

TERMS AND CONDITIONS

MRK Aviation, Inc. ("MRK") - Jet Fuel Strategies, LLC ("JFS")

1. Application. The following terms and conditions shall apply to all fuel procurement and flight services between Customer and MRK/JFS. For purposes of this agreement, MRK/JFS is not a producer of any fuel product but is, instead, a management company hired by Customer for fuel procurement and flight services or a broker for fuel and/or services.
2. Pricing. Pricing and other charges for jet fuel shall be requested by Customer using Jet Fuel Strategies website (<http://www.jetfuelstrategies.com/index.asp>). However, due to a variety factors and locations that change their pricing at any given time, pricing using the Jet Fuel Strategies software is not a guarantee figure. Pricing is only as accurate as MRK/JFS is given by the Third-Party Provider.
3. Taxes. In addition to the jet fuel price, Customer shall also pay to MRK/JFS all governmental taxes, excises, duties and/or other charges now or hereafter assessed, imposed or levied relative to Customer's purchase of jet fuel. These taxes will normally be included as an all-in price invoiced to Customer, but should such taxes or charges be invoiced separately, Customer is responsible for the payment of the same.
4. Payments. All payments to MRK/JFS shall be made in US Dollars and be made via ACH or EFT (unless otherwise agreed to by MRK/JFS). All payments must be made within the terms set forth on the MRK/JFS invoice. All invoices not paid within its terms will accrue interest at the lesser of 18% per annum or the maximum legal rate of interest until paid in full and are subject to any legal fees incurred for collection.
5. Force Majeure. MRK/JFS shall not be required to perform any obligation to Customer if MRK/JFS's performance is delayed or precluded by one or more conditions beyond MRK/JFS's reasonable control. MRK/JFS shall promptly inform Customer of any such conditions. In no event shall such conditions excuse Customer's payment for fuel procurement services that have been provided to Customer.
6. Delivery, Title, and Risk of Loss. All sales of jet fuel shall be either "Into Wing" or "Into Storage" transactions. As used hereunder, "Into Wing" means that (a) the jet fuel shall be delivered into the fuel tanks of Customer's aircraft and (b) title to and risk of loss for the jet fuel delivered hereunder shall pass from MRK/JFS to Customer after the jet fuel has passed through the connecting hoses into the fuel tanks of such aircraft. As used in this Contract, "Into Storage" means that (a) the jet fuel shall be delivered into storage into the appropriate storage tank(s) at or near the designated airport and (b) title to and risk of loss for the jet fuel delivered hereunder shall pass from MRK/JFS to Customer after the jet fuel has passed through the connecting hoses into the appropriate storage tank(s). Unless otherwise agreed to in writing by MRK/JFS, all sales of jet fuel to Customer shall be "Into Wing".
7. Disclaimer of Warranty/Limitation of Liability. MRK/JFS MAKES NO WARRANTY OR REPRESENTATION, OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY JET FUEL PROCURED FOR CUSTOMER HEREUNDER. MRK/JFS IS NOT THE MANUFACTURER, REFINER, OR INTO-PLANE AGENT OF SUCH FUEL. MRK/JFS EXPRESSLY DISCLAIMS AND HEREBY WAIVES ALL WARRANTIES, GUARANTEES, OBLIGATIONS, LIABILITIES, RIGHTS AND REMEDIES WITH RESPECT TO SAID, 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 PERFORMANCE, COURSE OF DEALING OR USAGE OR TRADE OR (c) ANY IMPLIED WARRANTY OF FITNESS. UNLESS CAUSED SOLELY BY MRK/JFS'S GROSS NEGLIGENCE OR INTERNATIONAL ACT, MRK/JFS SHALL NOT BE LIABLE TO CUSTOMER FOR ANY CLAIM, LOSS OR DAMAGE ARISING FROM THE SALE OF JET FUEL, OR BE LIABLE TO CUSTOMER FOR EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO LOSS OF REVENUES OR PROFITS ATTRIBUTABLE TO THE JET FUEL. CUSTOMER MAY CONDUCT INSPECTIONS AND INVESTIGATIONS AS CUSTOMER DEEMS NECESSARY TO ASCERTAIN THE INTEGRITY, FITNESS OR SUITABILITY OF JET FUEL HEREUNDER.

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8. Third-Party Providers. MRK/JFS has developed and continues to develop a worldwide network of jet fuel providers ("Third-Party Providers"). Third-Party Providers are independent contractors and MRK/JFS does not have the right to supervise or control the actions of such Third-Party Providers and MRK/JFS does not, in fact, supervise or control their operations. MRK/JFS shall not be liable to the Customer, its employees, agents, vendors, contractors, passengers or other representatives, for any damage or injury (whether to any person or property) caused or contributed by any Third-Party Provider, its agents, representatives or employees including, but not limited to any damage or injury arising from the delivery of jet fuel (either "Into Wing" or "Into Storage") to the Customer or in providing other services to the Customer. Further, it is agreed that Customer will not use MRK/JFS' current relationship with Third-Party Providers to levy, create, or affect a direct relationship between Customer and said Third-Party Vendor to the exclusion of MRK/JFS.

9. Indemnity. EXCEPTING ONLY CLAIMS ATTRIBUTABLE SOLELY TO MRK/JFS'S GROSS NEGLIGENCE OR INTENTIONAL ACT, CUSTOMER SHALL INDEMNIFY AND HOLD MRK/JFS HARMLESS FROM ANY AND ALL CLAIMS OF ANY KIND OR CHARACTER AGAINST MRK/JFS ATTRIBUTABLE, DIRECTLY OR INDIRECTLY, TO JET FUEL SOLD TO CUSTOMER AND PROVIDED OR DELIVERED BY ANY THIRD-PARTY PROVIDER.

10. Export Control. THE WORD "RESTRICTED COUNTRY" SHALL MEAN THE COUNTRIES LISTED IN COUNTRY GROUPS Q, S, W, Y, AND Z IN SECTION 770 SUPPLEMENT NO. 1 OF THE EXPORT ADMINISTRATION REGULATIONS OF THE UNITED STATES (15 D.F.R. PART 770). CUSTOMER EXPRESSLY AGREES NOT TO RE-EXPORT AND SHALL NOT DIRECTLY OR INDIRECTLY RELEASE OR MAKE AVAILABLE ANY JET FUEL PROCURED FOR CUSTOMER FROM MRK/JFS TO ANY RESTRICTED COUNTRY OR ENTITY IN A RESTRICTED COUNTRY AS MAY BE DESIGNATED FROM TIME TO TIME BY THE UNITED STATES DEPARTMENT OF COMMERCE, OR ANY UNITED STATES LAW, RULE, REGULATION OR ORDER, OR ANY TREATY) OR FOR USE IN SERVICING EQUIPMENT OWNED, CONTROLLED OR USED BY SUCH MILITARY OR POLICE ENTITIES.

11. Reformation. If any provision here under is held invalid or otherwise unenforceable, the enforceability of the remaining provisions shall not be impaired. Moreover, the parties hereby agree that any invalid provision shall be reformed so as to be valid and enforceable so as to achieve as nearly as possible the purpose and intentions of the parties.

12. Exclusive Benefit. The jet fuel procured for Customer hereunder, through the Third-Party Provider, is for the sole and exclusive use of Customer for any of Customer's owned, leased or managed aircraft. Customer may not transfer any such jet fuel to any third party or allow any third party to access or use such jet fuel. For purposes of this contract, MRK/JFS is a fuel procurement manager for Customer.

13. Arbitration/Governing Law. This agreement shall be governed by and construed in accordance with the laws of the State of Ohio. In the event any dispute arises relating to the sale of jet fuel, or under or pursuant this Agreement that the parties cannot resolve, the parties shall submit such dispute to final, binding, and non-appealable arbitration by one arbitrator in accordance with the commercial rules then and there pertaining of the American Arbitration Association, such arbitration to be held in Elyria, Ohio. Motion practice will be permitted. The decision of the arbitrator and any award as a result thereof may be entered by any court of competent jurisdiction. The non-prevailing party in such arbitration shall pay the prevailing party for the prevailing party's reasonable expenses including attorney's fees, incurred by the prevailing party in such action. The non-prevailing party shall pay all monies owing to the American Arbitration Association and the Arbitrator. CUSTOMER IRREVOCABLY WAIVES ALL RIGHTS TO TRIAL BY JURY IN ANY LITIGATION ARISING FROM OR RELATED TO THIS AGREEMENT.

14. Amendments. MRK/JFS may amend these terms and conditions at any time. Customer shall periodically review the JFS website at <http://www.jetfuelstrategies.com> to obtain a copy of such amended terms and conditions, which shall apply to all subsequent transactions with MRK/JFS.