies*

17. CFM will support early execution of license agreements with independent MRO Shops that want to service the new LEAP engine. CFM will consider all requests for license agreements for the LEAP engine from independent MRO shops.

➤ See paragraph 36 of the *CFM Conduct Policies*

**b. Parts and Repairs**

18. CFM does not issue statements regarding the existence of non-OEM parts or repairs, or its position with respect to them, unless necessary in certain defined circumstances (without making any qualitative statement concerning such non-OEM parts or repairs).

➤ See paragraph 59 of the *CFM Implementing Measures*

19. CFM makes available for purchase parts and part repairs services at an individual piece part level. While CFM is free to refuse to license a part repair, CFM does not refuse to sell parts or repairs to all operators and MRO shops, including independent MRO shops.

➤ See paragraph 15 of the *CFM Conduct Policies*

20. CFM will not enter into exclusive MSAs with airlines or MRO shops except in response to a request for an exclusive MSA (or, in the case of MRO shops, in the context of a CFM Branded Service Agreement).

➤ See paragraphs 33 and 35 of the *CFM Conduct Policies*

21. CFM offers only OEM MRO solutions. To the extent you agree to such an offering by CFM:

➤ You may ask for any non-OEM parts/repairs and LLPs influenced by non-OEM parts to be scrapped or returned to you at your own cost.

▪ See paragraph 16 of the *CFM Conduct Policies*

➤ If CFM identifies non-OEM parts/repairs or LLPs influenced by non-OEM parts that you were not aware of during a contracted shop visit, you may ask CFM to reinstall such parts subject to a binding amendment to the service agreement specifying (i) the revised commercial terms (non-discriminatory commercial terms as to the existence of the non-OEM parts) reflecting the revised work scope, and (ii) the responsibility of the operator for the reinstalled parts (i.e., the operator shall provide instruction for serviceability, release and indemnification) without warranty by, and responsibility for, CFM, other than a workmanship warranty addressing CFM's reinstallation of the non-OEM parts if and when feasible pursuant to the instructions provided by you.

▪ See paragraph 17 of the *CFM Conduct Policies*

22. CFM provides service only to the engine modules contracted. So CFM will not unilaterally expand the work scope contracted and service other modules. This means that if other engine modules (outside the scope of the modules contracted for MRO services) contain non-OEM parts or repairs, CFM will not service them and will not require the removal of those non-OEM parts or repairs, unless otherwise contractually agreed upon with you.

➤ See paragraph 18 of the *CFM Conduct Policies*

23. CFM performs its causation analysis of warranty claims on a non-discriminatory basis. CFM does not condition the warranties attached to its parts or repairs on the exclusive use of OEM parts and/or repairs.

➤ See paragraphs 9 through 11 of the *CFM Conduct Policies*

### **c. Technical Support and Departure Records**

24. CFM provides technical support to customers on a non-discriminatory basis, irrespective of whether the CFM engine contains non-OEM parts and/or repairs, subject to CFM's ability to perform the relevant engineering analysis.

➤ See paragraphs 22 and 23 of the *CFM Conduct Policies*

25. CFM evaluates each Departure Record ("DR") request in relation to engines that contain non-OEM parts or repairs on a non-discriminatory basis, based solely on CFM's ability to perform the engineering analysis necessary to compliantly issue a DR on the specific CFM part for which the DR is requested, taking into account the technical capability and engineering cost required to provide a DR.

➤ See paragraph 25 of the *CFM Conduct Policies*

26. When seeking a DR for a CFM LLP:

➤ CFM may refuse to evaluate your request when the LLP is operated with non-OEM critical influencing parts (CIPs) or non-OEM repaired CIPs for the LLP in question.

➤ However, CFM will not refuse to evaluate your request for an LLP operated with CFM CIPs because of the presence of unrelated non-OEM parts or repairs.

▪ See paragraphs 23 and 25 of the *CFM Conduct Policies*

### **V. Warranty Claims**

27. CFM performs its causation analysis of warranty claims on a non-discriminatory basis.

➤ See paragraphs 9 through 11 of the *CFM Conduct Policies*

28. If CFM rejects your warranty claim on the basis that a non-OEM part or repair caused the failure of the CFM engine, part, or repair:

➤ You may obtain a detailed explanation *and* a copy of the findings of the engineering analysis that was carried out by CFM.

▪ See paragraph 13 of the *CFM Conduct Policies*

➤ You may ask CFM to consider additional data that you submit, and CFM will conduct further analysis in light of these data or explain why it does not merit further analysis.

▪ See paragraph 13 of the *CFM Conduct Policies*

29. CFM will not reject your warranty claim without reasonable justification, or subject it to undue delay consistent with its standard warranty administration practices, because of your use of non-OEM parts or repairs.

➤ See paragraphs 11 and 13 of the *CFM Conduct Policies*

## **VI. Procedures for Raising Concerns or Disputes**

30. The Implementing Measures provide for a three-tier dispute resolution mechanism to handle disputes regarding the application of the Conduct Policies and Implementing Measures.

31. In order to benefit from the Implementing Measures and the rights they confer, ***you must first*** seek to reach an amicable resolution through the newly appointed CFM Liaison Officer.

➤ While you remain free to pursue any other remedies available to you - for example in your contract with CFM or in court - you may not benefit from both those remedies and the remedies available under the Implementing Measures. In other words, by doing so you forfeit your rights under the Implementing Measures (but only with respect to the specific conduct and incident in question).

➤ If you consider it necessary to remain anonymous, you can ask the Trustee to engage with the CFM Liaison Officer on your behalf.

32. To the extent you are unable to reach a satisfactory resolution with the CFM Liaison Officer within 45 working days, then ***you have a choice of next steps***. You may either (i) reach out to the Trustee for a non-binding opinion, or (ii) initiate formal arbitration.

➤ Non-Binding Opinion: You may ask the Trustee for a non-binding opinion on whether CFM's conduct violates the Conduct Policies. If the Trustee determines that CFM is in violation of the Conduct Policies, then CFM must inform you and the Trustee of whether it plans to implement the Trustee's decision. If CFM states that it intends to comply, then it has 60 days to do so. But ***note*** that the use of the Trustee for a non-binding opinion is ***not*** a mandatory step in the dispute resolution process. You are free to proceed directly to arbitration (after consulting with the CFM Liaison Officer).

➤ Arbitration: If the CFM Liaison Officer does not satisfy your concerns, you can initiate arbitration administered by the International Chamber of Commerce (ICC), or ad hoc arbitration conducted under the UNCITRAL Rules of Arbitration.<sup>5</sup> In both cases, the decisions and awards of the Arbitral Tribunal will be final and binding. If you succeed in arbitration, CFM may be subject to damages and

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<sup>5</sup> By initiating arbitration proceedings, beneficiaries forfeit their rights to seek redress for the alleged breach before other judicial or other forums.



penalties. The Arbitral Tribunal may order the losing party to bear the arbitration costs, as well as the cost of the arbitration process.

- See paragraphs 75-84 and 93-98 of the Implementing Measures

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