



GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY OF AVIATION FUEL (JET A1)

1. DEFINITIONS

The following terms shall be understood as defined hereunder, unless otherwise defined in the Special Conditions:

“Affiliated Companies” means the companies referred to in the relevant paragraph of the Agreement.

“Buyer’s Aircrafts” means the aircraft owned, leased, operated by or on behalf of Buyer or Buyer’s Affiliated Companies.

“Deliverer” means the entity in addition to Seller who, on behalf of Seller, performs Seller’s supply and delivery obligations under the Agreement.

“Delivery Note” means a document, produced in writing or by electronic means, accurately and clearly stating the date of receipt, time, registration number of aircraft, flight number, aircraft type, product description, meter readings and quantity delivered in kilograms, liters or gallons, in accordance with Seller’s normal practices, or any additional information the parties may agree upon.

“Fuel” means Aviation Jet Fuel (JET A1).

“Gross Negligence” means any act or omission done or omitted to be done with deliberate or reckless disregard for the reasonably foreseeable consequences of such an act or omission.

“Off-specification” means Fuel, which is found not to be in accordance with the relevant quality specification set forth in the Agreement.

2. SPECIFICATION AND QUALITY

2.1. The product supplied by SELLER meets the following:

Aviation Fuel Quality Requirements for Jointly Operated Systems (AFQRJOS) commonly known as Joint Fuelling System Check List, for Jet A-1, latest issue.



2.2. With reference to IATA Aviation Fuel Working Group endorsed Joint Industry Group, JIG Guidelines for Aviation Fuel Quality Control and Operating Procedures, latest Issue pertaining to Joint Into-Plane Fuelling Services, sampling shall be carried out, as mentioned in chapter 5, Fuel Quality Control Requirements. If required by the airline, additionally, a test for suspended water shall be performed, using one of the following approved chemical detectors: Shell Water Detector, Velcon Hydrokit, Mobil Water Indicator, Aqua-Glo or POZ-T device.

3. QUANTITY

Seller shall be obligated to sell and deliver, or cause to be sold and delivered, and Buyer shall be obligated to purchase the quantities agreed upon between the parties, provided however that Buyer shall in no event be obligated to purchase more than its actual requirements.

The quantities mentioned in the Agreement are Buyer's best estimates. Buyer shall give advance notice of any major change in its estimates.

4. DELIVERY

The airports where SELLER operates are the following:

- Sal Intl. Airport / GVAC
- Boavista Intl. Airport / GVBA
- Praia Intl. Airport / GVNP

Should the Fuel be delivered by Seller into Buyer's Aircraft tanks ("into-plane delivery"), the following shall apply:

4.1. Seller shall ensure prompt refuelling of Buyer's scheduled Aircraft and take all reasonable measures not to delay Buyer's Aircraft's departure. If Buyer's scheduled Aircraft arrives ahead of its scheduled time of arrival, or late, or is operating a regular non-scheduled flight, Seller shall endeavor to promptly refuel the Buyer's Aircraft.

4.2. Title to and risk of loss of the Fuel shall pass to Buyer at the time the Fuel passes the inlet coupling of the receiving aircraft.

4.3. Seller's measurement shall be accepted as prima facie evidence of the quantities of Fuel delivered, but Buyer shall be entitled to check the accuracy of the instruments used by Seller upon reasonable notice during Seller's normal operating hours in the presence of Seller's representative. Determinations of quantities made in accordance with international industry practice shall be binding.



4.4. Upon Buyer's request, Seller may provide the most current specific gravity or density measurement of Fuel from airport storage, or provide Buyer with appropriate devices to measure it at the Buyer's Aircraft. Notwithstanding the foregoing, Buyer shall not hold Seller responsible for any claims and expense related to Seller providing the specific gravity or density measurement or such devices, except to the extent caused by Seller's willful misconduct or gross negligence.

4.5. Deliveries shall be made in accordance with all applicable governmental laws and regulations, and the requirements laid down by the airport governing authority. Furthermore, unless otherwise agreed, Seller or its Affiliated Company shall use or apply their standard quality control and operating procedures (as amended from time to time) or those of the delivering entities utilized by it for deliveries into Buyer's Aircraft, provided however that failure to use or apply such procedures shall not be grounds for termination pursuant to Article 16.3.A unless such failure is one affecting safety, environmental and/or quality control that has not been cured in the requisite time and which is sufficiently grievous as to amount to a material breach of the Agreement.

4.6. Except as otherwise agreed in writing by Seller or its Deliverer, Seller or its Deliverer shall not be obligated to make delivery unless a representative of Buyer is present. Seller shall provide the number of copies of the Delivery Note as agreed with Buyer and as necessary pursuant to local requirements.

4.7. Any Fuel sold or caused to be sold to Seller under the Agreement which is found to be Off-Specification Fuel may be rejected by Buyer, at Buyer's sole discretion. Seller shall indemnify, defend and save harmless Buyer from and against any and all claims, demands, proceedings, damages and liabilities for loss of or damage to property or for death of or injury to any person and against all associated direct costs (including reasonable attorney's fees) losses and expenses resulting from the use, storage or delivery into Buyer's Aircraft of Seller's Off-Specification Fuel, including costs of replacement of all Fuel contaminated through commingling with Seller's Off-Spec Specification Fuel, except to the extent caused by Buyer's gross negligence or willful misconduct.

4.8. Should the Fuel be delivered by the Seller into a fuel facility of an airline consortium or at another point of delivery, the following shall apply:

Title to and risk of loss of the Fuel shall pass to Buyer at the point agreed between the parties.

Any Fuel sold under the Agreement, which is found to be Off-Specification Fuel may be rejected Buyer, at Buyer's sole discretion. Seller shall indemnify, defend and save harmless Buyer from and against any and all claims, demands, proceedings, damages and liabilities for loss of or damage to property or for death of or injury to any person and against all associated direct costs (including reasonable attorney's fees) losses and expenses resulting from the use of storage or Off-Specification Fuel, including the costs of replacement of all Fuel contaminated through commingling with Seller's Off-Specification Fuel, except to the extent caused by Buyer's gross negligence or wilful misconduct.



5. PRICE

5.1. FORMULA PRICE: the price shall be based on Jet 'High' rates published in the 'Platt's European Marketscan under the title 'CIF NEW Basis ARA'; for such purpose the average rate of the previous month shall be applicable, being that the conversion factor of US Dollars / Metric Ton / US gallon equal to 3,31. Concerning the final calculation of price, a fixed **"PREMIUM"** shall be added to the value above referred to, being this valid for the period of duration of the Contract. This **"Premium"** will depend on the airport listed in point 4.

5.2. SPOT PRICE can be agreed between Buyer and Seller for ad hoc flight or special operation.

6. TAXES AND CHARGES

6.1. Buyer shall pay any taxes, fees or other charges, imposed by any national, local or airport authority on the delivery, sale, inspection, storage and use of Fuel, except for taxes on Seller's income and taxes on raw material. To the extent allowed, Seller shall show these taxes, fees and other charges as separate items on the invoice for the account of Buyer. Taxes may be changed by Government decision or by updating of customs clearance levies charged to Seller. These taxes shall be monthly converted into US Dollars according to the average exchange rate of the previous month.

6.2. Seller shall keep Buyer informed at all times about the taxes, duties and charges existing or to be charged to Buyer. Should Seller, however, in good faith provide inaccurate or incomplete information to Buyer, Buyer shall not be relieved of the obligation to pay. Buyer may, or at Buyer's request, Seller shall, as an applicable nominal party, take all actions necessary to contest the validity, applicability or any other like challenge with respect to the amount or application of such taxes, duties and charges (including but not limited to withholding of any tax) and shall institute actions to recover past or anticipated payments thereof, provided, as to withholding of any tax, that Buyer gives Seller an indemnity which meets any reasonable requirement of Seller. Unless other arrangements are made, all actions taken in this respect shall be at Buyer's sole expense.

6.3. Buyer is entitled to purchase any Fuel sold pursuant to the Agreement free of any taxes, duties or charges, Buyer shall deliver to Seller a valid exemption certificate for such purchase and authorized by Government.

6.4. PRICE UPDATING: Buyer and Seller shall be entitled the right to propose to each other a price updating in all airports or in a particular airport along the duration of this Contract. The party that makes use of this right shall give the other party 30 (thirty) days' advance notice in writing. In case the parties do not reach an agreement on the prices to be charged within 30 (thirty) days, the previous prices shall be applied until the term of the present Contract.



7. INVOICING

Invoice shall be sent, within at least 48 hours from the date of issue, to the address indicated by Buyer, by mail, fax or electronic transmission and shall all be considered original invoices.

8. PAYMENT

8.1. Payment of the price and of all other sums payable by the Buyer under the contract shall be made by the Buyer in US Dollars or Euro, as per invoice, in full without any deduction, set-off counter claim, including services of correspondent banks shall be on the Buyer's account or discount whatsoever and by payment date specified in the Contract or, if different, in the Sales Invoice (the "Payment Date").

8.2. To guaranty payment of invoice, Seller reserves the right to require the Buyer to present before supplies begin, a letter of credit in amount to cover the estimated volume to be uplift for a period of Contract or spot arrangement.

8.3. Payments shall be made through Seller Bank and indicated on invoice or separated and all bank charges in respect of such payments shall be for the Buyer's account.

9. BUYER RESPONSIBILITY

9.1. Buyer shall have sole responsibility for operating all appropriate aircraft fuelling switches, valves and pre-set quantities gauges.

9.2. In the event Buyer requests Seller to perform the services as described above, or other delivery services in addition to those listed as normal delivery services in the Agreement, and Seller agrees to perform same, Buyer agrees to indemnify, defend and save harmless Seller from and against any and all claims, demands, proceedings, damages and liabilities for loss of or damage to property or to the environment or for death of or injury to any person and against all associated direct costs (including reasonable attorney's fees) losses and expenses, arising out of or related to Seller's action in performing or omission to perform the requested services, except to the extent caused by the gross negligence or willful misconduct.

9.3. Delays concerning payment of any financial obligation shall cause application of delay interests calculated from the tax determined by article 806 of the Civil Code.

10. INSPECTIONS, SAMPLES

10.1. Buyer or its representative shall have the right to perform a (technical) survey or inspection of:

The **“Manual and Operating Procedures of Seller”** or the delivering entity which is an Affiliated Company of Seller.

10.2. Seller’s records on quality control and checks of the Fuel, and Seller’s refueling services at the aircraft and operational standards of airport storage and airport distribution system.

10.3. The issues mentioned hereinabove shall be made available for inspection or survey, as the case may be, by Buyer at the facility where they are utilized for deliveries to Buyer. A (technical) survey or inspection shall be made during normal working hours. Buyer shall give reasonable notice of its intention to perform a (technical) survey or inspection as provided in this Article 9.1, and shall use its best endeavours not to hinder, delay or disrupt Seller’s or Seller’s deliverer’s fuelling activities.

10.4. At any given location where Seller and its Affiliated Companies do not themselves have the authority to grant a right to inspect or survey, Buyer’s right to inspect or survey shall be subject to approval being obtained from the requisite controlling body. Seller shall use reasonable endeavours to obtain such approval.

10.5. Buyer or its representative shall have the right to obtain samples of the Fuel intended to be delivered to Buyer, to be taken by Seller or Seller’s representative with Buyer having the right to be present. Buyer shall give Seller reasonable advance notice of its intention to obtain samples. The taking of samples shall take place by a method and at a point to be agreed upon between the parties.

11. DEFUELLING

11.1. Seller will accept a defuelling operation only when there is staff/equipment availability to do so.

11.2. Buyer may request and SELLER may agree to carry out defuelling operations witch cost will be discussed case by case.

11.3. In case the removed product has to be stored for a period longer than six hours, the parties should reach an agreement on the additional charges to be invoiced for such service, and in case that same product has to be unutilized, the parties should agree on its pricing.

11.4. However, if this operation is needed, due to the supplier’s faulty action or negligence, (for example the product does not conform to the specifications, or if a higher delivery than the agreed quantity is made), Seller shall carry this operation tax-free.



11.5. In case the product from a defueling operation does not conform to the specifications, and if it is technically impossible to recover, the parties may negotiate the value of the removed product that does not conform to the specifications

11.6. Defueling are subject to case to case evaluation.

12. COMPLIANTS, CLAIMS

Complaints as to short delivery or delays shall be notified to Seller at the time of delivery, followed by a written claim to be made within 15 days after delivery.

Complaints as to defects in quality or any other matter shall be notified to Seller as soon as practicable, followed by a written claim to be made within 30 days after delivery.

If the claim is not made within either the 15-days period or the 30-days period, respectively, it represents a waiver of the right to claim. In no event a waiver of the right to claim is made or implied by a signature or any other statement on the Delivery Note, irrespective of whether or not such Delivery Note contains conditions implying such waiver.

13. FUELLING/DEFUELLING WITH PASSENGERS ON BOARD OR EMBARKING OR DESIMBARKING

13.1. To the extent permitted by local regulations, into-plane delivery or removal of Fuel as set forth in Article 11 be made at Buyer's request when there are passengers or other persons on board the aircraft or embarking or disembarking. In such event, Buyer shall be solely responsible for ensuring that the provisions of the local airport regulations relating to such delivery or removal are carried out, that appropriate instructions are issued by Buyer to its employees for the safety of said persons during such delivery or removal and that such instructions are strictly observed by its employees and said persons.

13.2. Buyer shall indemnify, defend and save harmless Seller from and against any and all claims, demands, proceedings, damages and liabilities for death of or injury to any passengers or other persons on board or embarking or disembarking and against all associated direct costs (including reasonable attorney's fees) losses and expenses, caused by or arising out of into-plane delivery or removal of Fuel under this Article, unless such injury or death arises from or has been caused by the gross negligence or willful misconduct of Seller.



14. CODESHARE ARRANGEMENTS

Where flight operations involving more than one Airline Company exist, there is an obligation (responsibility) on the Buyer(s) to inform and agree with their respective agreed Suppliers on refuelling arrangements.

Unless otherwise agreed, refueling of aircraft in these situations will be carried out on the following basis:

“Operating flight prefix will identify both agreementing parties (buyers and sellers)”

15. NON-DISCLOSURE

The information contained in the Agreement is confidential between the parties. Either party may only disclose such information to any person outside its own organization, its Affiliated Companies or Seller’s Deliverers to the extent necessary to perform the Agreement and upon the prior written consent of the other party being obtained, which consent shall not unreasonably be withheld. However, each party is allowed to disclose information to any governmental or supranational authority to the extent disclosure is legally compulsory.

16.CO-OPERATION

The parties shall always co-operate with each other concerning all aspects related to this contract, and particularly:

i)Buyer shall:

a)Provide Seller with information on all regular flights and also on all special flights, with 48 hours advance notice;

b) Nominate a representative for each fuel supply operation.

ii)Seller shall undertake all the necessary action to guaranty the fuel supply to all aircrafts nominate by BUYER and make all the efforts to carry out the fuel supplies as rapidly as possible.



17. DISENGAGEMENT

In case of any event outside both parties' control, except for the cases referred to in article 15, Force Majeure, and that, affecting one or more supply areas, may impair or interfere with the application of one or more articles of the present Contract, SELLER may suspend the execution of the Contract in those affected places, at the very moment the aforesaid event occurs.

18.(EARLY) TERMINATION

a. In the event Seller withdraws its operation from or Buyer ceases its operation at any location mentioned in the Agreement for any reason, either party shall have the right to terminate the Agreement as to such location. The terminating party shall use its best endeavours to give 45 (Forty Five) days notice of such termination. The termination will be effective no earlier than the date of written notice to the other party.

b. In the event of a substantial change in the ownership or control of any of the companies listed in the Agreement as either party's Affiliated Companies, such party shall immediately notify the other party of the occurrence of such change. Thereupon, the other party shall have the choice, at its sole discretion, to terminate the agreement as to the relevant location upon giving 30 days prior written notice.

c. A party may terminate the Agreement in whole or in part by means of a written notice to the other party without need of judicial recourse and with immediate effect:

A. In case of a material breach of the Agreement by the other party, but only insofar the other party has not cured its breach of the Agreement, if curable, within 10 days of receiving written notice of the default from the first party. During such 10-day period the non-breaching party may elect to suspend its performance of the Agreement.

B. If the other party becomes insolvent, makes a general assignment for the benefit of its creditors or commits an act of bankruptcy or if a petition for its reorganization or readjustment of its indebtedness is filed by or against it, or it a receiver, trustee or liquidation of all or substantially all of its property is appointed.

d. Termination effected by a party under this Article shall not affect any other rights or remedies of such party under the law or otherwise.

e. Notwithstanding (early) termination, each party shall fulfill all obligations accrued under the Agreement prior to the time the termination becomes effective.

19. FORCE MAJEURE

a. No failure or omission concerning the accomplishment of the present Contract, or of its conditions, may give rise to any action whatsoever from one of the parties against the other one, nor be considered a contract break, since these same failures or omissions are caused or result from a case of force majeure. Force majeure herein means wars, terrorist actions, sabotage, blockades, revolutions, insurrections, revolts, riots, import or export restrictions, or legally imposed rationing, interference imposed by civil or military authorities, natural catastrophes, fire, ice, earthquakes, storms, lightning, tides, maritime disasters, shipwreck, weight loss, sinking due to war, government expropriation, accidents in the ports, or port or canal close-down, accidents in the premises, epidemics, quarantine, strike or workers' manoeuvres, lockouts or other labour disturbances, explosions, or any other reason occurring in the storing places, reduction or cancellation of delivery by suppliers, delivery of crude oil under regular or 'spot' contract, non-availability of fuel due to the fact that the origin country has decided to retain the products or raw-materials, or any other event similar to the ones above referred to, and which are not under the control of the affected party.

b. In case Seller is not able to render the service according to the terms of the present Contract, or does not have enough product to be supplied due to the cases of force majeure above referred to, Seller, should promptly start acting normally as soon as these events end. Moreover, Seller should also try its best efforts to remedy and overcome such interruption, as soon as possible. No reduction or suspension of the supply operation included in this Contract may be used to enlarge the scope of this Contract or even to terminate it.

c. The party that invokes force majeure reasons shall notify the other party by registered mail with reception notice, or by protocol letter delivered at the address indicated in this Contract, until 24 (twenty-four) hours after beginning of the invoked case. The parties must duly justify that such event is within the framework described in article 17, without prejudice of the duty to communicate such event by fax or telex.

d. In case any force majeure event occurs, it is therefore established that the parties shall meet under a feeling of co-operation and aiming at setting up the most convenient means to overcome the consequences of such force majeure case and, namely, to guaranty the fuel supplies.

20. LIABILITY

Except to the extent otherwise provided in these General Terms and Conditions or the Agreement, Seller shall indemnify, defend and save harmless Buyer from and against any and all claims, demands, proceedings, damages and liabilities for loss of or damage to property or for death of or injury to any person and against all associated direct costs (including reasonable attorney's fees) losses and expenses, caused by or the Seller's performance of or omission to perform the Agreement, except to the extent caused by the negligence or willful misconduct of Buyer.

In order to extend the benefit of any indemnity provided in this Article to the officers, directors, employees, servants, agents, subagreementors and representatives of the party so indemnified, the indemnified party will



be deemed to have acted as agent or trustee for and on behalf of its officers, directors, employees, servants, agents, subagreementors and representative.

Notwithstanding anything to the contrary in these General Terms and Conditions or the Agreement, no claims shall be made under the Agreement for indirect or consequential damages.

21. ASSIGNMENT AND SUBAGREEMENTING

a. Neither party may sign its obligations under the Agreement in whole or in part without prior written consent of the other party and such consent will not be unreasonably withheld; Seller may however assign its obligations to its Affiliated Companies without prior written consent of Buyer. In such event, Seller shall be jointly and severally liable for the performance by the Affiliated Company of the Agreement.

b. Seller may, without prior consent of Buyer, sub agreement the performance of its obligations under the Agreement in whole or in part to a third party. Should however, this third party be unacceptable for Buyer, Buyer is entitled to terminate the Agreement as to the relevant location(s) with immediate effect.

22. NON-WAIVER

No failure or delay of any party (including their employees and agents) to exercise any right or power under the Agreement or at law shall operate as a waiver thereof, except as provided in the Agreement, nor shall any single or partial exercise of any such right or power preclude any other or further exercise thereof or the exercise of any other right or power under the Agreement, and no waiver of any party of any provision or part of any provision of the Agreement shall be binding unless expressly confirmed in writing.

23. ENTIRE AGREEMENT

The Agreement contains all agreements, arrangements and stipulations between the parties in respect of the supply of Fuel for the location(s) specified herein and supersedes all prior agreements, arrangements and stipulations in respect of the same subject.

In case of discrepancies between any provisions in the General Terms and Conditions and any provision in the Agreement, such provision in the Agreement shall prevail.



24. SEVERABILITY

The provisions of the Agreement are severable and the invalidity of any provision in the Agreement shall not affect all other provisions, which will remain valid and binding.

25. MODIFICATIONS

Modifications or amendments to the Agreement are only valid when expressly agreed upon in writing.

26. REGULATING LAW AND ARBITRATION

The present Contract shall be written according to and regulated by the Capeverdian Legislation and São Vicente Court of Justice shall always be nominated to solve out any disputes emerging from the execution of the present Contract.

27. NOTICE

Notices under this Agreement shall be made in writing (including electronic form) and shall be deemed duly given only when delivered to the other party at the address stated in the Agreement. Upon request of a party, the other party will reconfirm the receipt of any notice.

For all effects of the present Contract, communication between the parties shall be carried out at the following addresses: **ENACOL, SA – P. O Box Nº 1 – Largo John Miller – Mindelo. São Vicente – Cape Verde**