

# Avfuel Corporation Avfuel Retail Card Terms & Conditions

(February 6, 2014)

These Terms & Conditions, as amended in accordance with Section 17(a), establish the terms of usage for the Avfuel Corporation's Avfuel Retail Card and each company that applies for or otherwise accepts and uses an Avfuel Retail Card (each a "Cardholder") agrees to these Terms & Conditions. These Terms & Conditions, as amended, are posted at <http://www.avfuel.com/retailcardgtc>

1. GENERAL: Avfuel has established a Charge Card Program with Multi Service Technology Services, Inc. ("MSTS") in which MSTS issues the Avfuel Retail Cards to Cardholders that permit the Cardholders to charge the costs of products and services purchased from fixed base operators which participate in that Charge Card Program (each a "Dealer"). The terms of purchase from each Dealer are established independently by those Dealers. These Terms & Conditions establish the terms of usage of the Avfuel Retail Cards to make purchases from those Dealers. Avfuel furnishes only the payment program for charges for products and services purchased from a Dealer and Avfuel neither sells nor warrants the products or services which a Cardholder purchases from the Dealer.

2. CARD USAGE: The Avfuel Retail Cards can only be used by qualifying commercial entities for commercial purchases of fuel, flight and weather planning, catering, aircraft parts and repairs and other aviation-related products and services sold by Avfuel or sold by participating Dealers. The Cardholder will control the possession and use of the Avfuel Retail Cards and ensure the use of its Avfuel Retail Card solely for commercial purposes. Cardholder will ensure that its Avfuel Retail Card is not used by third parties and agrees to be responsible for unauthorized use of its Avfuel Retail Card at all times prior to the date that the Avfuel receives written notice from the Cardholder that its Avfuel Retail Card and Account must be closed and cancelled. For Cardholders residing in the States of Delaware, Missouri, Nebraska, and Rhode Island, The Avfuel Retail Card will only be issued to corporations, partnerships, and limited liability companies. For Cardholders residing in the State of California, the Avfuel Retail Card will only be issued pursuant to written applications. For Cardholders residing in the State of South Dakota, the Avfuel Retail Card may not be used to secure any loan of money. For Cardholders resident in the State of North Dakota, the use of the Avfuel Retail Card will be administered as a revolving credit agreement pursuant to Chapter 51-14 of the North Dakota Century Code.

3. ACCOUNTS. Avfuel will establish and maintain an account for each Cardholder (an "Account") or, if requested by the Cardholder, separate Accounts for separate Avfuel Retail Cards issued to the Cardholder. Avfuel will use reasonable efforts to provide prompt and accurate transaction data in each Cardholder's Account. Avfuel is not responsible for any errors in such data. The Cardholder agrees to be responsible for all charges made to that

Account by the use of the Cardholder's Avfuel Retail Cards prior to the date that the Avfuel receives written notice from the Cardholder that its Avfuel Retail Card for that Account must be closed and cancelled.

4. STATEMENTS: Avfuel will provide to each Cardholder with a billing statement itemizing charges incurred through usage of Avfuel Retail Cards ("Billing Statements"). Billing Statements for the Avfuel Retail Card will be issued weekly. Each Billing Statement will be dated of the date of issuance. Unless otherwise agreed in writing by Avfuel and the Cardholder, each Billing Statement will be sent by email to the email address stated in the Cardholder's Application.

5. PAYMENT TERMS/INTEREST ON LATE PAYMENT. Unless otherwise agreed in writing by Avfuel and the Cardholder, (a) the Cardholder will pay each Billing Statement in full within 14 days of the date of that billing Statement, without any abatement, deduction, set-off or counter claim whatsoever) and (b) the payment will be in cleared funds in U.S. Dollars and will be made by means of EFT (ACH), bank wire or other agreed upon method noting the number of the Billing Statement and the Cardholder's name. Details regarding Avfuel's account, routing numbers or addresses for EFT (ACH), bank wires will be included on the Billing Statement. Any amount not paid when due will bear interest from its due date to the date of payment at the rate of eighteen percent per annum (18%), or, if less, the maximum rate applicable in the State of the Cardholder's principal place of business. As of the date of these Terms and Conditions, the maximum rate for Cardholders resident in the States of New Jersey or New York will be sixteen percent per annum (16%); the maximum rate for Cardholders resident in the States of Connecticut, Oregon, or Virginia will be twelve percent per annum (12%); the maximum rate for Cardholders resident in the States of Alaska, Mississippi, and New Hampshire will be ten percent per annum (10%); the maximum rate for Cardholders resident in the States of Alabama, Georgia, Maryland, or Ohio will be eight percent per annum (8%); the maximum rate for Cardholders resident in the State of Tennessee will be seven percent per annum (7%); the maximum rate for Cardholders resident in the District of Columbia will be six percent per annum (6%); the maximum rate for Cardholders resident in the States of Kentucky, Minnesota, or Montana will be four percent per annum (4%).

6. COLLECTION PROCEDURES.

(a) If the Cardholder fails to pay any Billing Statement when due, Avfuel may invoke any and all collection procedures allowed by applicable law and in that event the Cardholder will be liable to Avfuel for legal fees and or collection costs and expenses, including late charges and reasonable attorney and collection agency fees, or other costs incurred by Avfuel as specified in the applicable statutes. (b) Avfuel will have the right to set-off outstanding amounts owed by Cardholder to Avfuel against any sums payable

to Cardholder by Avfuel under any contract, agreement or arrangement. (c) The Cardholder warrants to Avfuel that Cardholder either owns the aircraft for which products and services will be purchased by means of the Avfuel Retail Card or is or will be lawfully possessed of such aircraft with the owner's express consent to purchase products and services of the charging privileges provided by the Avfuel Retail Card. The Cardholder agrees to indemnify and hold Avfuel harmless from and against any and all claims arising out of Avfuel's filing, enforcement or defense of a lien against any aircraft for which the Cardholder purchases products or services to collect payment of charges for those products and services. If the charges against the Avfuel Retail Card remain unpaid, Avfuel may institute legal action against the Cardholder and/or the aircraft to foreclose the lien and to collect those charges. In recognition of the international and mobile nature of aviation and aircraft, and the necessity for legal certainty, predictability and convenience, and to avoid filing liens in multiple jurisdictions, each Cardholder agrees that any lien filed by Avfuel will be based, at Avfuel's sole discretion, either upon the aircraft lien statute of the State of Texas beginning at Section 70.301, or the applicable aircraft lien statute of the foreign country in which the aircraft is registered (including the Cape Town Convention on International Interests in Mobile Equipment), regardless of where the Cardholder is registered, domiciled, located or does business, the aircraft owner is registered, domiciled, located, resides or does business, the aircraft was located at the time such charges were incurred, the aircraft is registered, or jurisdiction may otherwise be proper or allowable. (d) The Cardholder will be liable to Avfuel for all costs, including reasonable lawyer's fees or other costs, reasonably incurred in securing payment for charges made through the use of a Cardholder's Avfuel Retail Card. (e) For Cardholders resident in the State of Vermont, all accounts will be expressly subordinate to the prior payment of all senior indebtedness of the commercial borrower to depository institutions, trust companies, and licensed lenders, regardless of whether such senior indebtedness exists at the time of the loan or arises thereafter.

7. DISPUTED AMOUNTS: Disputed billings, transactions or charges must be communicated by Cardholder to Avfuel in writing to: Avfuel Credit Department, P.O. Box 1387, Ann Arbor MI 48106-1387 or by confirmed facsimile to 734-389-8170. (a) The Cardholder must notify Avfuel immediately of any disputes between the Cardholder and the Dealer from which the Cardholder purchased products or services. Avfuel will record the dispute and forward the information to the Dealer for review and potential resolution. As Avfuel will not be the seller of those products or services, Avfuel will not be a party to the dispute and will have no legal authority to resolve the dispute between the Cardholder and the Dealer. (b) The Cardholder must notify Avfuel of any dispute regarding products or services purchased from Avfuel or regarding

errors in Avfuel's Billing Statements within thirty (30) days after date of the Billing Statement on which the disputed amount first appeared. Failure by the Cardholder to deliver that notice within that period will constitute approval of the Billing Statement and waiver of the right to dispute any entry that Billing Statement. (c) The Cardholder may not withhold payment of any charges that are not in dispute.

8. CREDIT LIMIT AND COLLATERAL:

(a) Avfuel, in its sole discretion, will establish a credit limit for each Cardholder's Account (the "Credit Limit"). The Credit Limit will be the maximum aggregate amount outstanding under the Account resulting from charges for purchases (whether billed or unbilled) through the use of the Cardholder's Avfuel Retail Cards for that Account plus any fees associated with such purchases or charges. Avfuel will notify the Cardholder in writing of the Credit Limit assigned to Cardholder's Account. The Cardholder agrees to provide Avfuel to Avfuel from time to time, on request, with information regarding its financial condition. The Cardholder will promptly notify Avfuel of any material adverse change in the Cardholder's business or financial condition. Avfuel, in its sole discretion, may from time to time review and make changes to the amount of the Credit Limit. (b) The Cardholder will make payment to Avfuel immediately upon demand if necessary to keep the Account balance within the Credit Limit. (c) In order to secure its claims for charges made through the use of a Cardholder's Avfuel Retail Card, Avfuel may request collateral from the Cardholder before assigning or increasing a Credit Limit. Such collateral will be agreed upon between the parties in one or more separate agreements. In the case of a material adverse change in Cardholder's financial condition or a deterioration of existing collateral, Cardholder will, upon request, provide further collateral to secure Avfuel's claims for charges made through the use of a Cardholder's Avfuel Retail Card. In the event of a Cardholder's failure to pay any such charges when due, Avfuel may, in addition to all other rights, realize any collateral in connection with the enforcement of Avfuel's right to payment.

9. SUSPENSION OF CARD PRIVILEGES. If the Cardholder fails to pay any charges made through the use of a Cardholder's Avfuel Retail Card as required in Section 5 or Section 8, then Avfuel may immediately suspend the use of all Avfuel Retail Cards issued to the Cardholder.

10. FEES: As of the date of these Terms & Conditions, Avfuel does not charge any fee for the issuance of the Avfuel Retail Card or for the use of the Avfuel Retail Card. Avfuel reserves the right in the right in the future, following prior written notice to the Cardholders, to assess fees for the continued use of the Avfuel Retail Cards.

11. LOSS OF AVFUEL RETAIL CARDS AND LIABILITY OF CARDHOLDER. If an Avfuel Retail Card is lost or stolen, it is the responsibility of Cardholder to immediately notify Avfuel by phone 734-548-8190, followed with a confirmation by confirmed facsimile transmission 734-389-8170 or email [acctsrcv@avfuel.com](mailto:acctsrcv@avfuel.com), to prevent unauthorized use of the Avfuel Retail Card. Cardholder will in that notice give to Avfuel the number of the Account for the lost or stolen Avfuel Retail Card and all relevant details regarding the loss or theft of that Avfuel Retail Card. The Cardholder will be liable for all costs and damages incurred by Avfuel in connection with any unauthorized use of a lost or stolen Avfuel Retail Card prior to receipt by Avfuel of the notification of that loss or theft. The Cardholder will not be liable for any use of its Avfuel Retail Card following receipt by Avfuel of the notification of the loss or theft. If the Cardholder recovers an Avfuel Retail Card that was reported lost or stolen, the Cardholder will immediately notify Avfuel, destroy or return that Avfuel Retail Card to Avfuel and will not use that Avfuel Retail Card thereafter.

12. DORMANT ACCOUNTS. If there is credit balance in a Cardholder's Account and if there are no charges to that Account for a consecutive period of six (6) months, then for each month thereafter until charges are again made against that Account, Avfuel may deduct and retain a dormancy and account management fee equal to two percent (2%) of the credit balance per month so long as the credit balance exists.

#### 13. TERM / TERMINATION.

(a) The right of the Cardholder to use its Avfuel Retail Card may be terminated by Avfuel or by that Cardholder at any time for any by giving written notice written notice to the other party of that termination, effective immediately on the delivery of that notice. (b) If Avfuel has issued a suspension notice to a Cardholder pursuant to Section 9, and if the Cardholder does not pay all required payments against the Cardholder's Account within five (5) days after the date of Avfuel's delivery of that notice, then Avfuel, by without further notice to that Cardholder, may terminate the Cardholder's right to use its Avfuel Retail Card. (c) Upon termination of a Cardholder's right to use its Avfuel Retail Card, that Cardholder's Account will be immediately deactivated and the Cardholder must immediately return to Avfuel all Avfuel Retail Cards in the possession or under the control of the Cardholder. The Cardholder will remain responsible for the payment of all charges through the use of the Cardholder's Avfuel Retail Cards prior to the effective date of termination in accordance with these Terms & Conditions.

#### 14. DATA PROTECTION.

(a) Each Cardholder will be given access to its Accounts for its Avfuel Retail Cards via Avfuel's website. Such access will extend to purchase information, billing and payment mechanisms and other media that are confidential and proprietary to Avfuel. The Cardholder agrees to follow Avfuel's security procedures and to keep any passwords to Avfuel's website and the Cardholder's Accounts confidential. The Cardholder will be responsible for any losses

or damages resulting from any unauthorized access to data in Avfuel's website that results from Cardholder's failure to comply with Avfuel's security procedures. Each Cardholder agrees to notify the Avfuel immediately when any web account login and passwords in Cardholder's possession are either lost or transferred to another person. (b) Each Cardholder authorizes Avfuel to transmit information regarding the Cardholder's Account via email to the Cardholder at the email address that the Cardholder has supplied to Avfuel for communications. The Cardholder acknowledges that the email communications may contain confidential information intended solely for the use of the Cardholder and its authorized agents and representatives. The Cardholder further acknowledges that email is not a secure form of transmission and that it may potentially be intercepted or otherwise obtained by persons other than the intended recipient. In consideration of Avfuel's willingness to provide the reporting to the Cardholder via email, the Cardholder agrees that it will not hold Avfuel responsible for any email communications intercepted or received by anyone other than the intended recipients. Cardholder hereby releases Avfuel and its affiliates, and each of their agents, employees and representatives, from any and all liabilities, claims, losses, damages, injuries, and expenses of any kind in any way connected with or arising out of the interception or receipt of the email communications by any unintended recipients. Cardholder hereby further agrees to indemnify, defend and hold harmless Avfuel and its affiliates, and each of their agents, employees and representatives, from and against any and all liabilities, claims, losses, damages, injuries, or expenses sought by a third party and in any way connected with or arising out of the interception or receipt of the email communications by any unintended recipients.

15. PROGRAM CONFIDENTIALITY. The Cardholder agrees that pricing, materials, data, processes, methods and know-how and procedures relating to the Avfuel Retail Cards constitute proprietary and confidential information of Avfuel or its licensors and the Cardholder agrees to safeguard the confidentiality of such confidential information.

#### 16. ASSIGNMENT / SUBCONTRACTING

(a) Avfuel may assign and delegate to third parties all or any portion of its rights and obligations with respect to the Avfuel Retail Cards and in such event Avfuel may disclose and transmit to the transferees all information about Cardholder and the Cardholder's use of the Avfuel Retail Card that are relevant for the continuation of the Cardholder's use of the Avfuel Retail Cards with Avfuel's transferees. Avfuel may subcontract some or all services to be provided with respect to the Avfuel Retail Card to third parties and in such event Avfuel may disclose and transmit to the subcontractors all information about Cardholder relevant for the subcontracted services, provided that Avfuel will remain responsible for the performance of these services. (c) Cardholder may not assign or delegate to third parties any rights or obligations of the cardholder with respect to its Avfuel Retail Cards.

#### 17. AMENDMENTS.

**(a) Avfuel reserves the right, at any time and from time to time, to amend these Terms & Conditions, with each such amendment effective as of the date that Avfuel delivers written notice to the Cardholder of such amendment or such later date stated in that notice and the Cardholder's continued use of the Avfuel Retail Card after that notice is delivered will constitute acceptance of the amended Terms & Conditions. A Cardholder can reject any amendment by giving notice to Avfuel by a by confirmed facsimile transmission to 734-389-8170 or email [acctsrcv@avfuel.com](mailto:acctsrcv@avfuel.com) directing Avfuel to de-activate the Cardholder's Avfuel Retail Card.** (b) If any provision in these Terms & Conditions does not comply with the laws of regulations of any jurisdiction in which a Cardholder maintains its principal place of business, then these Terms & Conditions will be automatically amended with respect to such Cardholder so as to be compliant with such law or regulation.

18. SEVERABILITY If any provision in these Terms & Conditions is or becomes legally ineffective, the effectiveness of the remaining provisions will not be affected thereby. In such case, the ineffective provision will be automatically replaced with a legally effective provision that reflects the intended commercial purpose of the replaced provision as closely as possible.

#### 19. GOVERNING LAW / ARBITRATION.

Except, as provided in Section 6(c) with respect to aircraft liens, these Terms & Conditions and all rights and obligations of Avfuel and each Cardholder with respect to the Cardholder's use of the Avfuel Retail Cards, will be governed by and construed in accordance with internal laws of the State of Michigan, USA. All disputes arising out of or in connection with the present contract will be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The place of any proceedings will be in New York, New York, USA and will be conducted in the English language.

20. AUTHORITY AND BINDING EFFECT. The Cardholder, by accepting and using the Avfuel Retail Card, represents and warrants to Avfuel that the Cardholder's commitment to use the Avfuel Retail Card in accordance with these Terms & Conditions a legal, valid and binding obligation of the Cardholder, enforceable against the Cardholder in accordance with its terms.

21. ENTIRE AGREEMENT. This three page document, together with Avfuel's notice to the Cardholder assigning a Credit Limit to the Cardholder, constitutes the entire agreement between Avfuel and that Cardholder with respect to the issuance to and use by the Cardholder of its Avfuel Retail Card and supersedes all prior oral or written agreements between them in that regard.