

**CONTRACT FUEL INTO-PLANE SERVICE PROVIDER AGREEMENT****GENERAL TERMS AND CONDITIONS**

**1. APPOINTMENT:** Into-Plane Service Provider (the "IPSP") has been invited and has elected to participate in Avfuel's Contract Fuel Program (the "Contract Fuel Program") effective as of the date stated in the Summary or, if there is no Summary, on the date of (but prior to) the first fueling by IPSP on the Avfuel Contract Fuel Program (the "Effective Date"). Accordingly, IPSP agrees to sell and deliver at its facilities identified in the Special Terms and Conditions (if applicable), the Avfuel Contract Fuel IPSP Rate and Terms Agreement and Application, or as otherwise agreed upon in writing from time to time by Avfuel and IPSP (the "Facilities"), to each customer who participates in Avfuel's Contract Fuel Program (a "CFC"), aviation fuel and other products and services supplied by the IPSP. A CFC is a person or entity that is authorized by Avfuel to purchase aviation fuel and other products and services under the CFU Program. The IPSP will secure confirmation from Avfuel before completing a sale to a CFC and the failure to obtain such authorization may result in Avfuel's dishonor of the invoice for that sale.

**2. TERM:** The term of this Agreement is beginning on the Effective Date specified and will continue until one Party delivers a Notice to the other Party of its intent to terminate at least thirty (30) days prior to the effective date of termination.

**3. FUEL SUPPLY:**

3.1 Subject to agreement between IPSP and Avfuel, aviation fuel supplied hereunder shall be supplied from either an inventory maintained by Avfuel at the Facilities or from the inventory maintained/controlled/accessible by the IPSP at the Facilities (the "IPSP Inventory").

3.2 If Avfuel maintains an inventory of aviation fuel at the Facilities, then aviation fuel supplied by the IPSP to CFCs will be drawn from Avfuel's inventory. If Avfuel's inventory is held separately in a segregated storage facility, IPSP will withdraw fuel from that facility only to supply authorized CFCs. If Avfuel's inventory is commingled with the inventory of IPSP (and, if applicable, third parties) in unsegregated storage facilities, IPSP will not use or permit others to use Avfuel's inventory to supply parties other than authorized CFCs and to that end IPSP shall not at any time make or permit withdrawals from that facility that would reduce the fuel in such facilities below the level of Avfuel's inventory (and, if applicable, the inventories of third parties). IPSP will measure Avfuel's inventory and reconcile that inventory on an ongoing basis and reconciliation reports, in a form satisfactory to Avfuel, shall be delivered to Avfuel no later than the 5<sup>th</sup> day following the end of each month. In such reconciliations (a) gains and losses shall be allocated proportionally to the parties sharing the storage facility based on receipts of fuel during the month and losses shall be limited to no more than ¼% of total receipts for per annum and (b) book inventory shall be adjusted to coincide with actual inventory each month. IPSP will maintain Avfuel's inventory level in accordance with Avfuel's guidelines and will specify when ordering fuel whether that fuel is for IPSP's or Avfuel's inventory (which is subject to approval by Avfuel).

3.3 If Avfuel does not maintain an inventory of aviation fuel at the Facilities, then aviation fuel supplied to a CFC will be drawn from the IPSP's Inventory and Avfuel will pay the IPSP for the aviation fuel at the price and on the terms stated in the Special Terms And Conditions or other applicable written agreement between Avfuel and the IPSP.

3.4 If aviation fuel supplied by the IPSP to a CFC does not conform to applicable specifications, then Avfuel will be liable for those non-conformities if the fuel is supplied from Avfuel's inventory (unless due to the acts or omissions of the IPSP or its employees or other agents) and the IPSP will be liable for those non-conformities if the fuel is supplied from the IPSP's Inventory (unless due to the acts or omissions of the Avfuel or its employees or other agents)

**4. FUEL SALES/TRANSFER OF TITLE/DELIVERY SERVICES**

4.1. All aviation fuel delivered by the IPSP to a CFC will be deemed sold by Avfuel and will be at the prices and terms independently established between Avfuel and the CFC. The charges for all aviation fuel supplied to the CFC will be payable solely to Avfuel. Avfuel, as the seller of all aviation fuel supplied to the CFC, will be the holder of and have the sole right to exercise all lien rights under applicable law on the aircraft into which that aviation fuel is supplied. In addition to any lien rights which Avfuel might possess as a result of services provided to a CFC, upon IPSP's receipt of the credit from Avfuel for the vouchers generated

from the IPSP's deliveries of fuel to that CFC, the IPSP automatically and irrevocably transfers to Avfuel any lien rights that IPSP has or may have with respect to any equipment or other property owned by the CFC arising from such deliveries of fuel. All charges for all aviation fuel supplied to the CFC will be transmitted to Avfuel electronically by means of point-of-sale equipment approved by Avfuel under procedures established by Avfuel and approved by the IPSP. Avfuel will be responsible for collecting and remitting any taxes imposed thereon by any local, state or federal taxing authority. Avfuel will invoice and collect those charges and taxes from the CFC.

4.2 In all sales of aviation fuel drawn from Avfuel's inventory, title to that aviation fuel will be retained by Avfuel until the point in time that the aviation fuel enters into the aircraft of the CFC, at which point in time title will pass to the CFC. In all sales of aviation fuel drawn from IPSP's inventory, title to that aviation fuel will be retained by the IPSP until the point in time that the aviation fuel enters into the aircraft of the CFC, at which point in time title will pass instantaneously first to Avfuel and then to the CFC. The risk of loss or contamination of aviation fuel will be borne at each point in time by the party who or which holds title to that aviation fuel at that point in time. If, while Avfuel holds title, any aviation fuel is lost or contaminated as a result of the acts or omissions of the IPSP, then the IPSP will be liable to Avfuel for that loss or contamination.

4.3 Any services supplied by the IPSP for which charges are imposed in the delivery of aviation fuel to a CFC, including, without limitation any flow fees or into-plane fees, will be "Ancillary Services" governed by Section 5 and will be deemed earned by the IPSP only after it has completed delivery of the entire load of aviation fuel into the aircraft of the CFC and title to that aviation fuel has passed to the CFC. Initial into-plane fees are established in the Special Terms and Conditions, Avfuel Contract Fuel IPSP Rate and Terms Agreement and Application or other applicable written agreement and the IPSP may change those fees upon seven (7) days written notice to Avfuel.

**5. ANCILLARY PRODUCTS OR SERVICES.**

5.1 The into-plane services provided by the IPSP in delivering the aviation fuel to the CFC and any other services (the "Ancillary Services") or products (the "Ancillary Products") other than aviation fuel provided to the CFC for which charges are imposed (collectively the "Ancillary Products & Ancillary Services") will be deemed sold by the IPSP to the CFC. All Ancillary Products & Ancillary Services and other services and products will be supplied at or below the IPSP's normally established rates. Such Ancillary Products may include, without limitation, lubricants, spare parts, food and other amenities. Such Ancillary Services may include, without limitation, flowage fees, tie-down services, catering services and similar services that expedite deliveries and facilitate arrangements for the CFC. No cash advances will be permitted as Ancillary Products & Ancillary Services. The IPSP will supply all such other Ancillary Products & Ancillary Services as an independent contractor to the CFC and not as an agent or a subcontractor of Avfuel.

5.2 All Ancillary Products & Ancillary Services that are supplied by IPSP to CFCs will be provided in accordance with procedures and quality standards that are commercially reasonable and that comply with all legal requirements in the jurisdiction where the Facilities are located. IPSP will be solely liable if such other Ancillary Products & Ancillary Services do not conform to such standards, procedures or requirements.

5.3 The charges for all Ancillary Products & Ancillary Services supplied by the IPSP to the CFCs will be payable solely to the IPSP. The IPSP will be responsible for collecting and remitting any taxes imposed thereon by any local, state or federal taxing or airport authority. The IPSP may directly invoice and collect such charges from the CFC. Alternatively, at its option, the IPSP may assign to Avfuel for collection the account receivables from the CFCs for such other products and services supplied by the IPSP ("Ancillaries Receivables"). If the IPSP assigns an Ancillary Receivable to Avfuel, then Avfuel will issue a credit to the IPSP's account for the amount of that Ancillary Receivable and Avfuel will thereafter invoice, collect and retain those charges from the CFC.

**6. CFC TICKETS**

6.1 The IPSP will generate a written record (a "Ticket") of all aviation fuel supplied to a CFC at the Facilities. Each Ticket will include the following

information: the CFC's name; the authorization number; pilot's name; aircraft registration number; flight or ID number provided by the CFC if applicable, transaction date; and type and quantity of fuel products provided, as measured in U.S. gallons. In addition, if the IPSP assigns to Avfuel the Ancillary Receivable for Ancillary Products & Ancillary Services supplied by the IPSP to the CFC, the IPSP will include in the Ticket the type and quantity of such Ancillary Products & Ancillary Services and the charges payable by the CFC for those Ancillary Products & Ancillary Services. Any charges for Ancillary Products & Ancillary Services must be separately stated and clearly identified as fees charged by the IPSP that are separate from and independent of the amounts charged by Avfuel for aviation fuel. The pilot or other responsible representative of the CFC shall sign and be given a copy of the completed Ticket. The Ticket (or all information required to be shown on the Ticket) for each sale to a CFC shall be delivered to Avfuel by POS Transmission or facsimile within twenty-four (24) hours following the completion of that sale. The original Tickets shall be kept on file by IPSP for a period of five (5) years from the invoice date and will be sent to Avfuel upon request. Avfuel will from time to time provide IPSP with instructions for processing these transactions and may provide the forms for doing so. Avfuel reserves the right to change these procedures upon seven (7) days written notice to IPSP.

6.2 The total amount due with respect to each Ticket shall be paid or credited to IPSP's by Avfuel within 10 days following Avfuel's receipt of the Ticket.

6.3 All Tickets will be accepted by Avfuel without recourse, subject to the following: (a) the IPSP warrants the validity of all charges included in each Ticket, and any charge that is disputed by the CFC, correctly or incorrectly, on grounds that the charge is invalid or inaccurate or that the aviation fuel or the Ancillary Products & Ancillary Services supplied were unsatisfactory may be charged back to IPSP at Avfuel's option; (b) charges to a CFC not previously authorized by Avfuel may be charged back to IPSP at Avfuel's option; and (c) any Ticket that is incomplete, illegible, or is otherwise not prepared in accordance with Avfuel's processing instructions may be charged back to IPSP at Avfuel's option.

## 7. TAXES AND OTHER CHARGES:

7.1. IPSP shall pay all taxes, assessments, fees and other charges (the "Taxes") which are imposed by any federal, state or local governmental agency or by any airport authority (collectively, the "Taxing Authorities") based upon the delivery, sale, importation, inspection, storage or use of the Ancillary Products & Ancillary Services purchased by CFC, excepting Taxes which are imposed upon Avfuel based upon its net income or revenues.

7.2. If the Taxing Authorities collect the Taxes directly from IPSP, then IPSP shall pay all such Taxes on or before their due dates. If Avfuel is entitled to exemption from any Taxes, Avfuel will provide and IPSP will accept the exemption certificates or business licenses. If the Taxing Authorities require that Avfuel collect the Taxes from IPSP at the time of sale, Avfuel will use its best efforts to include all such Taxes in its remittance report to IPSP and IPSP shall pay all such invoices on or before their due dates. (In its invoices, Avfuel will identify those Taxes as separate items.) If IPSP is entitled to an exemption from any Taxes which the Taxing Authorities require to be collected by Avfuel, then, in order to permit Avfuel not to collect those Taxes, IPSP shall obtain and provide to Avfuel current and valid exemption certificates or business licenses relating to those Taxes. If, subsequent to the issuance of any remittance report, the Taxing Authorities or Avfuel advise IPSP of additional Taxes payable with respect to the Ancillary Products & Ancillary Services covered by that remittance report, then IPSP shall promptly pay such additional Taxes.

**7.3. IPSP ACKNOWLEDGES THAT IT REMAINS SOLELY RESPONSIBLE FOR ALL SUCH TAXES, AND WILL INDEMNIFY AVFUEL AGAINST ANY LIABILITY FOR SUCH TAXES EVEN IF AVFUEL FAILS FOR ANY REASON TO INCLUDE ANY SUCH TAXES IN ITS INVOICES TO IPSP. HOWEVER, AVFUEL WILL INDEMNIFY IPSP AGAINST ANY LATE CHARGES, PENALTIES OR OTHER CHARGES THAT IPSP INCURS IF AVFUEL'S FAILURE TO INCLUDE ANY TAXES IN ITS INVOICE IS DUE TO GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.**

7.4. IPSP's obligation to indemnify Avfuel shall extend to any Taxes which are assessable against IPSP as a result of any subsequent change or reinterpretation of the laws relating to those Taxes or any exemptions from those Taxes and to any Taxes for which an exemption had been claimed but which are subsequently

assessed by Taxing Authorities based upon its rejection of the claimed exemption for the Ancillary Products & Ancillary Services of IPSP.

## 8. COMPLIANCE WITH LAWS:

8.1. Each Party shall, at all times and in all respects, comply with all federal, state, county or municipal laws, ordinances, rules and regulations governing its actions in the purchase, storage, handling, sale and use of the aviation fuel and all industry standards pertaining thereto and the IPSP shall, at all times and in all respects, comply with all federal, state, county or municipal laws, ordinances, rules and regulations governing its actions in the provision of Ancillary Products & Ancillary Services. Further, each Party agrees to use its reasonable best efforts to assist the other Party in complying with such laws, ordinances, rules and regulations which the other Party may be required to observe in the performance of its obligations under this Agreement.

8.2. Each Party shall properly instruct its employees, agents and contractors with regard to compliance with all applicable laws, ordinance, rules, regulations and standards governing this Agreement.

**9. INDEPENDENT STATUS:** Each Party shall at all times function as an independent contractor and not as a subcontractor, employee or other agent of the other Party. Neither Party shall have the authority to and shall not purport to make any commitments or representations on behalf of the other Party or otherwise to take any actions on behalf of the other Party.

**10. RECIPROCAL INDEMNIFICATION:** Except as otherwise provided in this Agreement, each Party (the "Indemnifying Party") agrees to indemnify and to hold harmless the other party and the officers, directors, employees, subcontractors and agents of the other party (the "Indemnified Parties") from and against any and all claims, demands, losses, liabilities, causes of action, costs or expenses (including attorney's fees) of whatsoever nature which are asserted against or incurred by any Indemnified Party as a result of the breach by the Indemnifying Party of its obligations under this Agreement or as a result of any wrongful act or omission of the Indemnifying Party or of any officers, directors, employees or agents of the Indemnifying Party. Any amount payable by the Indemnifying Party under this Section 10 shall be due within ten (10) days after written demand and any such amount which is not paid when due shall bear interest from the due date to the date of payment at the rate of 18% per annum (or, if less, at the maximum rate of interest permitted under the laws of the State in which the Indemnifying Party has its principal place of business). Without limiting the above provisions, the obligation of the Indemnifying Party under this Section 10 shall include any reasonable attorney's fees or other costs incurred by the Indemnified Parties in enforcing the obligation of indemnity under this Section. Each party's obligation to indemnify shall survive the termination of this Agreement and shall remain in full force and effect until the lapse of all applicable statutes of limitations or similar time periods within which an action for indemnity or contribution must be brought.

**11. INSURANCE:** Prior to the Effective Date the IPSP shall submit proof that it holds the following insurance and furnish Avfuel a Certificate of Insurance evidencing: (a) aviation general liability insurance, including products and completed operations liability, with limits not less than one million dollars (\$1,000,000.00) combined single limit for bodily injury and property damage; and (b) automobile liability insurance with limits not less than one million dollars (\$1,000,000.00) combined single limit for bodily injury and property damage; (c) workers compensation covering all employees of IPSP. Insurance policies shall be issued by insurance companies acceptable to Avfuel (whose acceptance may not be unreasonably withheld); shall name Avfuel, or its subsidiary, as applicable, as an additional insured and/or loss payee, and shall provide for at least thirty (30) days' written notice to Avfuel prior to cancellation or modification. The IPSP shall maintain such policies in full force and effect throughout the term of this Agreement. The IPSP may, if it chooses, apply for this insurance through Avfuel's subsidiary, Avsurance Corporation.

**12. PROGRAM MODIFICATIONS.** Avfuel reserves the unilateral right to amend, suspend, or terminate the Contract Fuel Program at any time effective upon written notice to the IPSP.

## 13. BREACH AND TERMINATION:

13.1. Failure of a Party to comply with the provisions of this Agreement shall constitute a breach of the Agreement by the non-complying Party. Except as otherwise permitted under this Agreement, the non-breaching Party shall provide Notice of that breach to the breaching Party in the manner set forth in Section 15. The Notice shall specify the alleged breach and the period within which the breach must be cured which shall be at least ten (10) business days. The Party receiving such Notice shall respond thereto in writing within three (3) business days. If the

breach is not cured or the dispute resolved within the period specified in the Notice, the Party claiming breach, by further written Notice, at its election, may affirm this Agreement and initiate appropriate legal actions to require the other Party to remedy that breach or may immediately terminate this Agreement. In either instance, the Party claiming the breach may by appropriate legal proceedings seek and secure recovery of any damages resulting from that breach.

13.2. The Party claiming a breach may waive that breach by giving Notice to the other party in the manner set forth in Section 15. The waiver of any breach shall not constitute a waiver of any subsequent breach of the same or any other term or condition. Any failure of either Party to enforce rights or seek remedies arising out of any breach by the other Party shall not prejudice or affect the rights and remedies of that Party in the event of any subsequent breach by the other Party.

13.3 Any dispute that arises under this Agreement, pursuant to Section 13.1 or otherwise, shall be submitted to a senior officer or other person having the authority to negotiate the resolution of such disputes for each Party. Those persons shall attempt, in good faith, to resolve the dispute, and no action in law or equity shall lie until the process set forth herein shall have run its course. If the dispute involves the payment of money, all undisputed amounts shall be paid when due regardless of whether the undisputed amount is only part of an invoice.

13.4. The exercise of a Party's right to terminate the Agreement as aforesaid or to seek any other remedy shall not be deemed an election of remedies and shall be without prejudice to the terminating Party's rights to seek any other remedy afforded to it by this Agreement or by law or equity. In any action related to the enforcement or breach of this Agreement, the prevailing Party shall have the right to recover its reasonable attorney's fees and costs actually incurred.

**14. ASSIGNMENT:** The IPSP shall not assign its rights or delegate its obligations under this Agreement, in whole or in part, unless with the prior written consent of Avfuel, which consent will not be unreasonably withheld. Any transfer of a controlling interest in the IPSP shall be deemed an assignment requiring the consent of Avfuel.

**15. NOTICES:** All notices permitted or required under this Agreement shall be in writing. Notices by facsimile shall be deemed "delivered" on the date of confirmed transmission, without error, to the fax number designated in the Avfuel Contract Fuel IPSP Agreement and Application or, if applicable, Summary or Special Terms and Conditions. Notices by mail shall be deemed delivered three (3) business days following the date deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed to the Party at the address of the principal office. Notices sent by overnight courier shall be effective on the next business day following deposit with the overnight courier for overnight delivery with the delivery fee prepaid, addressed to the Party at the address of the principal office, and with instructions to obtain the signature of the addressee.

**16. EXCLUSIVE JURISDICTION:** Each Party irrevocably and unconditionally agrees that venue and jurisdiction for the resolution of any dispute and the enforcement of any rights in any way arising from or relating to the Agreement shall exclusively be the courts of the state of Michigan sitting in Washtenaw County, and any applicable Michigan appellate court. The Agreement shall be construed as having been made and entered into in the State of Michigan. Each Party submits and consents to personal jurisdiction in Washtenaw County, Michigan, and agrees that it is a convenient forum to resolve any such disputes and enforce any such rights, each Party hereby waiving to the fullest extent possible the defense of an inconvenient forum. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in any jurisdiction anywhere in the world.

**17. EXCLUSIVE GOVERNING LAW:** The Agreement, and all other matters arising from or relating to the Agreement, are exclusively governed by, and exclusively construed in accordance with, the laws of the State of Michigan, without regard to its conflict of laws provisions.

**18. SEVERABILITY:** In the event that any court of competent jurisdiction shall determine that any provision of this Agreement shall be unenforceable, then that provision shall be deemed to be null and void and the remaining provisions hereof shall remain in full force and effect.

**19. ENTIRE AGREEMENT TERMS:** This Agreement and the Avfuel Contract Fuel IPSP Agreement and Application or Summary and Special Terms and Conditions set forth the entire agreement between Avfuel and the IPSP with respect to the subject matter hereof and there are no other terms or conditions, oral or written, express or implied, relating to or otherwise affecting such subject matter. Avfuel reserves the right at any time and from time to time to amend these

Terms & Conditions. These Terms & Conditions, as amended from time to time, are posted at <https://www.avfuel.com/>. If Avfuel and the IPSP have, prior to the effective date, been parties to any other agreement relating directly to the sale of aviation fuel IPSP under the Contract Fuel Program (a "Prior Agreement"), such Prior Agreement, except shall be superseded as of the Effective Date and all rights and obligations between Avfuel and IPSP with respect to the supply of aviation fuel under the Contract Fuel Program from and after the Effective Date shall be governed by the terms of this Agreement. The terms and conditions of such Prior Agreement shall, however, remain in full force and effect with respect to rights and obligations relating to the supply of aviation fuel prior to the Effective Date and nothing contained in this Agreement shall be construed as terminating or otherwise affecting any such rights or obligations.