



**ABU DHABI NATIONAL OIL COMPANY (ADNOC)**

**GENERAL TERMS AND CONDITIONS**

**FOR THE SALE OF AVIATION FUEL**

JANUARY 2021 EDITION

---

PART 1 PROVISIONS APPLICABLE TO ALL MODES OF AVIATION FUEL SUPPLY, INCLUDING INTO-PLANE, EX-TANK, IN-DRUMS AND IN-TANK.....	1
1. DEFINITIONS.....	1
2. PURCHASE AND SALE.....	6
3. WARRANTY OF TITLE.....	6
4. AFFILIATED COMPANIES.....	6
5. DURATION.....	7
6. LOCATION AGREEMENTS.....	7
7. PRICE AND PRICE ADJUSTMENTS MECHANISM.....	8
8. INVOICING AND PAYMENT TERMS.....	9
9. REPRESENTATION.....	11
10. SPECIFICATION.....	12
11. SAMPLING.....	12
12. WARRANTY, CLAIMS AND LIMITATION OF LIABILITY.....	13
13. QUANTITY.....	14
14. LOCATION.....	14
15. HEALTH, SAFETY AND ENVIRONMENT.....	15
16. INSPECTIONS AND SAMPLES.....	15
17. COMPLAINTS AND CLAIMS.....	15
18. DUTIES, TAXES AND CHARGES.....	16
19. CREDIT AND SECURITY, IF ANY, TO BE PROVIDED BY THE BUYER.....	17
20. FORCE MAJEURE.....	18
21. LIABILITY.....	20
22. EARLY TERMINATION.....	21
23. ASSIGNMENT AND SUBCONTRACTING.....	22
24. AGENCY.....	22
25. NON-WAIVER.....	22
26. NON-DISCLOSURE.....	23
27. NOTICES.....	24
28. ENTIRE AGREEMENT.....	25
29. SEVERABILITY.....	26
30. INSURANCE.....	26
31. ANTI-BRIBERY AND CORRUPTION, SANCTIONS, AND TRADE CONTROLS COMPLIANCE.....	26

32.	GOVERNING LAW .....	29
33.	DISPUTE RESOLUTION .....	29
34.	MODIFICATIONS .....	30
35.	OFFICIAL VERSION .....	30
	PART 2 PROVISIONS APPLICABLE TO INTO-PLANE DELIVERY .....	30
36.	DELIVERY .....	30
37.	DE-FUELLING.....	32
38.	BUYER’S RESPONSIBILITIES (OPERATION OF AIRCRAFT SWITCHES AND VALVES).....	33
39.	FUELLING/DE-FUELLING WITH PASSENGERS ON BOARD OR EMBARKING OR DISEMBARKING .....	33
40.	CODESHARE ARRANGEMENTS .....	33
	PART 3 PROVISIONS APPLICABLE TO DELIVERY EX-TANK.....	34
41.	QUANTITY .....	34
42.	QUALITY .....	34
43.	DELIVERY, TITLE AND RISK.....	34
44.	DUTIES & TAXES .....	35
	PART 4 PROVISIONS APPLICABLE TO IN-DRUMS.....	35
45.	DELIVERY.....	35
46.	QUANTITY .....	36
47.	QUALITY .....	36
48.	TRANSFER OF TITLE AND RISK .....	36
	PART 5 PROVISIONS APPLICABLE TO IN-TANK.....	37
49.	DELIVERY .....	37
50.	QUANTITY AND QUALITY.....	37
51.	TRANSFER OF RISK AND TITLE .....	37
	ANNEX A FORM OF LOCATION AGREEMENT .....	38

## PART 1

### PROVISIONS APPLICABLE TO ALL MODES OF AVIATION FUEL SUPPLY, INCLUDING INTO-PLANE, EX-TANK, IN-DRUMS AND IN-TANK

#### 1. DEFINITIONS

1.1 The provisions of this Part 1 shall apply to contracts for the sale of Aviation Fuel or Product between Seller and Buyer. The following terms, when capitalised, shall have the meanings given to them in this clause 1.1 unless the context otherwise requires:

“**Additional Fuelling Services**” shall, unless otherwise specified in the relevant Location Agreement, include operating aircraft fuel system controls and computation of the fuel quantities to be boarded into aircraft tanks.

“**ADNOC Group**” means ADNOC and each Person directly or indirectly Controlled by ADNOC.

“**AED**” means United Arab Emirates Dirham, the lawful currency of the United Arab Emirates.

“**Affiliate**” means:

- (a) in relation to any Person (other than the ADNOC Group), any other Person that, now or hereafter, directly or indirectly, Controls, is Controlled by or is under common Control with, such Person; and
- (b) in relation to the ADNOC Group, each other member of the ADNOC Group.

“**Affiliated Companies**” means those Affiliates notified by the Buyer to the Seller in writing and listed in the relevant Location Agreement.

“**Applicable Law(s)**” shall mean all applicable national and international laws, including governmental, local, port authority or terminal operator laws and regulations and any other laws and regulations or requirements in force of whatever nature and howsoever communicated.

“**Authorised Recipients**” has the meaning given to it in clause 26.4.

“**Aviation Fuel**” or “**Fuel**” has the meaning given to it in Paragraph 1 of the Location Agreement.

“**Bank Guarantee**” means the bank guarantee provided by the Buyer to the Seller in accordance with clause 19.1.

“**Banking Day**” means any day of the year other than a Saturday, Sunday or a public or bank holiday in New York City, U.S.A.

“**Buyer**” shall mean the party defined in the Location Agreement as the “Buyer”.

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

“**Conditions**” means the terms and conditions set out in the Agreement.

**“Confidential Information”** means:

- (a) the existence and content of this Contract and any other documents relating to the sale and purchase of Product, including drafts of such documents, and the existence and contents of any negotiations prior to their execution;
- (b) all commercial, fiscal, financial, technical, operational or other information relating to the sale and purchase of Product, the Parties or their respective Affiliates and their respective business affairs (including information on assets, records, data, samples, business plans, production forecasts, actual production, budgets, financial statements, customers, clients, suppliers, plans, intentions and opportunities) which is obtained, whether before, on or after the date of this Contract, by a Party or any of its Authorised Recipients from the other Party, any of the other Party’s Affiliates or any of their respective personnel, professional advisers (including financial advisers, legal counsel, auditors and accountants) or contractors, in any form (including orally, in writing, in electronic form or otherwise) and for whatever purpose (including for the purposes of the performance of this Contract or in connection with the negotiation of this Contract); and
- (c) any report, analysis, compilation, study or other document prepared by, on behalf of or for any Party or its Affiliates which contains, derives from or otherwise reflects any information described in sub-paragraphs (a) and (b) above, whether provided or obtained before, on or after the date of this Contract,

but excludes any information which:

- (d) at the time of its supply by (or on behalf of) a Party, is in, or subsequently comes into, the public domain, except by the breach of any of the undertakings set out in this Contract;
- (e) subsequently comes lawfully into the possession of either Party or any of its Authorised Recipients from a third party who does not owe the Party to which the Confidential Information relates an obligation of confidence in relation to such Confidential Information;
- (f) was independently developed by a Party or any of its Authorised Recipients without any reliance on any part of the Confidential Information; or
- (g) the Parties agree in writing is not confidential.

**“Control”** means:

- (a) the possession, directly or indirectly, of the power to vote fifty percent (50%) or more of the voting stock (other than directors qualifying shares or other de minimis holdings required by Law to be held by other Person(s)) of such Person;
- (b) ownership, directly or indirectly, of fifty percent (50%) or more of the equity interests (other than directors qualifying shares or other de minimis holdings required by Law to be held by other Person(s)) in such Person; or

- (c) having, directly or indirectly, the ability to direct or procure the direction of the management and policies of such Person, whether through the ownership of shares, by contract or otherwise,

“**Customer**” means the end user to which the Seller will supply the Fuel.

“**De-fuelling**” means the removal of Fuel from aircraft at the airports specified in the Location Agreement(s) through an Into-Plane Vehicle in accordance with the JIG Standards.

“**Deliverer**” means the party, which may include Seller or Seller’s Designated Affiliate, who performs the Seller’s supply and delivery obligations under the relevant Location Agreement.

“**Delivery Location**” means the agreed location set out in the Location Agreement, where the Fuel will be delivered.

“**Delivery Period**” has the meaning given to it in the relevant Location Agreement.

“**Delivery Receipt**” or “**DR**” 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 liters in accordance with the Seller’s normal practices, and any additional information the Parties may agree upon from time to time.

“**Ex-Tank**” or “**Ex-Tank Delivery**” has the meaning given to it in Part 3 of these GTCs.

“**Force Majeure**” has the meaning given to it in clause 20 of these GTCs.

“**Fuel Farm Manager**” means the body or person which at any time assumes the responsibility for the management of the comingled storage tank at each airport and custody of the Fuel stored therein.

“**Invoice Due Date**” means the date which is fourteen (14) days from the date of the Invoice, unless otherwise agreed in the Location Agreement.

“**Governmental Authority**” means any governmental authority of the Emirate of Abu Dhabi, the UAE, and any political subdivision, agency, department, commission, board, bureau, court or other authority, or any quasi-governmental or private body exercising, or purporting to exercise, any executive, legislative, judicial, administrative, police, regulatory or taxing authority or power of any nature, or any company or instrumentality owned or controlled by any governmental authority, in each case of one of the foregoing.

“**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.

“**GTCs**” means these General Terms and Conditions for Sale of Aviation Fuel, together with any Annexes, or Appendices, which, together with the Location Agreement(s) form the “**Agreement**” between the Parties.

“**IATA Doc 9977**” means the ICAO Manual on Civil Aviation Jet Fuel Supply, First edition – 2012.

“**In-Drums**” or “**In-Drums Delivery**” has the meaning given to it in Part 4 of these GTCs.

“**In-Tank**” or “**In-Tank Delivery**” has the meaning given to it in Part 5 of these GTCs.

“**Into-Plane**” or “**Into-Plane Delivery**” has the meaning given to it in Part 2 of these GTCs.

“**Into-Plane Services**” includes Into-Plane Normal Fuelling Services, Additional Fuelling Services and De-fuelling.

“**Into-Plane Vehicle**” any hydrant dispenser, refueller or de-fueller operated by the Seller at the airports.

“**JIG**” means the Joint Inspection Group being the group of international oil companies, presently incorporated as the Joint Inspection Group Ltd., which has set out standards for aviation fuel quality control and operating procedures for joint Into-Plane Normal Fuelling Services, joint airport depots and jointly operated supply and distribution facilities.

“**JIG Standards**” has the meaning given to it in clause 11 of these GTCs.

“**Law**” means all applicable national and international laws including treaties, statutes, decrees, edicts, codes, orders, judgements, rules, ordinances and regulations of any local, municipal, territorial, provincial, federated, national or any other duly constituted governmental authority or agency of any Governmental Authority.

“**Location Agreement**” means the relevant Location Agreement(s) annexed to these GTCs, which together with the GTCs forms the Agreement between the Parties.

“**Normal Fuelling Services**” means, unless, otherwise agreed between the Parties, the provision of basic Into-Plane services, including (but not limited to) operating the Into-Plane Vehicles, making necessary nozzle connections to hydrant valves and aircraft, performing Fuel quantity checks, delivering the requested quantity of Fuel and providing a Delivery Receipt to the Customer. Fuelling personnel do not operate aircraft fuel system controls and do not carry out any computation of the fuel quantity to be boarded into aircraft.

“**Off-specification Fuel**” means Fuel, which is found not to be in accordance with the relevant quality specification set forth in clause 10 of these GTCs.

“**Party**” or “**Parties**” has the meaning given to it in the relevant Location Agreement annexed to these GTCs.

“**Person**” means any individual, corporation, joint stock company, limited liability company, partnership, joint venture, association, trust, unincorporated organisation, Governmental Authority, or other entity; and “**Persons**” shall be construed accordingly.

“**Price**” has the meaning given to it in the relevant Location Agreement annexed to these GTCs.

“**Product**” means Aviation Fuel as more particularly defined in this clause 1.1.

“**Platts**” means the daily quotations of MOPAG, which is the Mean of Platts Arabian Gulf for Jet Kero (ref PJAAA00), as published by S&P Global Platts.

“**Sanctions**” has the meaning given to it in clause 31.6.

“**Seller**” has the meaning given to it in the Location Agreement annexed to these GTCs.

“**Senior Managerial Personnel**” means in relation to a Party, any person employed by it or any of its Affiliates as a director or other corporate officer or senior manager. For the purposes of this definition, “other corporate officer” or “senior manager” shall mean, in relation to a Party, any member of the board of directors or the management committee who has responsibility for the management of the relevant assets and interests of such Party, or any person employed by such Party or any of its Affiliates who directly reports to any such board or committee.

“**USD**” means the lawful currency of the United States of America.

“**Wilful Misconduct**” means in relation to a Party or an Affiliate of such Party, any deliberate, intentional, conscious or reckless disregard of any provision of the Agreement or of good and prudent oil field practice by its Senior Managerial Personnel, but shall not include any negligent act or omission or a breach of duty (statutory or otherwise), error of judgement or mistake made in good faith and which in the exercise of such good faith is reasonable and justifiable by special circumstances including safeguarding of life, property or the environment and other emergency situations.

## 1.2 Interpretation

- (a) For all purposes of interpretation, the terms “Aviation Fuel”, “Fuel” and “Product” may be used interchangeably throughout these GTCs and/or the Location Agreement, which together form the Agreement between the Parties.
- (b) The Annexes attached to these GTCs, including any one or more Location Agreement(s) are incorporated herein by reference and form a part of the Agreement between the Parties.
- (c) Any definition used in any annex to these GTCs, which is not otherwise separately defined, shall have the meaning ascribed to it in these GTCs.
- (d) The headings in these GTCs are for convenience only and shall not be interpreted in any way to limit or change the subject matter of these GTCs or the Agreement.
- (e) As used in these GTCs, the words “**include**” and “**including**” shall be read respectively as “include, without limitation” and “including, without limitation”, unless expressly provided otherwise.
- (f) Unless otherwise expressly provided, all reference to clauses and Annexes shall be to the clauses and Annexes of these GTCs, which together form the Agreement between the Parties.
- (g) The singular includes the plural and vice versa.
- (h) References to these GTCs or any other contract or document shall be construed as a reference to such agreement, contract or document as amended, novated, modified or supplemented and in effect from time to time and shall include a reference to any document which amends, novates, modifies or supplements it, or is entered into, made or given pursuant to or in accordance with its terms.

- (i) References to any statute, law or statutory instrument shall be construed as a reference to such statute, law or statutory instrument as the same may have been, or may from time to time be, amended or re-enacted and all instruments, orders, plans, regulations, by-laws, permissions and directions at any time made thereunder.
- (j) A reference to a Party or to a Person includes a reference to its successors, permitted transferees and assigns.
- (k) References to any legal term used in these GTCs for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any other legal concept or thing shall, in respect of any jurisdiction, be deemed to include what most nearly approximates such legal term in that jurisdiction.
- (l) There may be one or more Location Agreement(s) entered into between the Parties. Unless where otherwise stated, in the event of a conflict or inconsistency between these GTCs and any Location Agreement, the Location Agreement shall prevail.

## 2. **PURCHASE AND SALE**

Subject to all of the terms and conditions of the Agreement between the Parties, Buyer shall purchase from Seller, take delivery of, and pay for, and Seller shall sell and deliver to Buyer Aviation Fuel or Product of the types, in the quantities, during the Delivery Period(s), at the Price(s) and under the specified standard contract terms set forth in the Agreement.

## 3. **WARRANTY OF TITLE**

At the time property in the Aviation Fuel or Product passes to Buyer under the Agreement, Seller warrants that it is entitled to possession of the Aviation Fuel or Product, has title to the Aviation Fuel or Product which shall be free of any liens, charges and encumbrances of whatsoever kind unless disclosed or known to Buyer before the Agreement was made, and has the right to sell the Aviation Fuel or Product; and

## 4. **AFFILIATED COMPANIES**

- 4.1 If applicable, for the purposes of the Agreement, all those Affiliates of the Buyer listed in Paragraph 8 of the Location Agreement(s) and as defined under “Definitions” in the GTC, shall be regarded as Affiliated Companies of the Buyer.
- 4.2 The Buyer acknowledges that it shall be responsible for all the obligations, acts and liabilities of its Affiliated Companies and its Customers in relation to the Agreement and each Location Agreement including all payments due to the Seller for any supplied Fuel.
- 4.3 The Buyer hereby undertakes to indemnify the Seller for any loss that may be caused to the Seller due to non-payment of Invoices or outstanding amounts due from the Buyer or its Affiliated Companies listed in Paragraph 8 of the Location Agreement.
- 4.4 The Seller shall have the right, in its absolute discretion, to sub-contract or otherwise allocate to one of its Affiliates any of its obligations under the Agreement, including but

not limited to the task of delivering Fuel to the Buyer and any Into-Plane Services in accordance with the Agreement. In such event, the Seller shall notify the Buyer in writing of the identity of such Affiliate (which, at the signing date of the Agreement, is Abu Dhabi National Oil Company for Distribution PJSC) (the “**Designated Affiliate**”).

4.5 The Buyer shall coordinate directly with the Designated Affiliate as Deliverer in respect of all operational, technical and health, safety and environment related matters regarding supply of Fuel under the Agreement.

4.6 If the Buyer purchases the maximum quantity (as agreed in accordance with clause 13.2) before the end of the delivery period specified in Paragraph 4 of the Location Agreement, and if the Buyer wishes to purchase and the Seller wishes to sell additional quantities, then the terms of this Contract, and any additional provisions included in the Location Agreement shall apply to any agreed additional quantities. In such case, the Buyer shall notify the Seller in writing, and the Seller shall respond to the Buyer’s request as soon as reasonably practicable.

## 5. **DURATION**

5.1 These GTCs are effective from the date on which it has been published on the Seller’s website, and shall remain in full force and effect until terminated in accordance with clauses 22 and / or 23 (as applicable) of these GTCs, save that the Seller may terminate the Agreement and/or any Location Agreement (without cause) by giving to the Buyer at least thirty (30) days’ written notice.

5.2 For the avoidance of doubt, the termination of any one or more Location Agreement(s) shall not affect the validity of these GTCs, nor have the effect of terminating these GTCs or the Agreement between the Parties.

## 6. **LOCATION AGREEMENTS**

6.1 All specific terms and conditions relating to the supply of Fuel, agreed between the Buyer and the Seller for any given location during a certain period of time, shall be detailed in a location agreement entered into between the Parties (hereinafter referred to as a “Location Agreement”), a form of which is attached to these GTCs as Annex A (*Form of Location Agreement*).

6.2 Each signed Location Agreement shall be attached to these GTCs and shall form an integral part of it. Together, the GTCs and the Location Agreement form the Agreement between the Parties.

6.3 Upon the Parties having reached agreement on the specifics of any such location, the Buyer shall forward a fully complete and signed Location Agreement to the Seller. Upon receipt thereof, the Seller may reconfirm the agreement by either, at Seller’s option:

- (a) Countersigning the Location Agreement and returning it to the Buyer; or
- (b) By giving other written notice of reconfirmation, including by email.

6.4 A Location Agreement becomes effective on the first day of the Delivery Period as stated therein. The expiry date of the Location Agreement shall be the last day of the Delivery Period, unless otherwise terminated earlier in accordance with clauses 22 or

23 (as applicable) of the GTCs, or as may be agreed by the Parties in the Location Agreement.

- 6.5 The Buyer may request the Seller to include a new location in the Location Agreement; however, the Seller has the right to accept or reject such a request, by written notice to the Buyer.
- 6.6 In exceptional circumstances, the Seller may (but is not obliged to) accept to supply the Product at a location not previously agreed under the Location Agreement, provided that Buyer shall give notice to Seller as soon as reasonably practicable, but in any event not less than three (3) days before the day on which the Product is to be delivered.
- 6.7 Either party may terminate any Location Agreement without cause by giving to the other thirty (30) days' notice of termination in writing. For the avoidance of doubt, such termination shall not affect any rights or obligations that remain outstanding as of the date on which the Location Agreement is terminated, and such rights and obligations shall remain in full force and effect until satisfied in full.
- 6.8 The termination of one or more Location Agreement(s) shall not terminate or otherwise affect the Agreement between the Parties or these GTCs.

## 7. **PRICE AND PRICE ADJUSTMENTS MECHANISM**

- 7.1 The following provisions will apply in respect of the formula price and price adjustments.

### **Formula price**

The price agreed between the Parties, calculated in accordance with this clause 7, and detailed in the Location Agreement shall comprise, for each airport or location referred to therein, the price of the Fuel, including the fee (if applicable) for all deliveries performed by the Seller pursuant to the Agreement. The price shall not include delivery to the Buyer in the case of In-Drums purchases. Any other fee arising from or in relation to the supply of Product to the Buyer and as applicable at the time of the supply shall be separately charged by the Seller to the Buyer.

The **Price in USD per USG** for the supply of Product shall be calculated as follows and shall always be rounded to two (2) decimal points:

Average of Platts + Price Differential, where:

“**Average of Platts**” is determined by calculating the sum of the average of low and high price quotations of Platts for each publication day in the Pricing Period and dividing the amount so calculated by the number of publication days in the Pricing Period.

“**Price Differential**” is the amount in US Cents per USG indicated in the table in the Article 4 of the Location Agreement. It shall be converted to USD and added to Average of Platts to arrive at Price in USD.

**Pricing Period**, as agreed in the Location Agreement,

- (i) in the case of monthly pricing, for the Fuel uplift in relation to Month M shall be the preceding month i.e. M-1
- (ii) in the case of bi-weekly pricing, shall be the two (2) week period calculated as follows:
  - a. for the Fuel uplift in relation to the period from first (1<sup>st</sup>) to fifteenth (15<sup>th</sup>) of Month M, shall be from the sixteenth (16<sup>th</sup>) day to the last day of month M-1;
  - b. for the Fuel uplift in relation to the period from sixteenth (16<sup>th</sup>) to last day of month M, shall be from the first (1<sup>st</sup>) day to the fifteenth (15<sup>th</sup>) day of month M;

The price is exclusive of all value added tax and other taxes, duties, fees, assessments, impositions and/or charges, save as otherwise expressly agreed. Accordingly, any other fee, or tax, duties, assessments, disbursements, impositions and/or charges arising from or in connection with the supply of the Product to the Buyer shall be set out separately in the invoice and paid in full by the Buyer.

## 7.2 Price adjustment mechanism

- (a) In addition to price fluctuation as provided by the formula set out above in this clause 7, the Seller shall have the right to change the Price Differential provided for in the Location Agreement at any time by giving not less than fifteen (15) days' notice thereof to the Buyer. However, each price change under this clause 7.2 shall be valid for a minimum of ninety (90) days. If the revised price is not acceptable to the Buyer then the Buyer has the right to terminate the Agreement on thirty (30) days' notice in writing. The price in any period prior to termination shall be the increased price so determined by the Seller.
- (b) The Seller shall inform the Buyer of any change of fees applicable to the supply of Product, as soon as practical after it is informed of same.
- (c) The Price shall be subject to change in accordance with the provisions contained in this clause 7 or as otherwise agreed in the Location Agreement.
- (d) For conversion purposes the following numbers can be accepted:
  - (i) 1 Metric Tonne (MT) = 336 US gallon (AG)
  - (ii) 1 US gallon (AG) = 3.7854 Litre (LT)
  - (iii) 1 Barrel (BL) = 42 US gallon (AG)

## 8. INVOICING AND PAYMENT TERMS

- 8.1 The Seller shall invoice the Buyer for all Fuel delivered to the Buyer or its Customers in accordance with the terms of this clause 8.
- 8.2 The Seller shall, promptly upon completion of the delivery of fuel, prepare and issue original invoices (as agreed in the Location Agreement), per month, identifying the type (or types), quantity (or quantities) and locations of Product delivered to the Buyer,

together with the Price(s) calculated in accordance with the Location Agreement and these GTCs, and any additional fee, tax, duties, assessments, disbursements, impositions and/or charges which are due, if applicable, as separate line items (the “**Invoice**”).

- 8.3 The Buyer shall pay the Invoice promptly and in full, without any discount, deduction or set-off whatsoever, on or before the Invoice Due Date. If such Invoice Due Date is not a Banking Day (other than a Sunday), then payment will be made on the preceding Banking Day. If such Invoice Due Date is a Sunday, then payment will be made on the succeeding Monday, provided however that if such succeeding Monday is not a Banking Day, then payment will be made on the preceding Banking Day.
- 8.4 Payment shall be effected in the currency specified in the Location Agreement, unless otherwise agreed. To the extent that payment is made in a currency other than the invoice currency, the Buyer shall ensure that the amount paid represents the full invoice amount, when converted into the invoice currency, to ensure that the Seller does not suffer a loss as a result of payment being made in a currency other than the invoice currency.
- 8.5 All payments shall be made to the Seller’s account, using the details indicated on the front page of any applicable invoice, or where no details are indicated, to the bank account set out in Article 6 of the Location Agreement. Payments shall be made in USD in immediately available funds by electronic funds transfer or wire transfer. Where payments are made in a different currency, such as AED, the Buyer shall bear any currency conversion differential, such that the Supplier receives the net equivalent sum in USD, without deductions or reduction.
- 8.6 Payment of the invoiced amount must be received by the Seller in full, net of any bank or other charges or expenses. Payment made by the Buyer shall cover all amounts as invoiced along with any bank charges such as correspondent bank charges or any other expense incurred (within or outside the UAE) in negotiating each invoice payment. The following details shall be included in the telegraphic transfer or cheque advice to the bank a breakdown of the amount paid (together with the invoice numbers related to the payment).
- 8.7 After payment, an official bank advice copy with the details of invoices shall be sent to Seller.
- 8.8 If any payment(s) becomes overdue or the creditworthiness or financial capability of the Buyer or any guarantor deteriorates materially in the reasonable judgement of the Seller, the Seller reserves the right (without prejudice to any other rights or remedies that the Seller may have) to:
- (a) from the Invoice Due Date, and until the date on which payment has been received by the Seller, interest shall be payable calculated from the Invoice Due Date and until payment has been received in full at a rate equal to twelve percent (12%) per annum on the total amount overdue. The payment of such service charge shall not absolve the Buyer from its payment and other obligations;
  - (b) reduce the period provided for in the Invoice Due Date;

- (c) require the Buyer to make cash payment at posted airport price either upon delivery or in advance thereof for any and all subsequent deliveries;
  - (d) require the Buyer to provide satisfactory security and immediately pay the Seller all other amounts outstanding; and/or
  - (e) withhold any future deliveries until all sums due have been paid in full.
- 8.9 If at any time the reliability or the financial responsibility of the Buyer or of any guarantor or other person furnishing security in support of the Buyer should, in the Seller's reasonable opinion, be or become impaired or unsatisfactory, the Seller shall be entitled to issue a demand that the Buyer make an advance cash payments, or at the Seller's option provide other security in the form and substance satisfactory to the Seller in respect of the Fuel (or any part thereof) to be supplied hereunder. Any amounts or security specified in such demand shall thereby become immediately due and payable. Following such demand the Seller may cease delivery of the fuels to be supplied hereunder or part thereof until such payment or security shall have been received by it. If the Buyer fails to provide such payment or security within a period of four (4) Banking Days after such demand is made, the Buyer shall be in repudiatory breach hereof and the Seller may forthwith by notice terminate the Agreement without prejudice to any rights of action or claims it may have under the Agreement or otherwise.
- 8.10 All invoices shall be deemed correct and accepted by the Buyer, unless disputed in writing within thirty (30) days of the invoice date, or revised by the Seller.
- 8.11 The Buyer agrees to pay the price determined in accordance with the Agreement and the relevant Location Agreement for all deliveries of Fuel that the Seller makes to it, as well as any additional charges that may be applicable.
- 8.12 Notwithstanding any other provision of the Agreement, the Buyer agrees to pay to the Seller any loss, charge and/or expense that the Seller may incur if the Seller cannot deliver to the Buyer at the time and place previously agreed, through no fault of the Seller.
- 8.13 Subject to clause 36.10, the Buyer agrees to pay to the Seller any loss, charge and/or expense that the Seller may incur if the Seller cannot deliver to the Buyer as a result of the Buyer or the Buyer's representative refusing to accept, either partly or completely, any amount of Fuel that the Buyer had previously ordered.
- 8.14 Without limitation to any other remedy to which the Seller may be entitled hereunder, and notwithstanding any other provision of the Agreement, the Seller shall additionally be entitled to recover all costs and expenses of any kind or character incurred in collecting any past due invoices, including attorney fees and expenses and all other related costs and fees.
9. **REPRESENTATION**
- 9.1 The Buyer contracts hereunder on its own behalf and/or as agent for its Affiliated Companies or its Customers in respect of their rights and obligations under the Agreement between the Parties.

- 9.2 The Buyer warrants: (i) that it has been duly authorised by each of its Affiliates and Affiliated Companies to enter the Agreement on behalf of each; and (ii) that each of the Buyer's Affiliated Company shall be individually bound by the terms and conditions of the Agreement in respect of the deliveries of Fuel made to them and responsible for any liabilities arising therefrom. Provided that if the Buyer is in breach of the warranties given under this clause, it will indemnify Seller in respect of all costs, losses, damages, expenses or liabilities incurred by the Seller as a result of that breach. For the purposes of the Agreement, the Buyer's Affiliated Companies are set out in the Location Agreement.
- 9.3 The Seller agrees to deliver or procure the delivery of Fuel to the Buyer, the Buyer's Affiliated Companies, or the Buyer's Customers who will in its or their turn accept delivery from the Seller or its Affiliates.

## 10. SPECIFICATION

- 10.1 The Seller warrants that the Fuel supplied by it shall meet one of the specifications set forth hereunder (provided that the relevant Location Agreement may list the specification applicable to that location)
- 10.2 Jet A.1:
- (a) ASTM Standard Specification D 1655 for Aviation Turbine Fuels Jet A.1, latest issue;
  - (b) British Ministry of Defence Standard DEF STAN 91-091 Turbine Fuel, Aviation, "Kerosene Type", Jet A.1, latest issue;
  - (c) IATA Guidance Material For Aviation Turbine Fuels Specifications, Jet A.1, latest issue;
  - (d) Canadian specification Can/CGSB.3.23.97, Aviation Turbine Fuel Jet A.1, latest issue; or
  - (e) "Aviation Fuel Quality Requirements For Jointly Operated Systems (AFQRJOS)" commonly known as Joint Fuelling System Check List, for Jet A.1, latest issue.

Any other supply specification requires approval by the Buyer and a complete specification must be attached to the relevant Location Agreement.

Furthermore, the Fuel shall meet the requirements, if any, set by the governmental regulatory authority with jurisdiction in the Delivery Location. Should any such requirement lead to a deviation from the agreed specification, the Seller shall notify the Buyer in advance and the Buyer's prior permission for delivery of such Fuel is required.

## 11. SAMPLING

With reference to the latest issue of the JIG Standards for Aviation Fuel Quality Control and Operating Procedures pertaining to the handling of fuel at airports and upstream aviation fuel facilities ("**JIG Standards**"), endorsed by the IATA Technical Fuel Group, sampling shall be carried out as mentioned in chapter 5 (Fuel Quality Control

Requirements). If required by the Buyer, its Customer, or its Affiliated Company, an additional 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, Repsol/YPF.Water Detector, Aqua Indica or Aquadis.

## 12. **WARRANTY, CLAIMS AND LIMITATION OF LIABILITY**

- 12.1 Except as specifically provided in clauses 10 and 11 above, there are no guarantees, representations or warranties herein, express or implied, as to the merchantability, quality, fitness or suitability of the fuel for any particular purpose or otherwise.
- 12.2 Except as specifically provided in clauses 10 and 11 above, the Seller makes no warranty or representation of any kind or character, express or implied, with respect to Fuel provided to the Buyer hereunder. The Seller expressly disclaims and the Buyer hereby waives all warranties, conditions, guarantees, obligations, liabilities, rights and remedies with respect to sale and supply by the Seller to the Buyer (or Buyer's Affiliate) of Fuel, express or implied, arising by law or otherwise, including but not limited to:
- (a) an implied warranty of merchantability;
  - (b) any implied warranty arising from the course of conduct, course of dealing or usage or trade; or
  - (c) any implied warranty of fitness for purpose.
- 12.3 Unless caused solely by the Seller's Gross Negligence or Wilful Misconduct, the Seller shall have no liability to the Buyer relative to any claim, loss or damage, of any kind or character, attributable to the Fuel.
- 12.4 In no event shall the Seller be liable to the Buyer for exemplary or consequential damages, including, but not limited to, lost profits.
- 12.5 It shall be the responsibility of the Buyer to make any and all inspections and investigations as the Buyer deems necessary to ascertain the integrity, fitness or suitability of Fuel hereunder.
- 12.6 If, despite the foregoing, the Seller is nonetheless held liable for damages to the Buyer, the Seller's aggregate liability to the Buyer shall in no event exceed the price of the Fuel and/or services actually paid by the Buyer to the Seller for the specific sale that gave rise to the damages.
- 12.7 The foregoing limitation of liability provisions are an essential element of these terms and conditions.
- 12.8 The Buyer shall indemnify and hold harmless the Seller in relation to:
- (a) any claim made by any of the Buyer's Customers or the Buyer's Affiliated Companies against the Seller in relation to the Seller's supply of Fuel or failure to supply Fuel hereunder; and

- (b) any failure by any of the Buyer's Customers or the Buyer's Affiliated Companies to comply with any of the obligations of the Buyer under the Agreement in relation to the supply of Fuel hereunder to such the Buyer's Customers or the Buyer's Affiliated Companies.

### 13. QUANTITY

- 13.1 The Seller shall be obliged to sell and deliver, or cause to be sold and delivered, and the Buyer shall be obliged to purchase in the quantities agreed upon between the Parties, the grade and volume of Fuel at locations specified in the Location Agreement, as amended by agreement of the Parties from time to time.
- 13.2 The total quantity agreed may be subject to an increase or decrease by up to ten percent (10%) in respect of all locations agreed in the Location Agreement (when taken together) at Seller's option. Any shortage in the volume of the Fuel supplied shall not be considered to be a shortage for the purpose of this clause 13 if custom allows for such shortage. For the avoidance of doubt, amounts payable by the Buyer shall be the price per USG calculated in accordance with clause 7 multiplied by the actual volume lifted at each location.
- 13.3 The Fuel sold and purchased hereunder shall be used for consumption by the Buyer's Aircraft or the Buyer's Customers' aircraft, or by the Buyer or the Buyer's Customers' Ex-Tank, In Tank, through drums and in bulk.
- 13.4 The Buyer shall give no less than ninety (90) days' written notice (to be provided on the Buyer's company letterhead) of any major changes in its estimates of Fuel required.
- 13.5 If the Buyer does not purchase any quantities of Fuel for a continuous period of six (6) months from the date of execution of these GTCs, then the Buyer agrees that the Seller shall have the right to suspend or terminate the Agreement without any notice of any kind whatsoever to the Buyer.
- 13.6 If there is a reduction or interference in the Seller's source of supply which could not have been reasonably avoided, the Seller shall be entitled to reduce deliveries to the Buyer or withhold deliveries. In such circumstances the Seller shall not be required to provide the Buyer with the shortfall from any alternative sources. Unless the Seller specifically so agrees with the Buyer in writing, the Buyer shall not be entitled to any form of compensation for any short supplies or delays in making deliveries.

### 14. LOCATION

- 14.1 The Seller shall deliver or cause to be delivered the quantity or quantities of Product at the respective locations, as stated in the table set out in the relevant Location Agreement.
- 14.2 In the absence of the Seller's express acceptance, the Seller shall not be obliged to supply the Product to the Buyer, or its Affiliated Company or Customer, at the new location.
- 14.3 The Seller shall not be liable for late delivery of the Product, save to the extent that such delay is as a result of the Seller's intentional or reckless conduct.

## 15. **HEALTH, SAFETY AND ENVIRONMENT**

- 15.1 The Buyer agrees to obey all relevant health, safety and environmental obligations contained in the laws of the United Arab Emirates and the Emirate of Abu Dhabi where the fuel is sold or handled or delivered, and shall comply fully with all the relevant local requirements at the Delivery Location, including those related to fire, loss or spilling of the fuel.
- 15.2 If a spill, accident or any emergency incident occurs during delivery, the Buyer shall inform the Seller as soon as possible and take all steps reasonably necessary to remove the spill and mitigate its effect. If the Buyer does not do this, the Seller may, at its option, take whatever steps considered necessary to remove the spill and mitigate the effects of any other circumstance which may jeopardize the health and safety of its personnel.

## 16. **INSPECTIONS AND SAMPLES**

- 16.1 The Buyer or its representative shall have the right to perform a technical survey or inspection of:
- (a) the manual setting out the standard quality control and operating procedures of the Seller or the delivering entity which is an Affiliate of the Seller;
  - (b) the Seller's records on quality control and checks of the Fuel; and
  - (c) the Seller's refuelling services at the aircraft and the operational standards of the airport storage and airport distribution system.
- 16.2 The information and documents referred to in this clause 16 shall be made available for inspection or survey, as the case may be, by the Seller at the facility where they are utilised for deliveries to the Buyer. A technical survey or inspection shall be made during normal working hours. The Buyer shall give reasonable notice of its intention to perform a technical survey or inspection as provided in this clause 16.2, and shall use its best endeavours not to hinder, delay or disrupt the Seller's or Deliverer's fuelling activities.
- 16.3 At any given location where the Seller or its Affiliates do not themselves have the authority to grant a right to inspect or survey, the Buyer's right to inspect or survey shall be subject to approval being obtained from the requisite controlling body. The Seller shall use reasonable endeavours to obtain such approval.
- 16.4 The Buyer or its representative shall have the right to obtain samples of the Fuel intended to be delivered to the Buyer, such samples to be taken by the Seller or the Seller's representative with the Buyer having the right to be present. The Buyer shall give the Seller reasonable advance notice of its intention to obtain such samples. The taking of samples shall take place by a method and at a point to be agreed upon between the Parties.

## 17. **COMPLAINTS AND CLAIMS**

- 17.1 Complaints as to short delivery or delays shall be notified to the Seller within forty eight (48) hours of delivery, followed by a written claim to be made within seven (7) days of delivery.

- 17.2 Complaints as to defects in quality or any other matter shall be notified to the Seller as soon as practicable, followed by a written claim to be made within thirty (30) days of delivery.
- 17.3 If the claim is not made within such seven (7) day period or the thirty (30) day period, respectively, such failure represents a waiver of the right to claim. In no event is a waiver of the right to claim made or implied by a signature or any other statement on the Delivery Receipt, irrespective of whether or not such Delivery Receipt contains conditions implying such waiver.

18. **DUTIES, TAXES AND CHARGES**

- 18.1 Any and all taxes, duties, fees, assessments, impositions, levies or other charges (whether or not of the same kind) imposed by any international, supranational (e.g. ICAO, WTO, EU, etc.), national, local, trade or airport authority:
- (a) upon the sale of Fuel by the Seller or Deliverer to the Buyer or his Customers;
  - (b) upon the inspection, delivery, storage or handling of Fuel;
  - (c) upon the acceptance, use or consumption of Fuel by the Buyer;
  - (d) payable for the admission of the Seller or Deliverer for delivery to the Buyer or his Customers hereunder; or
  - (e) for the right of the Seller or Deliverer to make such sale or delivery or to handle or store Fuel sold hereunder,

shall be payable by the Buyer to the Seller in addition to the prices otherwise payable under the Agreement, except for taxes on the Seller's income and taxes on raw material.

- 18.2 The amount of all such taxes, duties, fees, assessments, impositions or other charges payable by the Seller or Deliverer will be invoiced to the Buyer except where such taxes, duties, fees, assessments, impositions or other charges are refundable to the Seller or Deliverer under local laws and regulations without undue delay, in which event invoices will include only the net amount thereof which is non-refundable.
- 18.3 The Seller or Deliverer will take such steps as may reasonably be required of it, short of litigation or arbitration under local laws and regulations, to permit recovery of those portions of such taxes, duties, fees, assessments, impositions or other charges as may be refundable.
- 18.4 The Buyer shall also pay to the Seller all governmental taxes, excises and duties and any other charges now or hereafter assessed, imposed or levied relative to the Fuel.
- 18.5 For the avoidance of doubt, the Buyer shall be liable for and shall pay value added tax ("VAT") in accordance with Federal Law No. (8) of 2017 on Value Added Tax and any of its implementing regulations or amendments ("**VAT Law**"). As the price under the Agreement is exclusive of VAT, the Seller shall therefore be entitled to charge VAT on the applicable supply at the applicable rates under the VAT Law; include the VAT amount as an additional line item on the applicable invoice; and do such other necessary

things including to require from the Buyer other information and documents relating to payment of VAT.

- 18.6 If the Seller charges VAT pursuant, the Seller shall:
- (a) include the VAT amount as an additional line item in the applicable invoice for the payment of the supply (or, if such invoice was issued without VAT, in a separate tax invoice in accordance with the VAT Law);
  - (b) provide to the Buyer information that may be reasonably required to establish Seller's liability for VAT under the relevant VAT Law; and
  - (c) do such things and provide such information and documents as may reasonably be required by the Buyer to enable the Buyer to claim an input tax credit under the VAT Law.

**19. CREDIT AND SECURITY, IF ANY, TO BE PROVIDED BY THE BUYER**

- 19.1 If specified in the Location Agreement, or if required by the Seller where, in the reasonable opinion of the Seller, at the time of opening a new credit account or at any other time the reliability or the financial responsibility of the Buyer is in question, the Seller may require the Buyer to arrange an irrevocable Bank Guarantee(s) in form and substance acceptable to the Seller and from a bank in UAE approved by the Central Bank of the UAE. The amount of Bank Guarantee(s) will not be less than the percentage stated in the Location Agreement, or if no percentage is specified in the Location Agreement, one hundred and twenty percent (120%) of the value of the Buyer's monthly requirement of Fuel (the "**Bank Guarantee Percentage Amount**").
- 19.2 Seller shall have the right to review the amount of the Bank Guarantee to be provided by the Buyer in accordance with clause 19.1 above if (i) additional locations are added to this Location Agreement pursuant to clause 6.5 above, or (ii) at any time, the reliability or the financial responsibility of Buyer or any guarantor or other person furnishing security in support of the Buyer should, in the Seller's reasonable opinion, be or become impaired or unsatisfactory.
- 19.3 To the extent that the Seller extends credit terms to the Buyer, and notwithstanding any terms to the contrary in any written agreement or purchase order, the Buyer's outstanding balance shall never exceed the credit limit specified by the Seller. Availability under the credit limit shall be calculated by adding the total of the invoiced balance, plus the dollar amount of uplifted Fuel and services obtained and utilised but not yet billed to the Buyer, and subtracting same from the Buyer's total credit limit.
- 19.4 In consideration of any credit terms extended to the Buyer and as security for the payment of amounts due from the Buyer to the Seller, the Buyer, either as owner of the Buyer's Aircraft or as duly authorised agent of the owner, hereby grants the Seller a first priority security interest in the Fuel until the purchase price therefore (and any sum payable under any invoice) is paid in full.

## 20. **FORCE MAJEURE**

### **General**

20.1 Neither Party shall be considered in default of the performance of its obligations under the Agreement to the extent that such performance is prevented, hindered or delayed as a direct result of any event or combination of events which is beyond the reasonable control of such Party (such event being a “**Force Majeure Event**”), provided that the Party claiming relief from its obligations under the Agreement as a result of a Force Majeure Event (“**Affected Party**”) may only be so relieved if the Affected Party:

- (a) notifies the non-Affected Party of the Force Majeure Event in accordance with clauses 20.4 and 20.7;
- (b) mitigates the effects of the Force Majeure Event in accordance with clause 20.8

and such relief may only be to the extent permitted under clause 20.9.

### **Inclusions**

20.2 A Force Majeure Event shall include, subject to and without limiting the generality of clause 20.1:

- (a) natural disasters such as floods, lightning, storms, typhoons, tornados, earthquakes, tidal waves, landslides, soil erosion, subsidence, washouts, radioactive contamination or epidemics;
- (b) war (whether declared or undeclared), blockade, acts of piracy, terrorist acts, seizure or act of sabotage, imposition of Sanctions, embargo or breaking off of diplomatic relations;
- (c) revolution, rebellion, civil war, riot, civil disturbance, civil commotion, insurrection or military uprising;
- (d) trade or labour disputes, boycotts, strikes, lockouts, industrial disturbances, go-slows or occupation of premises;
- (e) failures, explosions, breakages, fires or destruction of tankage, pipelines, refineries, terminals or any kind of installation and, where Seller is the Affected Party, tankers, vessels or any other similar means of transportation of the Fuel;
- (f) any accidents at, closing of, or any sudden and unforeseeable capacity restrictions (outside of the ordinary course of business) of, mooring facilities, docks, ports, harbours or other similar navigational facilities and, where Seller is the Affected Party, navigational accidents or maritime peril;
- (g) compliance with Applicable Law; and
- (h) in case of the Seller only, any curtailment, reduction in, interference with, failure or cessation of supplies of Fuel from any of the Seller’s or the Seller’s suppliers’ sources of supply or by any refusal to supply, whether lawful or otherwise by

the Seller's suppliers (provided in fact the sources of supply are for the purposes of the Agreement), including:

- (i) a change in the production policies or sales policies of the Emirate of Abu Dhabi; and
- (ii) any declared force majeure event affecting any of the Seller's suppliers under any applicable supply arrangements between the Seller and such suppliers.

### **Exclusions**

20.3 Notwithstanding anything to the contrary in clause 20.1, a Force Majeure Event shall not include or excuse:

- (a) failure to make any payment of monies due and payable in accordance with the Agreement (other than as to any specified means, currency or place of payment);
- (b) changes in market conditions, including changes that directly or indirectly affect the demand for or price of the Fuel or other commodity produced from refined hydrocarbon products (such as loss of customers or loss of market share), changes to market prices or currency devaluation;
- (c) financial hardship or the inability of the Affected Party to make a profit or achieve a satisfactory rate of return in relation to or in connection with any activities undertaken pursuant to the Agreement; or
- (d) the ability of either Party to obtain better economic terms from a third party.

### **Notification of a Force Majeure Event**

20.4 Promptly after the occurrence of the Force Majeure Event becomes known to it, the Affected Party shall notify the other Party in writing of the date on which the Force Majeure Event started, the effects of the Force Majeure Event on its ability to perform its obligations and the likely duration of its delayed performance or non-performance as a result of the Force Majeure Event.

20.5 The Affected Party shall bear the burden of proving that a Force Majeure Event has occurred that has so affected it.

20.6 If an Affected Party fails to promptly notify the other Party in accordance with clause 20.4, such Affected Party may only be relieved from the date of such notification.

20.7 The Affected Party shall provide to the non-Affected Party:

- (a) updates on any material developments with respect to any Force Majeure Event, from time to time; and
- (b) promptly after the end of the Force Majeure Event, written notice that the Force Majeure Event has ended, in which case, the Affected Party shall resume performance of its obligations as soon as reasonably practicable.

### **Mitigation of the Effect of a Force Majeure Event**

20.8 The Affected Party shall use all reasonable endeavours to mitigate the effects of the Force Majeure Event on the performance of its obligations (including co-operating with the non-Affected Party to develop and implement a plan of remedial action and reasonable alternative measures to remedy the effects of the Force Majeure Event).

### **Force Majeure Relief**

20.9 Subject to the requirements for relief set out in clause 20.1 if a Force Majeure Event occurs in respect of a delivery of Fuel:

- (a) if the Seller is the non-Affected Party, the Seller may immediately terminate the affected deliveries without liability for damages and other contractual remedies and shall be entitled to dispose of, in its sole discretion, such undelivered Fuel; and
- (b) in all other circumstances, the Affected Party may only be relieved from its obligations under an Agreement until the end of the Force Majeure Event.

### **Obligation of the Non-Affected Party to Co-operate**

20.10 The non-Affected Party shall use all reasonable endeavours to co-operate with the Affected Party in mitigating the effects of any Force Majeure Event (including co-operating to develop and implement a plan of remedial action and reasonable alternative measures to remedy the effects of such Force Majeure Event).

### **No Extension of Time**

20.11 Nothing in this clause 20 shall operate to extend the term of the Agreement.

20.12 Nothing in this clause 20 shall be taken to limit or prevent the operation of the English common law doctrine of frustration (including frustration of the adventure, of purpose or of the Agreement).

## **21. LIABILITY**

21.1 Except to the extent otherwise provided in these GTCs or the relevant Location Agreement, Seller shall indemnify, defend and save harmless Buyer from and against any and all claims, demands, 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, losses and expenses caused by the Seller's performance of or omission to perform the Agreement, except to the extent caused by the negligence or Wilful Misconduct of the Buyer or a third party unconnected to the Seller.

21.2 Notwithstanding anything to the contrary in these GTCs or the Location Agreement, no claims shall be made under the Agreement for indirect or consequential damages or expenses including if and to the extent, that they might otherwise not constitute indirect or consequential losses or expenses, loss of anticipated profits, goodwill, use, market reputation, business receipts or contracts or commercial opportunities, whether or not foreseeable.

21.3 Clause 21.2 shall continue to apply notwithstanding the termination or expiry of the Agreement for any reason whatsoever.

## 22. EARLY TERMINATION

22.1 In the event the Seller withdraws its operation from, or the Buyer ceases its operation at, any location mentioned in a Location Agreement for any reason, either Party shall have the right to terminate the relevant Location Agreement. The terminating Party shall give thirty (30) days' notice in writing of such termination.

22.2 In the event of a change in the ownership or Control of the Buyer or any of the Buyer's Affiliated Companies, the Buyer shall immediately notify the Seller of the occurrence of such change. Thereupon, the Seller may, at its sole discretion, terminate the relevant Location Agreement with immediate effect.

22.3 A Party may terminate the Agreement or any one or more Location Agreement(s) 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 (or a number of breaches that collectively constitute a material breach, including continuous or persistent breaches) of these GTCs or any Location Agreement by the other Party, but only insofar as the other Party has not cured such breach, if curable, within ten (10) days of receiving written notice of the breach from the first Party. During such ten (10) day period the non-breaching Party may elect to suspend its performance of the Agreement or the relevant Location Agreement(s); or
- (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 reorganisation or readjustment of its indebtedness is filed by or against it, or if a receiver, trustee or liquidator of all or substantially all of its property is appointed.

22.4 Termination of these GTCs will automatically cause simultaneous termination of the overall Agreement between the Parties and any Location Agreement(s) in effect at that time.

22.5 Termination effected by a Party under this clause 22.5 shall not affect any other rights or remedies of such Party under the law or otherwise.

22.6 Notwithstanding early termination, each Party shall fulfil all obligations accrued under the Agreement including any of the Location Agreement(s) prior to the time the relevant termination becomes effective.

22.7 In addition to any other rights that the Seller may have, the Seller may terminate the Agreement or any one or more Location Agreement(s) forthwith on notice to the Buyer if continued performance thereof would cause the Seller to contravene any local, state, emirate, national, international, or supranational regulation or law.

22.8 The Seller shall not be liable to the Buyer by reason of termination, early termination, expiration or non-renewal of the Agreement or any Location Agreement for any compensation, reimbursement, costs or damages on account of the loss of prospective

profits, or for any special, indirect or consequential damages or on account of expenditures, investments, leases or other commitments (of a similar nature or otherwise). The Buyer also hereby waives and renounces any claims for compensation, indemnity or payment in the event of or because of the termination of the Agreement or any Location Agreement for any reason whatsoever.

- 22.9 Without prejudice to any other rights or remedies which the Seller may have, upon the termination, early termination, expiration or non-renewal of the Agreement as a whole and/or any Location Agreement, howsoever this occurs, all amounts and sums which at that date are due and payable to the Seller shall be immediately paid by the Buyer without any claims, deductions or counterclaims of whatsoever nature. The Buyer shall not have any right to claim any costs or damages.

## 23. **ASSIGNMENT AND SUBCONTRACTING**

- 23.1 The Buyer shall not assign nor transfer its rights and obligations under the Agreement in whole or in part, directly or indirectly whether by way of merger, consolidation, acquisition or sale of assets to any third party or receiver or trustee in bankruptcy or otherwise or any part hereof or thereof, without the prior written consent of the Seller.
- 23.2 Any assignment in contravention of this clause shall be void and unenforceable as against the Seller and shall give the Seller the right to terminate the Agreement.
- 23.3 The Seller shall have the right to assign or transfer its rights, obligations and/or subcontract the performance of its obligations under the Agreement, in whole or in part, directly or indirectly to any Affiliate of the Seller or third party without the prior written consent of the Buyer. In the event of the Buyer assigning its obligations to an Affiliate or a third party without the prior written consent of the Seller, the Seller may terminate the relevant Location Agreement(s), and accompanying GTCs with immediate effect.

## 24. **AGENCY**

- 24.1 Nothing in the Agreement, whether these GTCs or any Location Agreement is intended to, or shall be deemed to:
- (a) make the Buyer a distributor or agent of the Seller or any of its Affiliates;
  - (b) establish any partnership or joint venture between any of the Parties;
  - (c) authorise the Buyer to make or enter into any commitments for or on behalf of the Seller or any of its Affiliates; or
  - (d) grant any right or licence to the Buyer in respect of any trademarks or intellectual property of the Seller or its Affiliates.

## 25. **NON-WAIVER**

No failure or delay of any Party (including its employees and agents) to exercise any right or power under the Agreement, whether under these GTCs, any Location Agreement or at law, shall operate as a waiver of such right or power, 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 by any Party of any provision or part of any provision of the Agreement including any condition or warranty or innominate term or waiver of any breach of such shall be effective unless made in writing and no such waiver shall be construed of or apply to another term or provision.

26. **NON-DISCLOSURE**

26.1 For the purpose of the Agreement, a Party who discloses Confidential Information shall be a **“Disclosing Party”** and a Party who receives Confidential Information shall be a **“Receiving Party”**.

26.2 Subject to clause 26.4, the Receiving Party shall not, without the prior written approval of the Disclosing Party (such approval not to be unreasonably withheld):

- (a) disclose any Confidential Information to any Person; and
- (b) use the Confidential Information for any purpose other than for the performance of its obligations under this Contract.

26.3 The Receiving Party shall use the same degree of care, but no less than reasonable efforts, to safeguard the confidentiality of any Confidential Information that it would use to safeguard the confidentiality of its own Confidential Information of like kind.

26.4 The Receiving Party may disclose Confidential Information:

- (a) to its Personnel who are required to have access to the Confidential Information in order to discharge their functions and contractual obligations under this Contract, provided that such Personnel agrees to abide by the obligations of such Party with respect to the Confidential Information;
- (b) to an Affiliate, provided that the Affiliate agrees to abide by the obligations of such Party with respect to the Confidential Information;
- (c) to a contractor engaged by or on behalf of such Party or its Affiliates, provided that such contractor agrees in writing to an undertaking of confidentiality no less onerous than that set out in clauses 26.2 and 26.3, except that under no circumstances shall the Receiving Party disclose any Confidential Information to a contractor that is a competitor, or Personnel of a competitor, of the Disclosing Party;
- (d) to any professional advisers (including financial advisers, legal counsel, auditors and accountants) of such Party subject to such adviser providing a written undertaking of confidentiality no less onerous than that set out in clauses 26.2 and 26.3, except where such adviser is subject to a professional obligation of confidentiality under its applicable code of practice;
- (e) to the extent required by Applicable Law, by any Governmental Authority with jurisdiction over the subject matter or in connection with any court, judicial or other similar proceedings, provided that the Receiving Party uses its reasonable endeavours to, and only to the extent permitted by Applicable Law;

- (f) provide the Disclosing Party with prompt notice of such requirement to disclose Confidential Information so as to enable the Disclosing Party to:
  - (A) seek an appropriate protective order or other remedy in respect of such disclosure; and/or
  - (B) consult with the Receiving Party on taking steps to resist or narrow the scope of such disclosure; and
- (g) use reasonable endeavours to disclose only that part of the Confidential Information required to be disclosed and not otherwise subject to a protective order or other remedy,

(the recipients in this clause 26.4 being the “**Authorised Recipients**”).

- 26.5 Each Party shall be responsible for any breach of the terms of this clause 26 by its Personnel or Affiliates to whom it discloses Confidential Information pursuant to clauses 26.4(a) and 26.4(b), respectively.
- 26.6 Notwithstanding anything to the contrary in this Contract, Seller may disclose the terms of these GTCs, including to other potential buyers, without the consent of Buyer.
- 26.7 The Parties to the Agreement shall, and shall use reasonable endeavours to ensure that their employees and agents shall, ensure that all information received by it or them in connection with the Agreement relating to the other Party which is not in the public domain shall be treated as confidential and shall not be disclosed to any third party except with the prior written consent of the other Party and except to the extent required by law or by any governmental or supranational authority.

## 27. NOTICES

- 27.1 Unless otherwise provided elsewhere in the Agreement all notices, statements, and other communications to be given, submitted, or made hereunder by either Party to the other shall be sufficiently given if in writing and in the English language. Such communications (other than routine communication) shall be in letter format on the headed paper of the notifying Party and served by receipted hand delivery, fax transmission, email communication or registered post to the address of the other Party specified below and shall, unless otherwise provided herein, be deemed to have been received as follows:
  - (a) in case of hand delivery, at the moment of delivery to the correct address;
  - (b) in case of fax transmission, if it was transmitted on a Business Day before 1600 hours, on that day; in any other case, on the following Business Day, and always provided that:
    - (i) a transmission record is retained by the sender to show that the transmission was correctly completed and that all pages were transmitted; and
    - (ii) a hard copy of the notice or other communication is forwarded by the sender to the recipient on the same day as the fax was transmitted;

- (c) in case of registered post or courier, if delivered on a Business Day before 1600 hours, on that day; in any other case, the following Business Day; and
  - (d) in case of email communication, at the time it was received by the receiving Party and the notifying Party bears the risk of a failure in transmission and the communication will be deemed received at the time it was received by the receiving Party.
- 27.2 For the purpose of the Agreement, “**Business Day**” means a day (a period of twenty four (24) hours starting at 0000 hours and finishing at 2400 hours on the same day) on which the office of the Party receiving the relevant communication is ordinarily open for business.
- 27.3 Any alterations to the contacts or addresses specified in the sales confirmation shall be notified immediately to the other Party in accordance with clause 27.1
- 27.4 Notices may not be given by instant messaging.
- 27.5 For the purposes of this clause 27, the Parties’ respective contact details shall be as follows:

**BUYER’S ADDRESS:**

*As specified in the Location Agreement*

**SELLER’S ADDRESS:**

Abu Dhabi National Oil Company (ADNOC)

P.O Box 898, Abu Dhabi, United Arab Emirates

T: (+971) 2 70 75590

Email: avrs@adnoc.ae

Either Party may change its contact details for receipt of notice by giving fifteen (15) days prior written notice of its new contact details to the other Party.

**28. ENTIRE AGREEMENT**

- 28.1 These GTCs and the relevant Location Agreement(s) together constitute the entire agreement between the Parties in respect of the supply of Aviation Fuel or Product for the location(s) specified herein and supersedes all prior agreements between the Parties, whether oral or written, with respect to such subject matter.
- 28.2 No amendment, modification or alteration of the Agreement or any term or provision herein shall be valid unless reduced to writing and signed by and on behalf of Seller and Buyer.
- 28.3 Each Party acknowledges and agrees that it may execute the Location Agreement, any Transaction and any variation or amendment to the same, by electronic instrument. Each Party agrees that its electronic signature appearing on the Location Agreement shall

have the same effect as a handwritten signature and its use of an electronic signature on the Location Agreement shall have the same validity and legal effect as the use of a signature affixed by hand and is made with the intention of authenticating the Location Agreement, and evidencing that party's intention to be bound by the terms and conditions contained herein or therein. Each Party represents and warrants that it has the authority to enter into the Location Agreement using an electronic signature and is not prevented from doing so pursuant to its constitutional documents, corporate authorities, internal requirements or otherwise."

**29. SEVERABILITY**

If any provision of the provisions of these GTCs and any Location Agreement is declared to be illegal or otherwise unenforceable by a court of competent jurisdiction, the remainder of these GTCs or any Location Agreement (and of such provision) shall not be affected except to the extent necessary to delete such illegal, invalid or unenforceable provision (or part thereof).

**30. INSURANCE**

30.1 The Buyer shall ensure that it is adequately insured, at all times for the duration of the term of the Agreement, against all risks to be assumed by it to the reasonable satisfaction of the Seller and shall provide proof of such insurance to the Seller upon execution of the Agreement and promptly at any time thereafter, upon request by the Seller.

30.2 The Buyer shall ensure that its insurance, taken out in accordance with clause 30.1, covers any risk to be assumed by its Affiliated Companies or Customers.

30.3 The Seller has acquired and shall maintain during the term of the Agreement insurance relating to Aviation Re-Fuelling Liability for an amount of one billion USD (US \$1,000,000,000) in relation to any one occurrence and, in respect of products liability, in the aggregate in respect of all occurrences occurring during the policy period.

**31. ANTI-BRIBERY AND CORRUPTION, SANCTIONS, AND TRADE CONTROLS COMPLIANCE**

31.1 The Buyer and the Seller agree and undertake to each other that in connection with the Agreement, they will each respectively comply with all Applicable Law(s) relating to anti-bribery and anti-money laundering and that they shall each respectively take no action which would subject the other to fines, or penalties under such laws, regulations, rules or requirements.

31.2 The Buyer and the Seller each represent, warrant and undertake to the other that they shall not, directly or indirectly:

- (a) pay, offer, give or promise to pay or authorise the payment of any monies or the transfer of any financial or other advantage or other things of value to:
- (b) a government official or an officer or employee of a government or any department, agency or instrumentality of any government;
- (c) an officer or employee of a public international organisation;

- (d) any person acting in an official capacity for or on behalf of any government or department, agency or instrumentality of such government or of any public international organisation;
- (e) any political party or official thereof, or any candidate for political office;
- (f) any director, officer, employee or agent/representative of an actual or prospective counter-party, supplier or customer of the Buyer or the Seller;
- (g) any other person, individual or entity at the suggestion, request or direction of or for the benefit of any of the above-described persons and entities; or
- (h) engage in other acts or transactions,

in each case if this is in violation of or inconsistent with the anti-bribery or anti-money laundering law, rule or regulation of any government including without limitation the US Foreign Corrupt Practices Act, the UK Bribery Act 2010, the UK Anti-Terrorism, Crime and Security Act 2001, the Money Laundering Regulation 2007 and the Proceeds of Crime Act 2002 and the applicable country legislation implementing the Organisation for Economic Cooperation and Development (“**OECD**”) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

- 31.3 In particular, each Party represents and warrants to the other that it has not made any payments or given anything of value to officials, officers or employees of the Government of the United Arab Emirates or any agency, department or instrumentality of such government in connection with the Product which is the subject of the Agreement which would be inconsistent with or contravene any of the above-referenced legislation.
- 31.4 The Buyer warrants that it has not made or given, and shall not make or give, directly or indirectly, any payment or anything of significant value to any representative of the Seller or any other person or entity, to secure or influence the award of the Agreement or its terms, performance, administration, extension or termination.
- 31.5 The Buyer or the Seller may terminate the Agreement with immediate effect upon written notice to the other at any time, if in its reasonable judgment (supported by credible evidence) the other is in breach of any of the above representations, warranties or undertakings in this clause 31.

### **Sanctions**

- 31.6 It is a condition of the Agreement that the Aviation Fuel or Product purchased and delivered under the Agreement shall not be (or not be permitted to be) discharged or imported (whether by the Buyer or others) directly or indirectly and irrespective of the means of carriage, into any destination or to be delivered to any Person or entity which is at the time of such import prohibited under the Applicable Law or is at the time of such import targeted by applicable economic or financial sanctions administered by any relevant sanctions authority (“**Sanctions**”). The Buyer shall keep itself informed as to such Applicable Law and Sanctions and acknowledges that, at the time of entering into the Agreement and during the Delivery Period, it is informed of all such Applicable Laws and Sanctions.

- 31.7 The Buyer undertakes that the Aviation Fuel or Product deliverable hereunder shall not:
- (a) be exported or resold to any Sanctioned Territory;
  - (b) be sold or resold or supplied to any Person: (i) organized under the laws of, resident in or operating from any Sanctioned Territory; or (ii) otherwise targeted by Sanctions;
  - (c) be sold or resold or supplied to any Person for the purposes of any commercial activity carried out in or from any such Sanctioned Territory.
- 31.8 For the purposes of this clause, “**Sanctioned Territory**” shall mean any country, state, territory or region against which there are Sanctions that target, prohibit, restrict, penalize, or condition the Shipment through or thereto of the Aviation Fuel or Product.
- 31.9 Where requested by the Seller, the Buyer shall provide the Seller with such evidence as the Seller may reasonably request to demonstrate the first Buyer’s compliance with this clause 31 including all appropriate documentation verifying the final destination of the Aviation Fuel or Product purchased and delivered under this Agreement or to demonstrate that controls are in place which actively support such compliance with applicable Sanctions. Such evidence shall be provided within thirty (30) days of the request or within such lesser period as will enable the Seller to comply with any requirement or request of any government or authority and shall identify whether or not the product delivered has been otherwise sold or disposed of. The obligations of the Buyer to comply with the requirements of this clause shall not be affected by any sale or disposal of the Aviation Fuel or Product in question by the Buyer.
- 31.10 The rights provided to the Seller under this clause shall be without prejudice to the Seller’s common law rights (including, *inter alia*, frustration, including frustration of the adventure or purpose of the Agreement) and other rights under the Agreement.

#### **Trade controls and boycotts**

- 31.11 The Buyer agrees to comply with all relevant trade controls, export and re-export controls, embargoes, and Sanctions in a manner in which there is no breach of the aforementioned undertakings of this clause. Notwithstanding anything to the contrary in the Agreement, nothing in the Agreement is intended, and nothing herein should be interpreted or construed, to induce or otherwise require either Party hereto to act or refrain from acting (or agreeing to act or refrain from acting) in any manner which is penalised, or prohibited under any laws, regulations, decisions, decrees, ordinance, order, demand, request or rules or requirements relating to foreign trade controls, export controls, embargoes, international boycotts or Sanctions of any type as applicable to such Party.
- 31.12 Where the Seller has reasonable grounds to believe that the Buyer has not complied with this clause 31, the Seller may at its sole discretion, by written notice to the Buyer or orally (with written confirmation to follow):
- (a) terminate the Agreement immediately or suspend any further delivery of the Aviation Fuel or Product under the Agreement until further notice; or
  - (b) decline to commence or complete any delivery of the Aviation Fuel or Product.

## 32. GOVERNING LAW

The Agreement shall be governed by and construed in accordance with the laws of the Emirate of Abu Dhabi and the federal laws of the United Arab Emirates as applicable in the Emirate of Abu Dhabi from time to time.

## 33. DISPUTE RESOLUTION

- 33.1 The Parties shall attempt in good faith, and with a spirit of cooperation, use all reasonable efforts to settle amicably any dispute, controversy or claim that arises out of or in connection with the conclusion, validity, effect, interpretation, performance, termination or dissolution of the Agreement or relates to the Agreement, or the breach, termination, or validity hereof, including without limitation any non-contractual obligations arising out of or in connection with the Agreement (“**Dispute**”).
- 33.2 If, notwithstanding the provisions of clause 33.1. above, a Dispute arising out of or relating to the Agreement is not settled amicably within sixty (60) days from the date the dispute is first notified in writing to the other Party(s), such Dispute shall be referred by any Party and finally resolved by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce applicable at the time of conclusion of the Agreement (the “**ICC Rules**”) by three (3) arbitrator(s) appointed in accordance with such Rules.
- 33.3 In the event that the amount in dispute (considering the combined total of claims and counterclaims) is equal to or less than five million USD (US\$5,000,000), the matter shall be determined by a single arbitrator to be appointed in accordance with the ICC Rules. Claims exceeding five million USD (US\$5,000,000) shall be determined by a panel of three (3) arbitrators. The arbitration shall be seated in Abu Dhabi, UAE and all hearings shall take place in Abu Dhabi. Each Party shall nominate an arbitrator for confirmation by the International court of arbitration (“**Court**”) under the ICC Rules. The two (2) arbitrators nominated by the Parties shall nominate the third arbitrator who will act as president of the arbitral tribunal (the “**President**”) within thirty (30) days from their confirmation by the Court. Failing nomination by the arbitrators of the President within the time limit provided for in this clause or any other time limit agreed by the Parties, the President shall be appointed by the Court. The arbitration shall be conducted in the English language. The arbitration award shall be final and binding upon the Parties. Judgment upon the award rendered may be entered in any court having jurisdiction, or application may be made to such court for juridical recognition of the award, and an order of enforcement, as the case may be. A Party may apply to any competent judicial authority for interim or conservatory relief. The application for such measures or the enforcement of such measures ordered by such judicial authority shall not be deemed an infringement or waiver of the agreement to arbitrate and shall not affect the powers of the arbitrator.
- 33.4 Each Party shall be entitled to be represented in such arbitration proceedings by an advocate or representative of its choice, whether or not qualified or admitted to practice advocacy or conduct arbitration proceedings in the Emirate of Abu Dhabi or the UAE.
- 33.5 The Parties agree that the existence of the arbitration, the arbitral proceedings, the submissions made by the Parties and the decisions made by the arbitral tribunal, including its awards, shall be treated as Confidential Information.

33.6 The arbitration proceedings, including all documents, submissions, written and oral evidence, transcripts and correspondence used therein or relating thereto, as well as any order or award issued in connection therewith shall be strictly confidential (“**Confidential Arbitration Information**”). Notwithstanding this provision, but without prejudice to any other confidentiality obligation which may otherwise be applicable, either Party may disclose to a domestic court, for the purposes of setting aside and/or enforcement proceedings pending before such domestic court, any Confidential Arbitration Information, which it deems necessary for the purposes of those proceedings, after seeking an appropriate confidentiality order from such court, if available under the applicable law.

#### 34. **MODIFICATIONS**

The Seller reserves the right to amend these GTCs at any time upon notice to the Buyer. Such amended GTCs will apply to all subsequent transactions under any Location Agreement(s) with the Buyer. Save as otherwise stated, modifications or amendments to these GTCs and each Location Agreement are only valid when expressly agreed upon in writing.

#### 35. **OFFICIAL VERSION**

These GTCs and each Location Agreement shall be executed in the English language. Translations in any other language may be made for convenience purposes, but those translations shall in no event limit, alter, interpret, define or amend the contents of the English version of these GTCs or any Location Agreement(s).

## **PART 2**

### **PROVISIONS APPLICABLE TO INTO-PLANE DELIVERY**

#### 36. **DELIVERY**

36.1 Unless otherwise specified in the Location Agreement, delivery of Fuel shall be into the Buyer’s Aircraft tanks (“Into-Plane Delivery”) at each listed location and shall be carried out in accordance with the JIG Standards or IATA guidelines on standard Into-Plane fuelling/de-fuelling procedures and the Seller’s quality assurance and safety procedures, and any Fuel so delivered shall meet the specifications set out in clause 10.

36.2 The following provisions shall apply in case of Into-Plane Delivery:

36.3 The Seller shall ensure prompt refuelling of the Buyer’s scheduled aircraft and take all reasonable measures not to delay the Buyer’s Aircraft’s departure. If the Buyer’s Aircraft arrives ahead of its scheduled time of arrival, or is late, or is operating a regular non-scheduled flight, the Seller shall endeavour to promptly refuel the Buyer’s Aircraft subject to the operational constraints imposed by other delivery commitments and the flights which have arrived earlier than the Buyer’s Aircraft.

36.4 Where the Buyer asks the Seller to make delivery at a particular time, the Seller shall try to deliver at such time or as soon after such time as is practicable. The Buyer shall

not be entitled to any form of compensation if the Seller is late in making the delivery and the Buyer agrees that it shall provide safe reception for the fuel ordered.

- 36.5 Title to and risk of loss of the Fuel shall pass to the Buyer at the time the Fuel passes the inlet coupling (adapter) of the receiving aircraft.
- 36.6 The Seller's measurement shall be accepted as *prima facie* evidence of the quantities of Fuel delivered, but the Buyer shall be entitled to check the accuracy of the instruments used by the Seller upon reasonable notice during the Seller's normal operating hours in the presence of the Seller's representative. Determinations of quantities made in accordance with international industry practice shall be binding.
- 36.7 Upon the Buyer's request, the Seller may provide the most current specific gravity or density measurement of Fuel from airport storage, or provide the Buyer with appropriate devices to measure it at the Buyer's Aircraft. Notwithstanding the foregoing, the Buyer shall not hold the Seller responsible for any claims and expense related to the Seller providing the specific gravity or density measurement or such devices, except to the extent caused by the Seller's Wilful Misconduct or Gross Negligence.
- 36.8 Deliveries shall be made in accordance with all applicable Laws and regulations, in compliance with the relevant standards set out in IATA Doc 9977 and the requirements laid down by the airport governing authority. Furthermore, unless otherwise agreed, the Seller or an Affiliate of the Seller shall use or apply their standard quality control and operating procedures (as amended from time to time) or those of the delivering entities utilised by it for deliveries into the Buyer's Aircraft; provided, however, that failure to use or apply such procedures shall not be grounds for termination pursuant to clause 23 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 to amount to a material breach of the Agreement.
- 36.9 Except as otherwise agreed in writing by the Seller or its Deliverer, the Seller or its Deliverer shall not be obliged to make delivery unless a representative of the Buyer is present. The Seller shall provide two (2) copies of the Delivery Receipt as agreed with the Buyer specifying at least the grade, quality, and quantity of the Fuel delivered and signed by the representatives of the Seller and the Buyer.
- 36.10 Any Fuel supplied to the Buyer by or on behalf of the Seller pursuant to the Agreement, if evidenced and conclusively found to be Off-Specification Fuel, may be rejected by the Buyer, at the Buyer's sole discretion. Subject to clause 36, the Seller shall indemnify, defend and hold harmless the 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 the Buyer's Aircraft of the Seller's Off-Specification Fuel, including the costs of replacement of all Fuel contaminated through commingling with the Seller's Off-Specification Fuel, except to the extent caused by the Buyer's default, act, omission, negligence or misconduct.
- 36.11 In the event that the Buyer is an assigned reseller or agent, for the Seller to perform Into-Plane Services on behalf of the Buyer to a third party Affiliated Company or Customer

of the Buyer, the Buyer shall, by facsimile or electronic mail, provide the following information in relation to each contract between Buyer and its Customer:

- (a) the date on which such contract entered into force and its duration;
- (b) the relevant airport(s); and
- (c) an annual forecast of quantities of Product required.

### 37. DE-FUELLING

- 37.1 The Buyer may request in writing and the Seller may agree to De-fuelling of the Buyer's Aircraft. De-fuelling shall be undertaken on the written request of the Buyer irrespective of the circumstances or quantity involved provided it can be carried out in accordance with IATA or JIG guideline material on standard Into-Plane fuelling/de-fuelling procedures and the Seller's quality assurance and safety procedures. The Seller shall charge an extra fee for such services as stipulated in the Location Agreement (the "**De-fuelling Fee**").
- 37.2 Provided that the Seller accepts the Buyer's request, De-fuelling shall be undertaken as soon as possible after the Buyer's request, taking into consideration the Seller's other operational activities and requirements, and the Buyer's priorities for its flight operations.
- 37.3 Prior to the commencement of De-fuelling, the Buyer shall produce, or ask its Customer to produce, a copy of the Delivery Receipt from the last refuelling operation, and establish to the full satisfaction of the Seller the quality of the fuel on board the aircraft. In case of failure to achieve this, The Seller will not start De-fuelling.
- 37.4 The Buyer undertakes to provide or procure the provision by its Customer of the following statement prior to the commencement of de-fuelling;

#### ***"LOAD ADJUSTMENT DEFUELLING INDEMNIFICATION STATEMENT***

*The Buyer hereby confirms that the aircraft fuel tanks have not been biocide treated within the previous three (3) flights where refuelling has taken place. The sample of fuel to be defueled in accordance with the microbiological contamination limits, as indicated by the certified test kit results and outlined in IATA's Guidance Material of Microbiological contamination in aircraft fuel tanks."*

In addition the Buyer shall confirm the location and grade of the two (2) previous refuellings.

- 37.5 The Fuel so removed from the Buyer's Aircraft shall be disposed of or stored as agreed between the Parties and at the Buyer's sole cost and expense. If however De-fuelling of the Buyer's Aircraft is necessary due to the Seller's fault or negligence (e.g. delivery of Off-Specification Fuel or delivery of a larger quantity than agreed upon in writing), the Seller or its Deliverer shall De-fuel the Buyer's Aircraft at the Buyer's request and at the Seller's sole cost and expense.
- 37.6 Redelivery of de-fuelled product will only be allowed to the same aircraft from which it came or to the same airline. After seventy two (72) hours title to (and risk of loss of)

the de-fuelled fuel will transfer at no cost to the Seller and will no longer be available for re-supply. Any subsequent requests for Fuel will be treated as a new sale of Fuel to the airline concerned.

- 37.7 De-fuelling must be performed only via aircraft refuelling adaptors. If any other method is to be used, the airline must provide equipment certified for aviation use, after approval by the Seller, and ensure that no free fall of fuel or spillage is caused.

**38. BUYER'S RESPONSIBILITIES (OPERATION OF AIRCRAFT SWITCHES AND VALVES)**

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

- 38.2 In the event the Buyer requests that the Seller perform the services as described in clause 36, or other delivery services in addition to those listed as normal delivery services in the Location Agreement, and the Seller agrees in writing to perform the same, the Buyer agrees to indemnify, defend and hold harmless the 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 the Seller's action in performing or failure to perform the requested services, except to the extent caused by the Gross Negligence or Wilful Misconduct of the Seller.

**39. FUELLING/DE-FUELLING WITH PASSENGERS ON BOARD OR EMBARKING OR DISEMBARKING**

- 39.1 To the extent permitted by local regulations, Into-Plane Delivery or De-fuelling may be made at the Buyer's request when there are passengers or other persons on board the aircraft or embarking or disembarking. In such event, the Buyer shall be solely responsible for the safety of its aircraft, passengers, crew, employees and agents and 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 the 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.

- 39.2 The Buyer shall indemnify, defend and hold harmless the 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 Part 1, unless such injury or death arises from or has been caused by the Gross Negligence or Wilful Misconduct of the Seller.

**40. CODESHARE ARRANGEMENTS**

- 40.1 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 contracting Suppliers on refuelling arrangements.

- 40.2 Unless otherwise agreed, refuelling of aircraft in these situations will be carried out on the following basis: “**Operating flight prefix will identify both contracting parties** (buyers and sellers)”.

### **PART 3**

#### **PROVISIONS APPLICABLE TO DELIVERY EX-TANK**

#### **41. QUANTITY**

41.1 Buyer shall notify Seller of its requests for Fuel as follows:

- (a) Not later than the fifth (5<sup>th</sup>) day of each month, the Buyer shall notify the Seller of the quantity of Fuel of which it shall take delivery by the fifteenth (15<sup>th</sup>) day of that month; and
- (b) Not later than the twentieth (20<sup>th</sup>) day of each month, the Buyer shall notify the Seller of the quantity of Fuel of which it shall take delivery by the end of that month.

any such notification being a “**Fuel Request**”.

41.2 The Buyer’s Fuel Requests shall be agreed in the Location Agreement, and shall be transmitted by the Buyer’s authorized representative to the Seller in writing.

41.3 The Seller shall give instructions to the Fuel Farm Manager to arrange for the delivery of the Fuel to the Buyer at the Delivery Place, in accordance with the Fuel Request, within forty eight (48) hours of the receipt by the Seller of the Buyer’s Fuel Request or such later time as requested by the Buyer.

#### **42. QUALITY**

42.1 The Seller warrants that at the time of delivery at the Delivery Place, the Fuel shall comply with the specifications set out in clause 10.

42.2 The Buyer understands and accepts that upon delivery at the Delivery Place, the Fuel is comingled with Fuel supplied by other suppliers, parties to the joint consortium in respect of the Fuel storage tank at the Delivery Place.

42.3 At the time of the transfer to the Buyer, the Fuel shall be at ambient temperature.

42.4 It shall be the responsibility of the Buyer to make any and all inspections and investigations as Buyer deems necessary to ascertain the integrity, fitness or suitability of the Fuel hereunder.

#### **43. DELIVERY, TITLE AND RISK**

43.1 “**Delivery Place**” shall mean the comingled storage tank at the location agreed in the Location Agreement managed by a joint consortium of Fuel suppliers, including the

Seller, and operated by a Fuel Farm Manager; or such other place as the Parties may agree from time to time.

- 43.2 The Seller shall procure that upon receipt of the Seller's stock transfer request, as per standard form and procedure at the applicable airport, as may be further detailed in the Location Agreement, in respect of each Fuel Request, the Fuel Farm Manager shall promptly arrange for the transfer of the requested quantity of Fuel to the Buyer at the Delivery Place (the "**Transfer**") and shall confirm to the Seller and the Buyer the date of the Transfer together with the density of the Fuel at the time of the Transfer.
- 43.3 Upon receipt by the Seller of the relevant stock transfer request signed by the Buyer, confirming the Buyer's acceptance of the Transfer, title in and to each quantity of Fuel shall be deemed to have passed from the Seller to the Buyer at 2359 hours on the date of the Transfer, together with the risk of loss, deterioration, evaporation and damage of whatsoever nature to or in respect of each quantity of Fuel howsoever caused.

44. **DUTIES & TAXES**

Any Fuel farm fee and taxes, excises, duties, assessments, impositions or other charges (whether or not of the same kind) payable to any airport or controlling authority, governmental or private, arising in connection with the sale of Fuel by the Seller to the Buyer under the Agreement, or upon the delivery, acceptance, use or consumption of the Fuel by the Buyer, including any admission fee, shall be payable by the Buyer to the Seller in addition to the Price.

**PART 4**

**PROVISIONS APPLICABLE TO IN-DRUMS**

45. **DELIVERY**

- 45.1 Where the Parties agree that delivery of the Product is to be "In Drums" (or, to the extent applicable "in bulk"), the Product shall be deliverable in drums, barrels or other suitable containers at the agreed Delivery Location.
- 45.2 The drums shall be provided by the Seller and the Buyer may retain the empty drums following consumption of the Product.
- 45.3 The Delivery Location must be a specific point which is served by transportation appropriate for such delivery.
- 45.4 Unless otherwise agreed, the Delivery Location shall be at the Seller's nominated delivery point in the Seller's facility, from where the Buyer must collect the drums.
- 45.5 The Parties may agree for the drums to be delivered by the Seller to the Buyer at a Location other than the Seller's facilities. All such deliveries will be charged extra for delivery transportation fees and will be subject to a minimum order amount agreed in the Location Agreement.

45.6 The Seller shall arrange for the delivery of the Fuel to the Buyer within five (5) Working Days of the receipt by the Seller of the Buyer's Fuel Request, or such later time as requested by the Buyer.

46. **QUANTITY**

46.1 The Buyer shall notify the Seller of its requests for Fuel as follows:

- (a) Not later than the fifth (5<sup>th</sup>) day of each month, the Buyer shall notify the Seller of the quantity of Fuel of which it shall take delivery by the fifteenth (15<sup>th</sup>) day of that month; and,
- (b) Not later than the twentieth (20<sup>th</sup>) day of each month, the Buyer shall notify the Seller of the quantity of Fuel of which it shall take delivery by the end of that month.

(any such notification being a "**Fuel Request**").

47. **QUALITY**

47.1 The Seller warrants that at the time of delivery at the Delivery Location the Fuel shall comply with the specifications set forth clause 10.

47.2 At the time of the transfer to the Buyer, the Fuel shall be at ambient temperature.

47.3 It shall be the responsibility of the Buyer to make any and all inspections and investigations as the Buyer deems necessary to ascertain the integrity, fitness or suitability of the Fuel hereunder.

48. **TRANSFER OF TITLE AND RISK**

Title and Risk in the Product shall transfer to the Buyer upon delivery. Where the drums are to be collected by the Buyer from the Seller's facility, delivery occurs when the Seller places the drum at the agreed delivery point in the Seller's facility. Where the Seller has agreed to deliver the Product to a Location outside of the Seller's facility delivery point, delivery occurs when the Product has been unloaded from the Seller's delivery vehicle.

## **PART 5**

### **PROVISIONS APPLICABLE TO IN-TANK**

#### **49. DELIVERY**

- 49.1 Where the Parties agree that delivery of the Product is to be “In Tank”, the Product shall be deliverable by movement of the Product by Seller directly into Buyer’s tank.
- 49.2 All nominations by the Buyer to the Seller shall be made in accordance with the standard operating procedures of the relevant storage company(ies).

#### **50. QUANTITY AND QUALITY**

- 50.1 The quantity and quality of Product delivered hereunder shall be determined as follows.
- 50.2 The quality of the Product delivered under the Agreement shall be determined by measurement, sampling and testing carried out in accordance with clause 11.
- 50.3 The quantity shall be specified in the Location Agreement. The quantity deemed to be delivered shall be as per the inspection document or certificate of transfer (where applicable) when the Product was delivered into the tank.

#### **51. TRANSFER OF RISK AND TITLE**

- 51.1 The risk and property in the Product delivered under the Agreement shall pass to the Buyer at such time and day and in such tank(s) as shall either be specified in the Location Agreement or as agreed by the Parties in writing prior to such transfer being effected and, where applicable, confirmed by the owner/operator of such tank(s).
- 51.2 Title in and to each quantity of Fuel shall be deemed to have passed from the Seller to the Buyer at 2359 hours on the date of the Transfer, unless otherwise specified in the Location Agreement.

**ANNEX A****FORM OF LOCATION AGREEMENT**

**THIS LOCATION AGREEMENT** is dated and entered into on [*insert date*]

**BETWEEN:**

- (1) **ABU DHABI NATIONAL OIL COMPANY**, a corporation duly organised and existing under the laws of Abu Dhabi, United Arab Emirates and having its principal postal address at P.O. Box 898, Abu Dhabi, United Arab Emirates (“**ADNOC**” or “**Seller**”); and
- (2) [*NAME*], a company duly organised and existing under the laws of [●] whose registered office address is at [●] (the “**Buyer**”),

each a “**Party**” and together the “**Parties**”, and incorporates the ADNOC General Terms and Conditions for the Sale of Aviation Fuel, January 2021 version (the “**Agreement**”).

Capitalised terms used in this Location Agreement which are not otherwise defined herein shall have the meanings given to them in such Agreement.

1. **PRODUCT:** Jet A-1 (hereinafter referred to as “**Product**” or “**Fuel**”)
2. **QUALITY:** As per clause 10 of the GTCs
3. **DELIVERY METHOD:** [*Into-Plane / Ex-Tank / In-Drum / In-Tank*]
4. **LOCATION / VOLUME / PRICE:**

**Total Volume = [*insert total volume across locations*] USG +/- 10% at Seller’s option**

Location	IATA Code	Volume per Year (USG)	Delivery Period		Price Differential (US Cents per US Gallon)
			From	To	

#### 4.1 Location and Volume

The Seller shall deliver or cause to be delivered the quantity or quantities of Product at the respective locations, as stated in the above table.

#### 4.2 Price

The Price per USG applicable to the supplies of Product under this Agreement, shall be calculated in accordance with Clause 7 of the GTCs.

For the purposes of the GTCs, the “Pricing Period” shall be [monthly pricing / bi-weekly pricing].

## 5. APPLICABLE FEES

- 5.1 To the best of the Seller’s knowledge, the fees applicable as at the date of this Location Agreement, which shall be charged in addition to the Price, include:
- (i) In the event of supply to Sharjah International Airport (IATA Code SHJ), the Piping Company Fees, which shall be of an amount of US Cents [insert amount] per USG.
  - (ii) In the event of supply to Al Maktoum International Airport (IATA Code DWC), the Hookup Fee, which shall be of an amount of USD [insert amount] per connection.
  - (iii) In the event of supply to Abu Dhabi International Airport (IATA Code AUH), Al Ain International Airport (IATA Code AAN) and Al Bateen Executive Airport (IATA Code AZI), the Throughput Fee, which shall be of an amount of US Cents [insert amount] per USG.
- 5.2 The Seller shall inform the Buyer of any change of fees applicable to the supply of Product, as soon as practical after it is informed of same.

## 6. INVOICING AND PAYMENTS

- 6.1 Invoicing Frequency: *insert no. of invoices* per month
- 6.2 Invoicing Currency: *insert AED or USD*
- 6.3 Invoice Due Date: *insert no. of days from date of invoice (if not 14 days)*
- 6.4 Seller’s account details:

Account Name: ADNOC Civil Aviation  
 Account Number: 4021003061384080  
 IBAN: AE540354021003061384080  
 Currency: USD  
 Account Type: Current Account corporate  
 Bank: First Abu Dhabi Bank (FAB)  
 Routing Instructions: SWIFT CODE (NBADAEAACPU), A/C No. 04095641, THROUGH DEUTSCHE BANKERS TRUST COMPANY AMERICAS, NEW YORK, SWIFT BIC (BKTRUS33).

- 6.5 Buyer’s account details:

Account Name: [insert]  
 Account Number: [insert]  
 IBAN: [insert]  
 Currency: USD  
 Account Type: [insert]

Bank: [insert]  
Routing Instructions: [insert]

**7. BANK GUARANTEE** [to be used in case of Bank Guarantee being requested from Buyer]

- 7.1 Buyer shall provide a Bank Guarantee in accordance with Clause 19.1 of the GTCs.
- 7.2 For the purposes of the GTCs, the “**Bank Guarantee Percentage Amount**” shall be not less than [insert percentage] of the value of the Buyer’s monthly requirement of Product.

**8. AFFILIATED COMPANIES**

The Affiliated companies of the Buyer are: [insert].

**9. DE-FUELLING** [To be used for Into-plane deliveries only.]

For the purposes of the GTCs, the “**De-fuelling Fee**” shall be US Cents [insert] per USG, subject to a minimum of USD [insert].

**10. EXTRA FUELLING** [not applicable to In Drums & In Tank Deliveries]

Extra fuelling after completion of fuelling shall be charged as follows:

- 10.1 Extra Product with an additional journey from the depot to the apron:  
USD [insert] per journey
- 10.2 Extra Product without an additional journey from the depot to the apron:  
USD [insert] per journey

**11. MISCELLANEOUS**

All other terms and conditions as per the Agreement and GTCs incorporated therein.

**12. BUYER’S ADDRESS:**

[Insert Buyer’s official communication & notice details here]

[Remainder of the Page Intentionally Left Blank]

**IN WITNESS WHEREOF** the Parties hereto have caused this Location Agreement to be executed by their respective duly authorised signatories.

**(SELLER)**  
**ABU DHABI NATIONAL OIL COMPANY**

BY: \_\_\_\_\_  
NAME: **KHALED SALMEEN**  
TITLE: **EXECUTIVE DIRECTOR,  
MARKETING, SUPPLY & TRADING**

**(BUYER)**  
**[NAME]**

BY: \_\_\_\_\_  
NAME:  
TITLE: