

Please email completed application to accounts@atffuels.com, or post to:
L'Avenue de La Commune, St. Peter, Jersey, JE3 7ZR, Channel Islands

INSTRUCTION TO YOUR BANK OR BUILDING SOCIETY TO PAY BY DIRECT DEBIT

Name(s) of Account Holder(s)

Bank/Building Society Account Number

Branch Sort Code

Name and full postal address of your Bank or Building Society

To: The Manager	Bank/Building Society
Address	

Originator's Identification Number

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Service User Reference

Instruction to your Bank or Building Society

Please pay ATF Global Ventures I IC Direct Debits from the account detailed in this instruction subject to the safeguards assured by the Direct Debit Guarantee.

I understand that this instruction may remain with ATF Global Ventures I IC and, if so, details will be passed electronically to my Bank/Building Society.

Signature(s)

Date

Banks and Building Societies may not accept Direct Debit instructions from some types of account.

THE DIRECT DEBIT GUARANTEE



- This Guarantee is offered by all banks and building societies that accept instructions to pay Direct Debits
- If there are any changes to the amount, date or frequency of your Direct Debit, ATF Global Ventures I IC will notify you 10 working days in advance of your account being debited or as otherwise agreed. If you request ATF Global Ventures I IC to collect a payment, confirmation of the amount and date will be given to you at the time of the request
- If an error is made in the payment of your Direct Debit by ATF Global Ventures I IC or your bank or building society you are entitled to a full and immediate refund of the amount paid from your bank or building society
 - If you receive a refund you are not entitled to, you must pay it back when ATF Global Ventures I IC asks you to
- You can cancel a Direct Debit at any time by simply contacting your bank or building society. Written confirmation may be required. Please also notify us.

This guarantee should be detached and retained by the Payer.

AGREEMENT

1. All invoices are to be paid Month End + 15 Days from the date of the invoice.
2. Claims arising from invoices must be made within seven working days.
3. By signing this application you agree that you have read, fully understand and accept the ATF Fuels General Terms and Conditions for Sale of Fuel stated below, which terms and conditions you hereby agree shall apply to all sales of fuel by you from ATF Fuels, including the settlement terms for the purchase of such fuel.

SIGNATURES

Signature

Date

Signature

Date

ATF Aviation Ltd.

General Terms and Conditions for Sale of Fuel

These terms and conditions govern and are incorporated in the Buyer's purchase of Fuel as specified on the Application Form for Sale of Fuel completed by the Buyer, and each Purchase Order and Invoice for Fuel issued and made by the Buyer to the Seller.

These terms and conditions apply as between the Buyer and the Seller named on the front of each such Purchase Order and Invoice and shall be conclusive in the absence of a signed agreement between the Buyer and the Seller to the contrary.

1 DEFINITIONS AND INTERPRETATION

1.1 For the purpose of this Agreement the following terms shall have the following meanings, unless the context otherwise requires:

Affiliate means in respect of:

- (a) the Buyer any of its Group Companies; and
- (b) the Seller, any of its Associates.

Associate means:

- (a) the Operator, and any of the Operator's Group Companies; and
- (b) any of the Seller's Group Companies.

Buyer means the party defined as such in the Fuel Sale Agreement.

Buyer's Aircraft means aircraft owned, leased or operated by or on behalf of the Buyer.

Credit Limit has the meaning given in clause 5.3.

Defuel means to remove fuel from aircraft tanks irrespective of the circumstances or the quantities involved.

Delegates' means associates, Affiliates, representatives, sub-contractors, directors, officers, employees, agents or volunteers.

Delivery Airfield means:

- (a) any airfield specified in any applicable Fuel Sale Agreement;
- (b) any airfield at which the Seller permits the Buyer to (or has an arrangement for the Buyer to be permitted to) uplift Fuel upon presentation of an Account Identifier Card;
- (c) any airfield at which the Buyer uplifts Fuel using cash or any credit, charge or debit card accepted by the Seller or the Operator or their respective authorised representatives; or
- (d) any other airfield at which the Seller, or an Operator arranged by the Seller, supplies Fuel to the Buyer.

Existing Quotation has the meaning given in clause 4.7.

Fuel means:

- (a) Jet A-1;
- (b) AvGas;
- (c) Diesel.

Fuel Sale Agreement means collectively:

- (a) the Seller's application form for sale of fuel completed and signed by the Buyer and delivered to the Seller, which incorporate these terms and conditions;
- (b) each Purchase Order, which incorporate these terms and conditions; and
- (c) the Seller's form of invoice issued by the Seller to the Buyer pursuant to each Purchase Order, which incorporate these terms and conditions.

Group Company means any subsidiary, subsidiary undertaking, holding company or holding undertaking of a relevant company, or any company or undertaking which has the same ultimate holding company or parent undertaking as such relevant company (whether directly or indirectly) as defined in section 1159 and Schedule 6 and section 1162 and Schedule 7 of the Companies Act 2006.

Intended Authorised Person has the meaning given in clause 7.2.

Interest Rate means either:

- (a) LIBOR plus three per cent or
- (b) such other interest rate as the Seller and Buyer may agree from time to time.

LIBOR means the London inter-bank offered rate for one month US Dollar deposits at the 11:00 a.m. fixing on the due date as published by Reuters or, if the due date is not a London banking day, on the immediately preceding London banking day.

New Quotation has the meaning given in clause 4.7

Operator means in respect of a Delivery Airfield specified in an applicable Fuel Sale Agreement, the company designated in such Fuel Sale Agreement as the Operator for that Delivery Airfield.

Posted Airfield Price means the standard price for Fuel quoted by the Seller or an Operator at a Delivery Airfield.

Purchase Order means the Seller's form of purchase order which incorporates these terms and conditions (as amended from time to time) completed and confirmed by the Buyer to the Seller to purchase Fuel, setting out:

- (a) the names, addresses and contact details of the Seller and the Buyer; and
- (b) the type, amount and price for Fuel, which incorporate these terms and conditions.

Seller means the party defined as such in the Fuel Sale Agreement.

Seller's Suppliers means any body or person by whom directly or indirectly the Fuel to be purchased and sold under the Fuel Sale Agreement is supplied to the Seller.

1.2 Unless a contrary indication appears, any reference in these terms and conditions to:

- (a) words in the singular include the plural and vice versa and words in one gender include any other gender;
- (b) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (c) clauses are references to clauses in these terms and conditions;
- (d) any form of legal entity includes all other forms of legal entity;
- (e) a reference to **writing** includes printing, typing, lithography and other modes of reproducing words in a visible form, whether electronic or otherwise;
- (f) any statute or statutory provision includes any statute or statutory provision which amends, extends, consolidates or replaces it, or which has been amended, extended, consolidated or replaced by it, and any orders, regulations, instruments or other subordinate legislation made under it;
- (g) reference to a party means each of the Seller and the Buyer and their successors in title, permitted transferees and permitted assigns; and
- (h) any provision of these terms and conditions are to that provision as amended, varied, or supplemented in accordance with the terms of these terms and conditions.

1.3 **USD, US Dollars** and **\$** denote the lawful currency of the United States of America.

1.4 **EUR, Euros** and **€** denote the lawful currency of the Institutions of the European Union.

1.5 **GBP, Sterling** and **£** denote the lawful currency of Britain.

2 SUPPLY OF FUELS

- 2.1 The relevant specifications that will be met by Fuels supplied under the Fuel Sale Agreement are as follows:
- (a) Aviation Fuel Quality Requirements for Jointly Operated Systems (AFQRJOS) commonly known as Joint Fuelling System Check List for Jet A-1, latest issue;
 - (b) AvGas 100LL – ASTM D910 (Aviation Gasoline) & DEF-STAN 91-90; and
 - (c) GASOIL – Ultra Low Sulphur Diesel dyed red for commercial use.
- 2.2 The express terms and conditions of this Agreement shall apply in place of all guaranties, warranties, conditions, terms, representations, statements, undertakings and obligations whether expressed or implied by statute, common law, custom, usage or otherwise, all of which are excluded to the fullest extent permitted by law.

3 DELIVERY

- 3.1 Unless otherwise agreed, Fuel supplied under the Fuel Sale Agreement shall be delivered into tanks of aircraft (or vehicles for diesel) at the relevant Delivery Airfield at areas that are usually and regularly used by the Buyer for the uplift of Fuel.
- 3.2 If agreed by the Seller and the Buyer in writing prior to delivery, Fuel supplied under the Fuel Sale Agreement may be delivered into or lifted from a fuel facility at the relevant Delivery Airfield, or otherwise.
- 3.3 Risk in and property to Fuel supplied under the Fuel Sale Agreement shall pass to the Buyer:
- (a) when delivered into aircraft tanks, as the Fuel supplied passes the inlet coupling of the receiving aircraft; or
 - (b) when delivered into vehicle tanks, as the diesel supplied passes into the receiving vehicle; or
 - (c) when delivered into a fuel facility, as the Fuel supplied passes the inlet coupling of the receiving fuel facility; or
 - (d) when lifted from a fuel facility, as the Fuel supplied passes the outlet coupling of the supplying fuel facility; or
 - (e) at the point otherwise agreed by Seller and Buyer in writing prior to delivery.
- 3.4 Provided the Buyer's aircraft arrives at its scheduled flight time the Seller shall use all reasonable endeavours to refuel the Buyer's aircraft promptly.
- 3.5 If the Buyer's Aircraft is operating:
- (a) a scheduled flight that arrives before or after its scheduled time of arrival, the Seller shall use its reasonable endeavours to fuel the aircraft promptly, subject to operational requirements imposed by other delivery commitments at the aircraft's actual time of arrival; or
 - (b) a non-scheduled flight, the Seller shall use its reasonable endeavours to fuel the aircraft promptly, subject to operational requirements imposed by delivery commitments either to aircraft operating scheduled flights at the time of arrival of the aircraft or to other aircraft operating irregular, non-scheduled flights that have arrived before the aircraft.
- 3.6 For deliveries at any Delivery Airfield, the Seller shall use the quality control and operating procedures (as amended from time to time) applicable to its operations at that Delivery Airfield.
- 3.7 In respect of any delivery made by the Seller, the Seller's measurements and quality analysis of the Fuel supplied shall be treated as conclusive, however, the conclusiveness of the results may be displaced to the extent that it can be shown that the results are incorrect. Any claim or complaint in respect of a shortage in quantity or defect in the quality of any Fuel supplied under the Fuel Sale Agreement shall only be considered by the Seller if notice in writing of such claim is received by the Seller within 14 days of the date of the delivery in question and such notice is followed by a fully documented claim to be received by the Seller within 60 days of the date of the delivery in question. If the Buyer fails to give notice or to submit any such claim within the time limits, the Buyer's claim shall be deemed to be waived and any liability on the part of the Seller extinguished.
- 3.8 The Buyer shall have the right to take, in a correct and appropriate manner, in the presence of the Seller samples of Fuels delivered and such samples shall be kept in accordance with internationally recognised methodology and practice.
- 3.9 If requested by the Buyer, the Seller shall provide a hydrometer and a thermometer for the Buyer to determine the density of a sample from a particular fuelling. At the Buyer's request, the Seller will provide a typical density, determined at an observed temperature, for Fuels supplied to the Buyer on the basis of other supplies made by the Seller on that day. This value may vary from time to time and the Seller accepts no responsibility whatsoever, howsoever arising, for any calculations based on the information provided by the Seller.
- 3.10 Unless otherwise agreed, the Seller shall provide the Buyer at the time of delivery with a copy of a delivery receipt specifying the grade and quantity of Fuel delivered. Except at unmanned sites, the delivery receipt shall be signed by the representatives of the Seller and the Buyer.

4 PRICES, DUTIES, TAXES AND CHARGES

- 4.1 Subject to clause 8 and the following provisions of this clause 4, the prices payable for Fuels to be supplied under the Fuel Sale Agreement shall be (as applicable) either:
- (a) those specified in the relevant Fuel Sale Agreement;
 - (b) the Posted Airfield Price; or
 - (c) as otherwise agreed by the Seller and Buyer in writing;
- and, in each case, shall, unless otherwise stated, be exclusive of applicable consumption tax, sales tax or any other tax of a similar nature that may be levied in the jurisdiction of the Delivery Airfield.
- 4.2 Buyer shall (against the production of a valid tax or other invoice) pay any duty, tax, fee or charge of any kind imposed by any national, local or airport authority on the supply, delivery, sale, inspection, storage or use of Fuels, or on Defueling, or in respect of payment for Fuels supplied under the Fuel Sale Agreement and not included in the price for the Fuels, except for taxes on Seller's income and taxes on raw material. These duties, taxes, fees and other charges shall be charged in accordance with the relevant regulations in force, and at the rate current, at the time of making the supply and, to the extent allowed, stated by the Seller as separate items on the invoice for the account of Buyer.
- 4.3 Third party charges included in the price of Fuels at the date of this Agreement shall be as stated in the applicable Fuel Sale Agreement (if any) or as otherwise agreed between the parties from time to time in writing.
- 4.4 The prices of Fuels may be varied by the Seller to reflect wholly, and from the effective date, any changes in any duty, tax, fee or charge of any kind included in the prices of Fuels (or any new duty, tax, fee or charge of any kind to be included in the price of Fuels) that the Seller incurs in order to fulfil its obligations under this Agreement.
- 4.5 The Seller shall endeavour promptly to advise the Buyer of the imposition, or increase in, any duty, tax, fee or charge payable by the Buyer pursuant to clauses 4.2 or 4.4 when such information becomes known to the Seller but the Seller's inability so to do shall not excuse the Buyer from its obligation to pay any such duty, tax, fee or charge from its effective date of application.
- 4.6 In cases where the Buyer is entitled to a complete or partial exemption from or refund of any duty, tax, fee or charge referred to in clause 4.4 deliveries shall, so far as may be reasonably practicable, be made by the Seller in the manner required for obtaining such exemptions or refund and the Buyer shall deliver to the Seller a valid exemption certificate in respect of the same.
- 4.7 If any third party quotation (**Existing Quotation**), upon which the formula price is based, ceases to be published such other third party quotation (**New Quotation**) shall be substituted as most nearly places the Parties in the position in which they would have been had the Existing Quotation continued to be published.

- 4.8 If there shall be any dispute of any kind in relation to the New Quotation to be used pursuant to clause 4.7, then pending resolution of such dispute, a provisional formula price shall be calculated based on the most recently published Existing Quotation. As soon as the Parties have agreed on the New Quotation the formula price shall be re-calculated using such new agreed New Quotation. The amount of any resulting adjusting payment due to a Party, together with interest thereon accruing at the Interest Rate from the due date of payment of the provisional formula price referred to above until the date of such agreement, shall be included in the next invoice if due by the Buyer or, if due by the Seller, within 10 days of the parties' agreement.
- 4.9 If a correction is issued to a previously published third party quotation upon which a formula price is based, the formula price shall be recalculated accordingly in respect of the period to which such correction applies. The amount of any resulting adjusting payment due to a party, together with interest on such amount accruing at the Interest Rate from the due date of payment of the formula price until the date of such correction, shall be included in the next invoice if due to the Buyer or, if due to the Seller, shall be paid within 10 days of such adjustment.

5 PAYMENT AND SECURITY

- 5.1 Subject only to the deduction of any amount in dispute, which shall be notified before the due date for payment by the Buyer to the Seller in writing, payment of the full amounts shown on all invoices rendered by the Seller to the Buyer under the Fuel Sale Agreement shall be made in accordance with the terms and conditions set out in the applicable Fuel Sale Agreement (if any), failing which payment shall be immediately due upon receipt of invoice.
- 5.2 Subject to clause 5.1, if the Buyer fails to pay any invoice by its due date for payment the Seller may at its option:
- (a) surcharge each future invoice at the time of preparation at the Interest Rate, which amount will be refunded only if payment is received by the due date; and
 - (b) charge interest at the Interest Rate on any amount overdue for payment.
- 5.3 The Seller may (at the Seller's option) notify the Buyer of its credit limit (inclusive of applicable consumption tax, sales tax or any other tax of a similar nature that may be levied in any jurisdiction) (**Credit Limit**), which may be revised from time to time.
- 5.4 Subject to Clause 5.1, if at any time:
- (a) the Buyer fails to pay any invoice by its due date for payment;
 - (b) the reliability or the financial responsibility of the Buyer (or of any guarantor or other person furnishing security in support of the Buyer), in Seller's assessment, is becomes impaired or unsatisfactory; and/or
 - (c) the Buyer exceeds its current Credit Limit;
- the Seller may at its option:
- (1) immediately withhold future deliveries until all sums due have been paid in full;
 - (2) require the Buyer to make cash payment at the Posted Airfield Price at the Delivery Airfield at the time of any future delivery;
 - (3) receive from the Buyer, upon demand, immediate payment, in advance of the due date or of delivery or collection, in respect of each or any invoice, delivery or collection or any proportion of the same; and/or
 - (4) require the Buyer to provide any security satisfactory to the Seller.
- 5.5 After any demand or requirement set out in clause 5.4(3) or (4), the Seller may (without prejudice to any other right to suspend delivery) cease delivery of part or all of the Fuels to be supplied under the Fuel Sale Agreement until such payment or security shall have been received by it.

6 PAYMENT

- 6.1 Unless required by law and unless the parties agree otherwise, all payments made by either party under the Fuel Sale Agreement shall be made in US Dollars, Euros or Pounds Sterling, free and clear of and without any deduction for or on account of any tax, set-off or counterclaim.

7 ACCOUNT IDENTIFIER CARDS

- 7.1 At the Buyer's written request, the Seller may at its sole discretion issue to the Buyer Account Identifier Cards (or additional Account Identifier Cards) so that the Buyer may uplift Fuel subject to availability at Delivery Airfields.
- 7.2 Any delivery address for an Account Identifier Card which differs from the Buyer's billing address or other any other address recorded and recognised as valid by Seller shall be confirmed by the Buyer in writing. The Seller may require the Buyer to provide proof of identity and trading from such address, and the name, address and other personal details of those persons whom the Buyer intends to authorise to use Account Identifier Cards (**each an Intended Authorised Person**), so that these may be verified in order to comply with applicable anti-money laundering legislation. The Buyer shall ensure that all such persons comply with these terms and conditions. The Buyer consents to the disclosure to and use by the Seller or the Seller's Affiliates of the Buyer's personal information and data in accordance with any consent given by the Buyer when requesting the issuance of an Account Identifier Card. The Buyer shall either ensure that each of its Intended Authorised Persons gives similar consent in respect of his/her personal information and data or, failing which, inform the Seller that such person is no longer an Intended Authorised Person. The Buyer shall immediately notify the Seller of any changes in any details contained or requested in the Buyer's request for Account Identifier Cards.
- 7.3 The Seller may issue Account Identifier Cards for an initial period and, subject to what the Seller considers to be sufficient usage of the card and the Buyer's performance in accordance with the terms of the Fuel Sale Agreement, the Seller may renew any such card from time to time and for a specified period.
- 7.4 Each Account Identifier Card shall identify the registration number of the aircraft and/or the pilot's name in respect of which the Buyer is permitted to use the card. However, the Seller may, at its discretion and if requested by the Buyer, issue to the Buyer Account Identifier Cards without any aircraft registration number that may be used in respect of any aircraft or without any pilot name that may be used by any pilot. The Buyer undertakes to pay the Seller for any deliveries of Fuel by any person or company against presentation of any Account Identifier Card issued to the Buyer. The Buyer indemnifies the Seller against any and all liability associated with the validation of either the aircraft registration number or the pilot's name (or both) against the number and/or name (if any) identified on the card presented and any delivery of Fuel that may be associated with such a validation.
- 7.5 The Seller shall invoice the Buyer for all deliveries of Fuel made to the Buyer against presentation of a valid Account Identifier Card notwithstanding the fact that the Buyer may otherwise be contracted to another supplier for Fuel at the airfield concerned.
- 7.6 In the absence of any price for Fuel specifically agreed between the Seller and the Buyer in respect of the use of an Account Identifier Card at a particular airfield the price applicable for the supply of Fuel shall be the Posted Airfield Price at that airfield for the Fuel in question.
- 7.7 Without prejudice to the other provisions of the Fuel Sale Agreement, where an Account Identifier Card is used all duties, taxes, fees and charges of any kind levied or charged in connection with the supply of Fuels under the Fuel Sale Agreement and incurred by the Seller from time to time and not included in the price for the Fuels shall be for the account of the Buyer.
- 7.8 The Account Identifier Cards may only be used at airfields where the Seller conducts business.
- 7.9 The Account Identifier Cards are the property of the Seller and shall, at the request of the Seller, be returned to the Seller if they are not being used in accordance with the Fuel Sale Agreement. An Account Identifier Card may only be used by the Buyer if it is a current card which has not expired or been suspended or terminated. Each of the Seller and the Buyer may at its sole discretion suspend or terminate any or all Account Identifier Card(s) issued to the Buyer at any time by notice without ascribing any reason provided that suspension or termination shall not affect any outstanding obligations owed by the Buyer to the Seller under the Fuel Sale Agreement. On notice of termination the Buyer shall return to Seller all affected Account Identifier Cards within 15 days of the time that notice is given. The Buyer shall continue to be liable for the use of such cards prior to their return to Seller.

- 7.10 The Account Identifier Cards issued to the Buyer are not assignable or transferable and may only be used by the Buyer, the Buyer's pilots or in respect of the Buyer's aircraft. If there is a change in ownership or registration of any aircraft in respect of which an Account Identifier Card has been issued to the Buyer, or if a pilot named on an Account Identifier Card ceases to be authorised to use the card on behalf of the Buyer, the Buyer undertakes to return such Account Identifier Card to the Seller immediately. If the Buyer fails to do so, the Buyer undertakes to pay the Seller for any deliveries of Fuel obtained on trade credit by any person or company other than the Buyer against presentation of any such Account Identifier Card.
- 7.11 The Buyer undertakes to notify the Seller immediately if an Account Identifier Card is lost or stolen or subject to unauthorised use, providing full details of the card for identification. The Buyer shall be held responsible for any debts incurred against the presentation of such card prior to such notification.
- 7.12 The Buyer shall ensure that no Account Identifier Card remains in the possession of any person who has ceased to be one of its authorised representatives with respect to the use of cards issued to the Buyer.
- 7.13 Any alteration to an Account Identifier Card shall render it invalid.
- 7.14 The Seller reserves the right to vary, delete or supplement these terms and conditions, in so far as they apply to Account Identifier Cards, upon written notice to the Buyer. The first use of an Account Identifier Card by the Buyer after such notice has been given shall constitute acceptance of such terms and conditions as varied, deleted or supplemented.

8 AIRCRAFT OPERATIONS

- 8.1 At any Delivery Airfield, provided that Defueling and storage of the Defueled Fuel can be carried out in accordance with the quality control and operations procedures (as amended from time to time) applicable to the Seller's or Operator's operations at that Delivery Airfield, Defueling of Buyer's Aircraft shall be undertaken as soon as possible after the Buyer's request taking into account the Seller's (or Operator's) other operational activities.
- 8.2 The Seller (or Operator) shall have absolute discretion to:
- (a) receive back into its own storage the quantity of Fuel Defueled, or
 - (b) segregate and store the Defueled Fuel for re-delivery to the Buyer's Aircraft from which it was Defueled or to another Buyer's Aircraft, or
 - (c) dispose of the Defueled Fuel and credit the Buyer with any proceeds thereby obtained less any costs, charges, duties or taxes incurred by the Seller in arranging such disposal.
- 8.3 The Seller reserves the right to charge the Buyer a fee for the services set out in clauses 8.1 and 8.2.

9 DELIVERIES OUTSIDE NORMAL ARRANGEMENTS

- 9.1 If the Buyer requests the Seller (or Operator) to make deliveries:
- (a) at an area at any Delivery Airfield other than the areas usually and regularly used by the Buyer for the uplift of Fuels; or
 - (b) by a different method than the one normally used for supplies of Fuels to the Buyer's Aircraft; or
 - (c) outside the Seller's normal service hours (as published by the Seller from time to time at the Delivery Airfield), then the Seller reserves the right to charge the Buyer the additional costs and expenses incurred by the Seller in making such deliveries.

10 OPERATION OF AIRCRAFT SWITCHES AND VALVES

- 10.1 The Buyer or its Delegates shall be responsible for operating all appropriate switches, valves, and fuel quantity indicators on the Buyer's Aircraft but if all or part of this function is carried out by or on behalf of the Seller the Buyer hereby provides an indemnity in respect of such activities in the terms set out in clause 13.

11 OPERATIONS IN THE PRESENCE OF PASSENGERS

- 11.1 Where it is permitted by the relevant local airport regulations, fuelling or defueling of Buyer's Aircraft (other than helicopters) where passengers are on board, embarking or disembarking, may be undertaken by or on behalf of the Seller provided that the Buyer hereby:
- (a) provides an indemnity in respect of such activities in the terms set out in clause 13;
 - (b) agrees to ensure that the Buyer and the Buyer's Delegates comply with the provisions of the local airport regulations relating to the operation;
 - (c) agrees to ensure that instructions are issued to the Buyer's Delegates regarding the safety of all passengers during such operations and that these instructions are strictly observed; and
 - (d) agrees to ensure that passengers joining or leaving the aircraft are safely moved under the supervision of a competent person over a safe route away from such operations and are actually prevented from smoking or causing any other potential source of ignition and are prevented from lingering.

12 DELIVERY IN HIJACK SITUATION

- 12.1 Notwithstanding anything to the contrary expressed or implied elsewhere in these terms and condition, the Seller or the Operator shall not be obliged to fuel or Defuel any of the Buyer's Aircraft if the aircraft in question is or is reasonably believed by the Seller or the Operator to be under the control of hijackers, regardless of whether the fuel supply contract at that airport is held by the Seller or not.
- 12.2 If the Buyer or Buyer's Delegates request(s) that a delivery be made by the Seller or the Operator or their respective Delegates in the circumstances set out in clause 12.1 and such a delivery is made then the Buyer hereby:
- (a) agrees that the Fuel delivered shall be for the account of the Buyer; and
 - (b) provides an indemnity in respect of such activities in the terms set out in clause 13.
- 12.3 If the Seller's or the Operator's equipment is commandeered by the authorities and/or used as cover for military type operations, liability for resulting damage, injury or death to the Buyer or Buyer's Delegates is disclaimed to the fullest extent permissible by law.

13 INDEMNITY

- 13.1 In respect of any activities undertaken by the Seller or the Operator or their respective Delegates pursuant to clauses 10, 11, or 12 the Buyer hereby indemnifies and holds the Seller, the Operator and its/their Delegates harmless against all claims, demands, proceedings, damages and liabilities for loss of or damage to any property whatsoever or for injury, including fatal injury or disease to any person whatsoever and against all associated costs (including legal costs) and expenses that arise out of or are connected with actions or omissions in the performance by the Seller, the Operator or its/their Delegates of any or all of the activities described in clauses 10, 11, or 12 and this indemnity shall apply except to the extent that loss, damage, injury, disease or death are caused by the gross negligence or wilful misconduct of the Seller, the Operator or their Delegates.
- 13.2 In agreeing to the indemnity and hold harmless obligations in this clause 13 the Seller acts for itself and acts or shall be deemed to act as agent and trustee for the benefit of the Operator and the Delegates of the Seller and the Operator so that the benefit of such indemnity extends to the Operator and such Delegates and the Buyer unconditionally acknowledges that the Operator and such Delegates can enforce this indemnity directly as if they were parties to this Agreement.
- 13.3 During the term of this Agreement the Buyer shall effect and maintain with a reputable insurer aviation general third party liability insurance sufficient to cover its obligations under this Agreement and shall provide evidence of this insurance and payment of applicable premium to the Seller if requested.

14 LIABILITY

14.1 Except where expressly provided in this Agreement, neither the Seller nor the Buyer shall be liable to the other under or in connection with this Agreement for the other party's:

- (a) loss of actual or anticipated profit;
- (b) losses caused by business interruption;
- (c) loss of goodwill or reputation; or
- (d) for any indirect, special or consequential cost, expense, loss or damage,

even if such cost, expense, loss or damage was reasonably foreseeable or might reasonably have been contemplated by the parties and whether arising from breach of contract, tort, negligence, breach of statutory duty or otherwise.

15 FORCE MAJEURE

15.1 Neither the Seller nor the Buyer shall be responsible for any failure to fulfil their respective obligations under this Agreement (other than the payment of money) if fulfilment has been delayed, hindered, interfered with, curtailed or prevented by:

- (a) any circumstances whatsoever which are not within the reasonable control of the Seller or of the Seller's Suppliers or of the Buyer as the case may be; or
- (b) any curtailment, failure or cessation of the supplies of the Fuels from any of the Seller's or the Seller's Suppliers' sources of supply (whether in fact sources of supply for the purposes of the Fuel Sale Agreement or not); or
- (c) any compliance with any order, demand or request of any international, national, port, transportation, local or other authority or agency or of anybody or person purporting to be or to act for such authority or agency; or
- (d) any strike, lock-out or labour dispute (whether or not the Seller, the Seller's Suppliers or the Buyer as the case may be are party to the same or would be able to influence or procure the settlement of the same).

15.2 If by reason of any of the causes referred to in clause 15.1 either the availability from any of the Seller's or the Seller's Suppliers' sources of supply of the Fuels or the normal means of transport of such Fuels is delayed, hindered, interfered with, curtailed, or prevented, the Seller shall be at liberty either to:

- (a) withhold, reduce or suspend deliveries under the Fuel Sale Agreement to such extent as the Seller may in its absolute discretion think fit in which case the Seller shall not be bound to purchase or otherwise make good shortages resulting from any such cause, although the Seller will endeavour to arrange an equitable distribution of supplies which continue to be normally available in the events referred to above; or
- (b) offer the Buyer a restated price for supplies of the Fuels for deliveries with effect from the date (whether or not before the date of such restatement) on which the circumstances specified in clause 15.1 affected deliveries at the Delivery Airfield concerned. If within 10 days of such notice the Buyer does not accept any restated price then the Seller may immediately terminate deliveries at that Delivery Airfield but any such restated price shall, notwithstanding any failure to agree, be payable in respect of any Fuel delivered at that Delivery Airfield under the Fuel Sale Agreement from the date of the Seller's notice.

If the circumstances which have given rise to the operation of clause 15.2(b) become improved or cease, thereby enabling a revision to be made in whole or in part to the Seller's or the Seller's Suppliers' normal sources of supply and/or routes and means of transportation, the Seller shall give written notice of the same to the Buyer together with appropriate adjustments to the restated price.

15.3 The performance of any obligation, whether arising out of any contract, arrangement or otherwise, by which any authority, agency, body or person is entitled to require and does require any of the Fuels by way of royalty in kind, shall be deemed to constitute a compliance with an order or request as provided in clause 15.1(c), notwithstanding any agreement on the part of the Seller or the Seller's Suppliers to repurchase the same or any part of the same.

15.4 If the Seller withholds, reduces or suspends deliveries of Fuels under the Fuel Sale Agreement pursuant to clause 15.2(a) the Buyer shall be free, for so long as deliveries under the Fuel Sale Agreement are withheld, suspended or reduced, to purchase from other suppliers on its own account any deficiencies in the supply of Fuels arising as a result.

16 OPERATOR CHANGE

16.1 In respect of any Delivery Airfield, if the Operator ceases to be an Affiliate of the Seller or there is a substantial change in the ownership or control of the business undertaking or assets of the Operator or the Operator ceases refuelling operations at that Delivery Airfield, the Seller shall be entitled to terminate this Agreement in respect of supplies at that Delivery Airfield upon giving the Buyer 30 days' notice of such termination.

17 REDEVELOPMENT OF EXISTING AIRFIELDS AND NEW AIRFIELDS

17.1 If an existing Delivery Airfield specified in a Fuel Sale Agreement is redeveloped or a new airfield is opened to replace any such Delivery Airfield (in which case, the redeveloped or new airfield shall become the specified Delivery Airfield for that location in the place of the existing Delivery Airfield), the Seller shall have the right to deliver the Buyer's requirements of the Fuels at such redeveloped or new airfield and if the Seller's costs of supplying at the redeveloped or new airfield are higher than the costs previously incurred then the Seller shall have the right to renegotiate the price of the Fuels to be supplied.

17.2 If the Seller and the Buyer cannot agree on the new price to be applied, pursuant to clause 17.1 within 30 days of the Seller requesting a new price, the new price shall be charged but the Buyer may terminate this Agreement in respect of supplies of Fuels at that redeveloped or new airfield upon 60 days' notice to the Seller.

18 TERMINATION

18.1 The Seller may terminate this Agreement by notice to the Buyer, without prejudice to any rights of action or claims that it may have under this Agreement or otherwise, if:

- (a) subject to clause 5.1, the Buyer:
 - (1) fails to pay any invoice by its due date for payment; and/or
 - (2) fails to provide any payment or security mentioned in clause 5.5 within a period of 3 days after such being demanded or required;
 - (3) commits a breach of any of the other conditions or any other term of the Fuel Sale Agreement, the effect of which breach is material, and which is either incapable of remedy, or, if capable of remedy is not remedied within 30 days of service of notice by the Seller requiring remedy;

whether or not such event or breach would otherwise qualify as a repudiatory breach at common law; or

- (b) the Buyer begins negotiations for, takes any proceedings concerning, proposes or makes any agreement for the deferral, rescheduling or other readjustment, general assignment of or an arrangement or composition with or for the benefit of some or all of its creditors of all or substantially all of its debts, or for a moratorium in respect of or affecting all or substantially all of its debts; or
- (c) any step is taken by any person (including the Buyer) with a view to the administration, bankruptcy or winding up of the Buyer; or
- (d) any step is taken to enforce security over or a distress, execution or other similar process is levied or served against all or substantially all of the assets or undertaking of the Buyer, including the appointment of a receiver, administrative receiver, trustee in bankruptcy, manager or similar officer; or
- (e) any event or circumstance occurs which under the law of any relevant jurisdiction has an analogous or equivalent effect to any of the termination events listed in clauses 18.1(b) to (d) (inclusive); or
- (f) there is a Change of Control in relation to the Buyer; or
- (g) any event or circumstance referred to in this clause occurs in relation to any person who has Control of the Buyer or who has provided security for the Buyer in respect of the Fuel Sale Agreement.

- 18.2 Subject to clause 18.3, a **Change of Control** shall occur where:
- (a) a person acquires Control of the Buyer where no person previously had Control of the Buyer; or
 - (b) the ultimate parent company of the Buyer ceases to have Control of the Buyer; or
 - (c) a person acquires Control of the ultimate parent company of the Buyer; or
 - (d) a person who is not under the Control of the ultimate parent company of the Buyer acquires Control of the Buyer.
- 18.3 For the purposes of the Fuel Sale Agreement, **Control** of a company means:
- (a) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - (1) cast, or control the casting of more than 50 per cent. of the maximum number of votes that might be cast at a general meeting of the company; or
 - (2) appoint or remove all, or the majority, of the directors or other equivalent officers of the company; or
 - (3) give directions with respect to the operating and financial policies of the company with which the directors or other equivalent officers of the company are obliged to comply; and/or
 - (b) the holding beneficially of more than 50 per cent. of the issued share capital of the company (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

19 ASSIGNMENT

- 19.1 The Buyer shall not transfer or assign the Fuel Sale Agreement or any benefit or rights under the Fuel Sale Agreement without the consent in writing of the Seller. The Seller may assign its rights and obligations under this Agreement to its Associate. Any such assignment shall be effected by notice in writing from the assignor countersigned by the assignee to signify its acceptance of the obligations under the Fuel Sale Agreement.
- 19.2 Except as provided in clause 19.1 the Seller shall not transfer or assign the Fuel Sale Agreement or any benefit or rights under the Fuel Sale Agreement without the consent in writing of the Buyer.

20 CONFIDENTIALITY

- 20.1 The Fuel Sale Agreement, the information that it contains and all information exchanged relating to it are confidential between the Buyer and the Seller. Neither the Buyer nor the Seller shall, without the other's written consent, disclose such information on any basis to any person other than its employees, its Affiliates or its Affiliates' employees except to the extent that disclosure may be compulsory under applicable law or to any governmental authority. Any disclosure by the Buyer or the Seller to their employees, or their Affiliates shall be on a confidential basis.

21 INFORMATION

- 21.1 Where the Seller or the Seller's Affiliates receive, collect or handle personal information or data in the course of processing and administering the Buyer's account, the Seller shall ensure that it and its Affiliates have taken and continue to take all reasonable technical and organisational measures against unauthorised or unlawful processing or disclosure of the personal information and data. All personal information and data collected by the Seller or the Seller's Affiliates will be treated in accordance with applicable laws.
- 21.2 Data supplied, whether personal or otherwise, by the Buyer and/or which relates to the Buyer's account will be held and processed by computer or otherwise by the Seller or the Seller's Affiliates to operate the Buyer's account(s), to confirm, update and enhance the Seller's or the Seller's Affiliates' customer records, for statistical analysis, to establish any identity or otherwise as required under applicable legislation, to assess the Buyer's credit status on an on-going basis; and otherwise as considered necessary or appropriate by the Seller. In each case the processing may continue after the Fuel Sale Agreement has ended. Alternatively, the Buyer may be requested to complete or fulfil other checks as may be necessary to satisfy credit assessments, money laundering or fraud detection requirements.
- 21.3 The Seller may disclose data relating to the Buyer and/or the Buyer's account(s) to:
- (a) a credit reference agency where it may be accessed by other financial institutions to assist assessment of any application for credit made to the Seller and for debt tracing and fraud prevention;
 - (b) to any agent or sub-contractor of the Seller performing services in connection with the Buyer's account;
 - (c) to any person to whom the Seller proposes to transfer any of its rights and/or duties under a Fuel Sale Agreement;
 - (d) to any guarantor or person providing security in relation to the Buyer's obligations under a Fuel Sale Agreement;
 - (e) to any Affiliate of the Seller;
 - (f) as required or permitted by law or any regulatory authority; or
 - (g) as otherwise considered necessary or appropriate by the Seller,
- and, in each case, the persons receiving such disclosure may be located in countries that do not have laws to protect such data.

22 WAIVER

- 22.1 The rights, powers and remedies conferred on any party by the Fuel Sale Agreement and the remedies available to any party are cumulative and are additional to any right, power or remedy which it may have under general law or otherwise.
- 22.2 Any party may, in whole or in part, release, compound, compromise, waive or postpone, in its absolute discretion, any liability owed to it or right granted to it in the Fuel Sale Agreement by the other party without in any way prejudicing or affecting its rights in respect of that or any other liability or right not so released, compounded, compromised, waived or postponed.
- 22.3 No single or partial exercise, or failure or delay in exercising any right, power or remedy by any party shall constitute a waiver by that party of, or impair or preclude any further exercise of, that or any right, power or remedy arising under the Fuel Sale Agreement or otherwise.

23 VARIATIONS

- 23.1 No purported variation of the Fuel Sale Agreement shall be effective unless it is in writing and signed by or on behalf of each of the parties.

24 NOTICES

- 24.1 Every notice or other communication made under a Fuel Sale Agreement shall unless otherwise stated be in writing (including by written electronic communication) in English and shall be given to the respective party at its address, email, or facsimile number set out in the Purchase Order, or such other contact address or details as advised from time to time by one party to the other.
- 24.2 Every notice or other communication shall be deemed to have been received:
- (a) in the case of a letter when delivered personally or two days after its posting by first class post; and
 - (b) in the case of an electronic communication when sent.

25 GOVERNING LAW AND ARBITRATION

25.1 Unless otherwise agreed between the Seller and the Buyer in writing, the Fuel Sale Agreement and any dispute or claim of whatever nature, whether contractual or non-contractual, arising out of or in connection with it is to be governed by the laws of England, without giving effect to its rules on conflicts of law and the Fuel Sale Agreement shall be construed in accordance with English law. Any dispute, controversy or claim arising out of or in connection with the Fuel Sale Agreement whether in tort, contract, under statute or otherwise, including any question regarding its existence, validity, interpretation, breach or termination, shall be finally and exclusively resolved by arbitration under the arbitration rules of the LCIA in force as at the date of the Fuel Sale Agreement, which rules are deemed to be incorporated by reference into the Fuel Sale Agreement. The seat, or legal place, of arbitration shall be London, England. The language to be used in the arbitral proceedings shall be English.

26 THIRD PARTY RIGHTS

26.1 Where any undertakings or obligations of the Buyer in the Fuel Sale Agreement are taken by the Seller for its own benefit and also for the benefit of the Seller's Affiliates, the Operator and its/their Delegates, such undertakings or obligations are, intended, subject to the provisions of clause 26.3, to be enforceable by such parties by virtue of The Contracts (Rights of Third Parties) Act 1999.

26.2 Except as provided in clause 26.1, no term or condition contained in the Fuel Sale Agreement shall be enforceable, by virtue of The Contracts (Rights of Third Parties) Act 1999, by any person who is not a party to this Agreement.

26.3 Notwithstanding clause 26.1, the Fuel Sale Agreement may be varied or terminated by the parties without notice to or the consent of any third party.

27 ENTIRE AGREEMENT

27.1 The Fuel Sale Agreement and all of the documents referred to in it, in the agreed form, sets out the entire agreement and understanding between the parties and supersedes all prior agreements, understandings or arrangements (whether oral or written) in respect of the subject matter of the Fuel Sale Agreement.