

Shell Aviation Fuels Agreement

General terms and conditions
of sale for aviation fuels

Revised April 2004



Shell Aviation

AVIATION FUELS SUPPLY AGREEMENT

GENERAL TERMS AND CONDITIONS OF SALE

SUPPLY OF FUELS

1. QUANTITIES

- 1.1 The quantities of the Fuels to be delivered to the BUYER at each Listed Airfield are set out in Schedule A. Unless otherwise mutually agreed between the BUYER and the SELLER deliveries of the Fuels at each Listed Airfield shall be taken up by the BUYER in reasonably equal and even monthly amounts, making due allowances for changes in the seasonal operating schedules.

2. QUALITY

- 2.1 In respect of any Listed Airfield at the locations shown, the relevant specification for the Fuels supplied hereunder are defined as follows:

WORLD excluding Canada and USA:-

- (a) Kerosine type jet fuel:- Jet A-1 meeting the Aviation Fuel Quality Requirements for Jointly Operated Systems "Joint Fuelling Systems Check List", which by definition also meets the following specifications for Jet A-1: British Ministry of Defence DEF STAN 91/91, ASTM D 1655, IATA Guidance Material for Kerosine type fuel.
- (b) Aviation Gasoline – Avgas 100LL or Avgas 100 meeting British Ministry of Defence DERD 2485 and ASTM D 910.
- (c) Methanol/Water mixtures – Methmix meeting Rolls Royce Specification MSRR 9359 and/or British Ministry of Defence DERD 2491.

CANADA:-

- (a) Kerosine type jet fuel:- Jet A-1 meeting Canadian Specification CAN/CGSB 3.23-93.
- (b) Wide-cut type jet fuel:- Jet B to Canadian Specification CAN/CGSB – 3.22-93.
- (c) Aviation Gasoline:- Avgas 100LL to Canadian Specification. CAN/CGSB-3.25-M89.
- (d) Methanol/Water mixtures:- Methmix meeting British Ministry of Defence Specification DERD 2491.

USA:-

- (a) Kerosine type jet fuel:- Jet A meeting ASTM D 1655.

3. DELIVERIES

- 3.1 The Fuels supplied hereunder shall be delivered into aircraft tanks at each Listed Airfield at areas that are usually and regularly used by the BUYER for the uplift of Fuels.
- 3.2 The risk in and property to the Fuels supplied hereunder shall pass to the BUYER as the Fuels supplied pass the inlet coupling of the receiving aircraft.
- 3.3 Deliveries shall be made to suit the scheduled flight times of the BUYER's Aircraft.
- 3.4 If the BUYER's Aircraft is operating:
 - (a) a scheduled flight that arrives before or after its scheduled time of arrival, the SELLER shall use its reasonable endeavours to fuel promptly the aircraft subject to operational requirements imposed by other delivery commitments at the aircraft's actual time of arrival; or
 - (b) a non-scheduled flight, the SELLER shall use its reasonable endeavours to fuel promptly the aircraft, subject to operational requirements imposed by delivery commitments either to aircraft operating scheduled flights at the time of arrival of the aircraft or to other aircraft operating irregular, non-scheduled flights which have arrived before the aircraft.
- 3.5 For deliveries at any Listed Airfield, the SELLER shall use the quality control and operating procedures (as amended from time to time) applicable to its operations at that Listed Airfield.
- 3.6 In respect of any delivery made by the SELLER, the SELLER's measurements and quality analysis of the Fuel supplied shall be treated as conclusive, however, the conclusiveness of the results may be displaced to the extent that it can be shown that the results are incorrect. Any claim or complaint in respect of a shortage in quantity or defect in the quality of Fuels supplied hereunder shall only be considered by the SELLER if notice in writing of such claim is received by the SELLER within 14 days of the date of the delivery in question and such notice is followed by a fully documented claim to be received by the SELLER within sixty (60) days of the date of the delivery in question. If the BUYER fails to give notice or to submit any such claim within the time limits, the BUYER's claim shall be deemed to be waived and any liability on the part of the SELLER extinguished.
- 3.7 The BUYER shall have the right to take, in a correct and appropriate manner, in the presence of the SELLER samples of the Fuels delivered and such samples shall be kept in accordance with internationally recognised methodology and practice.
- 3.8 If requested by the BUYER, the SELLER shall provide a hydrometer and a thermometer for the BUYER to determine the density of a sample from a particular fuelling. At the BUYER's request, the SELLER will provide a typical density, determined at an observed temperature, for the Fuels supplied to the BUYER on the basis of other supplies made

by the BUYER on that day. This value may vary from time to time and the SELLER accepts no responsibility whatsoever, howsoever arising, for any calculations based on the information provided by the SELLER.

- 3.9 Unless otherwise agreed, the SELLER shall provide the BUYER at the time of delivery with two copies of a delivery receipt specifying the grade and quantity of the Fuel delivered and signed by the representatives of the SELLER and the BUYER.

4. PRICES, DUTIES, TAXES AND CHARGES

- 4.1 Subject to Article 7 and Clause 4.2, the prices payable for the Fuels to be supplied hereunder shall be those specified in Schedule A.
- 4.2 The prices of the Fuels may be varied by the SELLER to reflect wholly, and from the effective date, any changes in any duty, tax or charge of any kind included in the prices of the Fuels (or any new duty, tax or charge of any kind to be included in the price of the Fuels) that the SELLER incurs in order to fulfil its obligations under this Agreement.
- 4.3 Third party charges included in the price of the Fuels at the date of this Agreement shall be stated in Schedule A.
- 4.4 All duties, taxes and charges of any kind levied or charged on the Fuels or levied or charged in relation to the supply of Fuels under this Agreement or to Defuelling incurred by the SELLER from time to time or in respect of payment for the Fuels supplied hereunder not included in the price for the Fuels shall be for the account of the BUYER.
- 4.5 The SELLER shall endeavour promptly to advise the BUYER of the imposition, or increase in, any duty, tax or charge payable by the BUYER pursuant to Clauses 4.2 or 4.4 when such information becomes known to the SELLER but the SELLER's inability so to do shall not excuse the BUYER from its obligation to pay any such duty, tax or charge from its effective date of application.
- 4.6 In cases where the BUYER is entitled to a complete or partial exemption from or refund of any duty, tax or charge referred to in Clause 4.4 deliveries shall, so far as may be reasonably practicable, be made by the SELLER in the manner required for obtaining such exemptions or refund and the BUYER shall deliver to the SELLER a valid exemption certificate in respect thereof.
- 4.7 If any third party quotation ("Existing Quotation"), upon which the formula price is based, ceases to be published such other third party quotation ("New Quotation") shall be substituted as most nearly places the Parties in the position in which they would have been had the Existing Quotation continued to be published.
- 4.8 If there shall be any dispute of any kind in relation to the New Quotation to be used pursuant to paragraph 4.7 above, then pending resolution of such dispute, a provisional formula price shall be calculated based on the most recently published Existing Quotation. As soon as the Parties have agreed on the New Quotation the

formula price shall be re-calculated using such new agreed New Quotation. The amount of any resulting adjusting payment due to a Party, together with interest thereon accruing at LIBOR plus one percent (1%) from the due date of payment of the provisional formula price referred to above until the date of such agreement, shall be included in the next invoice if due by the Buyer or, if due by the Seller, within ten (10) days of the Parties' agreement.

- 4.9 If a correction is issued to a previously published third party quotation upon which a formula price is based, the formula price shall be recalculated accordingly in respect of the period to which such correction applies. The amount of any resulting adjusting payment due to a Party, together with interest thereon accruing at LIBOR one percent (1%) from the due date of payment of the formula price until the date of such correction, shall be included in the next invoice if done by the buyer or, if due by the Seller, within ten (10) days of such adjustment.

5. INVOICES

- 5.1 The SELLER shall invoice the BUYER for all deliveries of the Fuels that the SELLER makes to the BUYER. The SELLER's invoices shall be the SELLER's standard type detailing date, location at which the delivery was made, grade and quantity of Fuel delivered and unit price.
- 5.2 The SELLER's invoices shall be denominated in United States Dollars. If the prices of Fuels invoiced by the SELLER are specified in Schedule A in currencies other than United States Dollars, those prices, together with any duty, tax or charge whether or not included in those prices specified or incurred in a currency other than United States Dollars, shall be converted into United States Dollars at a rate appropriate for the day of delivery as calculated by the SELLER in accordance with its usual business practice from time to time.

6. PAYMENT

- 6.1 Subject only to the deduction of any amount in dispute, which shall be notified before the due date for payment by the BUYER to the SELLER in writing, payment of the full amounts shown on all invoices rendered by the SELLER to the BUYER hereunder shall be made in accordance with the terms and conditions set out in Schedule B.
- 6.2 If the BUYER fails to pay any invoice by its due date for payment the SELLER may at its option:-
- (a) require the BUYER to make advance payment, cash payment at the Posted Airfield Price for the Listed Airfield at the time of any future delivery and/or provide satisfactory security; or
 - (b) surcharge each future invoice at the time of preparation at the rate of LIBOR plus two percent (2%), which amount will be refunded only if payment is received by the due date; or

- (c) withhold future deliveries until all sums due have been paid in full; and
 - (d) charge interest at the rate of LIBOR plus two percent (2%) on any amount overdue for payment at the end of each month in accordance with the monthly Statement of Account.
- 6.3 Subject to Clause 6.1 and without prejudice to Clause 6.2, if the BUYER fails to pay any invoice by its due date for payment the SELLER may forthwith terminate this Agreement.
- 6.4 If the BUYER should go into liquidation (other than voluntary liquidation for the purpose of corporate reconstruction), or if a receiver or sequestrator of the undertaking and assets (or any part thereof) of the BUYER should be appointed, or if the BUYER should become bankrupt or insolvent, enter into a deed or arrangement or a composition for the benefit of its creditors, or do or suffer any equivalent act or thing under any applicable law, the SELLER may, by written notice, forthwith terminate the agreement without prejudice to any right of action or claim accrued at the date of termination.

7. PRICE REVIEW

- 7.1 The provisions of this Clause 7 apply only where the contract between the SELLER and the BUYER provides for a reviewable market-related price. Where the contract between the SELLER and the BUYER provides for a Platts-related price with an agreed fixed differential this Clause 7 shall not apply.
- 7.2 Subject to Clause 7.1, and without prejudice to Clauses 4.2 and 4.4, the SELLER shall have the right at any time to change any of the prices of the Fuels by giving not less than 15 days' notice thereof to the BUYER.
- 7.3 Subject to Clause 7.1:
- (a) the BUYER shall have the right at any time to request a change in any of the prices of the Fuels by giving notice thereof to the SELLER;
 - (b) unless within 15 days of the date of the BUYER's notice given under Clause 7.3(a), the SELLER gives notice to the BUYER objecting to any such change then such changed price shall be payable from the 16th day following the date of the BUYER's notice;
 - (c) if the SELLER does give notice objecting to any such change then within 10 days from the date of the SELLER's notice the BUYER and the SELLER will either:
 - (i) agree to the prices of the fuels from the 16th day following the date of the BUYER's notice given under Clause 7.3(a); or
 - (ii) fail to agree on the prices of the Fuels in which case the SELLER's obligation to supply and the BUYER's obligation to purchase the fuels at the Listed Airfield concerned shall cease. The prices payable in respect of the Fuels supplied prior to said 31st day shall be the price payable prior to the notice given under Clause 7.3(a) above.

AIRCRAFT OPERATIONS

8. DEFUELLING

- 8.1 At any Listed Airfield, provided that Defuelling and storage of the defuelled Fuel can be carried out in accordance with the quality control and operations procedures (as amended from time to time) applicable to the SELLER's operations at that Listed Airfield, Defuelling shall be undertaken as soon as possible after the BUYER's request taking into account the SELLER's other operational activities.
- 8.2 The SELLER shall have absolute discretion to:
- (a) receive back into its own storage the quantity of Fuel defuelled, or
 - (b) segregate and store the defuelled Fuel for re-delivery to the aircraft from which it was defuelled or to other aircraft under the control of the BUYER, or
 - (c) dispose of the defuelled Fuel and credit the BUYER with any proceeds thereby obtained less any costs, charges, duties or taxes incurred by the SELLER in arranging such disposal.
- 8.3 The SELLER reserves the right to charge the BUYER a fee for the services set out in Clauses 8.1 and 8.2.

9. DELIVERIES OUTSIDE NORMAL ARRANGEMENTS

- 9.1 If the BUYER requests the SELLER to make deliveries:-
- (a) at an area at any of the Listed Airfields other than the areas usually and regularly used by the BUYER for the uplift of Fuels; or
 - (b) by a different method than the one normally used for supplies of Fuels to the BUYER's Aircraft; or
 - (c) outside the SELLER's normal service hours (as published at the SELLER's airport office), then the SELLER reserves the right to charge the BUYER the additional costs and expenses incurred by the SELLER in making such deliveries.

10. OPERATION OF AIRCRAFT SWITCHES AND VALES

- 10.1 The BUYER or BUYER's Delegates shall be responsible for operating all appropriate switches, valves, and fuel quantity indicators on the BUYER's Aircraft but if all or part of this function is carried out by or on behalf of the SELLER the BUYER shall provide an indemnity in respect of such activities in the terms set out in Article 13.

11. OPERATIONS IN THE PRESENCE OF PASSENGERS

- 11.1 Where it is permitted by the relevant local airport regulations, fuelling or defuelling of BUYER's Aircraft (other than helicopters) where passengers are on board, embarking or disembarking, may be undertaken by or on behalf of the SELLER provided that the BUYER hereby agrees:

- (i) to provide an indemnity in respect of such activities in the terms set out in Article 13;
- (ii) to ensure that the BUYER and the BUYER's Delegates comply with the provisions of the local airport regulations relating to the operation;
- (iii) to ensure that instructions are issued to the BUYER's Delegates regarding the safety of all passengers during such operations and that these instructions are strictly observed; and
- (iv) to ensure that passengers joining or leaving the aircraft are safely moved under the supervision of a competent person over a safe route away from such operations and are actually prevented from smoking or causing any other potential source of ignition and are prevented from lingering.

12. DELIVERY IN HIJACK SITUATION

- 12.1 Notwithstanding anything to the contrary expressed or implied elsewhere herein, the SELLER or the Delivering Company shall not be obliged to fuel or defuel any of the BUYER's Aircraft if the aircraft in question is or is reasonably believed by the SELLER or the Delivering Company to be under the control of hijackers, regardless of whether the fuel supply contract at that airport is held by the SELLER or not.
- 12.2 If the BUYER or BUYER's Delegates requests that a delivery be made by the SELLER or the Delivering Company or their respective delegates in the circumstances set out in Clause 12.1 and such a delivery is made then the BUYER hereby agrees (a) that the product delivered shall be for the account of the BUYER; and (b) to provide an indemnity in respect of such activities in the terms set out in Article 13.
- 12.3 In the event that the SELLER's or the Delivering Company's equipment is commandeered by the authorities and/or used as cover for military type operations, liability for resulting damage and injuries to the BUYER's property or personnel is disclaimed to the fullest extent permissible by law.

13. INDEMNITY

- 13.1 In respect of any activities undertaken by the SELLER or the Delivering Company or their respective Delegates pursuant to Articles 10, 11 or 12 the BUYER hereby agrees to indemnify and hold the SELLER, the Delivering Company and their Delegates harmless against all claims, demands, proceedings, damages and liabilities for loss of or damage to any property whatsoever or for injury, including fatal injury or disease to any person whatsoever and against all associated costs (including legal costs) and expenses that arise out of or are connected with actions or omissions in the performance by the SELLER, the Delivering Company or their Delegates of any or all of the activities described in Articles 10, 11 or 12 and this indemnity shall apply except to the extent that loss, damage, injury, disease or death are caused by the

gross negligence or wilful misconduct of the SELLER, the Delivering Company or their Delegates.

- 13.2 In making the indemnity agreement in this Clause the SELLER acts for itself and acts or shall be deemed to act as agent and trustee for the benefit of the Delivering Company and the Delegates of the SELLER and the Delivering Company so that the benefit of such indemnity extends to the Delivering Company and such Delegates and the BUYER unconditionally acknowledges that the Delivering Company and such Delegates can enforce this indemnity directly as if they were parties to this Agreement.

GENERAL

14. SUBSTITUTION

- 14.1 Except as provided in this Article 14, neither party may assign its rights or delegate its obligations hereunder, in respect of any Listed Airfield, in whole or in part without the prior written consent of the other party.
- 14.2 In respect of any of the Listed Airfields, at any time the SELLER may transfer its rights and obligations under this Agreement (without further notice to the BUYER) in respect of supplies of Fuels to the BUYER to the Delivering Company. The BUYER agrees that upon such transfer it shall be bound to buy and take from the Delivering Company the whole or any part of the Fuels that under this Agreement are to be sold and delivered to that Listed Airfield, upon the terms and conditions of this Agreement in all respects as if the the Delivering Company was named as the SELLER in this Agreement (except as provided in Clauses 14.3 and 14.4) and the SELLER shall stand discharged from all of its obligations under this Agreement to the BUYER in respect of the supply of Fuels at that Listed Airfield (except as provided in Clauses 14.3, 14.4 and 16).
- 14.3 Notwithstanding Clause 14.2:
- (a) notices to be given by or to the SELLER or the Delivering Companies shall be given by or to the SELLER; and
 - (b) for any Listed Airfield unless the BUYER is requested to make payments directly to the Delivering Company, payments shall be made to the SELLER for the benefit of the Delivering Company.
- 14.4 Notwithstanding the foregoing provisions of this Article 14, for any Listed Airfield the SELLER shall stand and remain bound as guarantor to the BUYER of the performance by the Delivering Company of its obligations under this Agreement in respect of supplies of Fuels at that Listed Airfield.

15. EXCEPTIONS

- 15.1 Neither the SELLER nor the BUYER shall be responsible for any failure to fulfil their respective obligations under this Agreement (other than the payment of money) if fulfilment has been delayed, hindered, interfered with, curtailed or prevented by:-
- (a) any circumstances whatsoever which are not within the control of the SELLER or of the SELLER's suppliers or of the BUYER as the case may be; or
 - (b) any curtailment, failure or cessation of the supplies of the Fuels from any of the SELLER's or the SELLER's Suppliers' sources of supply (whether in fact sources of supply for the purposes of this Agreement or not); or
 - (c) any compliance with any order, demand or request of any international, national, port, transportation, local or other authority or agency or of any body or person purporting to be or to act for such authority or agency; or
 - (d) any strike, lock-out or labour dispute (whether or not the SELLER, the SELLER's Suppliers or the BUYER as the case may be are party thereto or would be able to influence or procure the settlement thereof).
- 15.2 If by reason of any of the causes referred to in Clause 15.1 either the availability from any of the SELLER's or the SELLER's Suppliers' sources of supply of the Fuels or the normal means of transport of such Fuels is delayed, hindered, interfered with, curtailed, or prevented, the SELLER shall be at liberty either to:-
- (a) withhold, reduce or suspend deliveries hereunder to such extent as the SELLER may in its absolute discretion think fit in which case the SELLER shall not be bound to purchase or otherwise make good shortages resulting from any such cause, although the SELLER will endeavour to arrange an equitable distribution of supplies which continue to be normally available in the events heretofore referred to; or
 - (b) offer the BUYER a restated price for supplies of the Fuels for deliveries with effect from the date (whether or not before the date of such restatement) on which the circumstances specified in Clause 15.1 affected deliveries at the Listed Airfield concerned. If within 10 days of such notice the BUYER does not accept any restated price then the SELLER may forthwith terminate deliveries at that Listed Airfield but any such restated price shall, notwithstanding any failure to agree, be payable in respect of any Fuel delivered at that Listed Airfield hereunder from the date of the SELLER's notice.
- If the circumstances which have given rise to the operation of Clause 15.2 (b) become ameliorated or cease, thereby enabling a revision to be made in whole or in part to the SELLER'S or the SELLER's Suppliers' normal sources of supply and/or routes and means of transportation, the SELLER shall give written notice thereof to the BUYER together with appropriate adjustments to the restated price.

- 15.3 The performance of any obligation, whether arising out of any contract, arrangement or otherwise, by which any authority, agency, body or person is entitled to require and does require any of the Fuels by way of royalty in kind, shall be deemed to constitute a compliance with an order or request as provided in Clause 15.1(c), notwithstanding any agreement on the part of the SELLER or the SELLER's Suppliers to repurchase the same or any part thereof.
- 15.4 If the SELLER withholds, reduces or suspends deliveries of Fuels hereunder pursuant to Clause 15.2(a) the BUYER shall be free for so long as deliveries hereunder are withheld, suspended or reduced to purchase from other suppliers on its own account any deficiencies in the supply of Fuels arising therefrom.

16. DISINVESTMENT

- 16.1 In respect of any Listed Airfield, if the Delivering Company ceases to be an Affiliate of the SELLER (as named herein) or there is a substantial change in the ownership or control of the business undertaking or assets of the Delivering Company or the Delivering Company ceases refuelling operations at that Listed Airfield, the SELLER shall be entitled, within three months of the occurrence of any such event, upon 30 days' notice to the BUYER, to terminate this Agreement in respect of supplies at that Listed Airfield.

17. REDEVELOPMENT OF EXISTING AIRFIELDS AND NEW AIRFIELDS

- 17.1 If an existing airfield is redeveloped or a new airfield is opened to replace any of the Listed Airfields (in which case, the new airfield shall become the Listed Airfield for that location in the place of the existing airfield), the SELLER shall have the right to deliver the BUYER's requirements of the Fuels at such airfields and if the SELLER's costs of supplying at the redeveloped airfield or the new airfield are higher than the costs previously incurred then the SELLER shall have the right to renegotiate the price of the Fuels to be supplied.
- 17.2 If the SELLER and the BUYER cannot agree on the new price to be applied, pursuant to Clause 17.1 within 30 days of the SELLER requesting a new price, the new price shall be charged but the BUYER may terminate this Agreement in respect of supplies of Fuels at that airfield upon 60 days' notice to the SELLER.

18. WAIVER

- 18.1 The waiver by either party of any breach of any term of this Agreement shall not prevent the subsequent enforcement of that term and shall not be deemed a waiver of any subsequent breach.

19. ASSIGNMENT

- 19.1 The BUYER shall not assign this Agreement or any part hereof without the consent in writing of the SELLER. The SELLER may assign its rights and obligations under this Agreement to a Shell Associate. Any such assignment shall be effected by notice in writing from the assignor countersigned by the assignee to signify its acceptance of the obligations under this Agreement.
- 19.2 Except as provided in Article 14 and Clause 19.1 the SELLER shall not assign this Agreement or any part hereof without the consent in writing of the BUYER.

20. NOTICES

- 20.1 All notices to be given hereunder by either party to the other shall be given in writing and shall, unless otherwise specifically agreed, be given to the party to be notified at its address as shown at the head of this Agreement.

21. CONFIDENTIALITY

- 21.1 This Agreement, the information which it contains and all information exchanged relating to it are confidential between the BUYER and the SELLER. Neither the BUYER nor the SELLER shall, without the other's written consent, disclose such information on any basis to any person other than its employees, its Affiliates or its Affiliates' employees except to the extent that disclosure may be compulsory to any Governmental Authority. Any disclosure by the BUYER or the SELLER to their employees, or their Affiliates shall be on a confidential basis.

22. SECURITY

- 22.1 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, advance cash payments shall be made, or at the SELLER's option other security satisfactory to the SELLER shall be given, by the BUYER to the SELLER on demand by the SELLER in respect of the fuels to be supplied hereunder or any part thereof. Any amounts specified in such demand shall thereby become immediately due and payable, and after 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 London banking days after such demand is made the BUYER shall be in repudiatory breach hereof and the SELLER may forthwith by notice terminate this agreement without prejudice to any rights of action or claims it may have under this agreement or otherwise.

23. LIABILITY

23.1 Except where expressly provided in this Agreement, neither the SELLER nor the BUYER shall be liable for consequential, indirect or special damages arising out of or in connection with this Agreement.

24. CREDIT CARDS

- 24.1 The SELLER may at its discretion issue credit cards called "Carnets" to the BUYER in order to enable the BUYER to uplift aviation fuel subject to availability, on credit at airfields where the SELLER is represented. In cases of such uplifts the provisions of Article 14 (Substitution) shall apply and such airfield and such delivering company shall be deemed to be a Listed Airfield and a Delivering Company for the purposes of such clause.
- 24.2 These Carnets may sometimes be honoured as a credit document by various organisations throughout the world where the SELLER is not represented. In such circumstances the SELLER cannot accept any responsibility for the acceptability of the Carnet as a credit document, or for product availability, product quality, service standards, performance, delivery receipt, accuracy of meters, price or duties, taxes or other charges.
- 24.3 At airfields where the SELLER is neither directly nor indirectly represented the SELLER may charge the BUYER for deliveries against Shell Carnets at the Delivering Company's List Price together with any appropriate duties, taxes and charges plus an administrative service fee of not less than 3.5%.
- 24.4 The SELLER may issue Carnets to the BUYER for an initial period to be agreed between the BUYER and the SELLER and, subject to the BUYER's performance in accordance with the terms of this Agreement, the SELLER may renew the Carnets from time to time and for a specified period.
- 24.5 The SELLER shall invoice the BUYER for all deliveries of aviation fuel made to the BUYER against presentation of a Shell Carnet notwithstanding the fact that the BUYER may otherwise be contracted to another supplier for the aviation fuel at the airfield concerned.
- 24.6 The Carnets are the property of the SELLER and shall, at the request of the SELLER, be returned to the SELLER at the address above-mentioned in the event that they are not being used in accordance with this Agreement.
- 24.7 The Carnets are not transferable. If there is a change in ownership or registration of any aircraft in respect of which a Carnet has been issued the BUYER undertakes to return such Carnet to the SELLER immediately. If the BUYER fails to do so then the BUYER undertakes to pay the SELLER for any deliveries of aviation fuel obtained on credit by any person or company other than the BUYER against presentation of any such Carnet.

- 24.8 The BUYER undertakes to advise the SELLER immediately by telegram if a credit card is lost or stolen providing full details of the credit card for identification. The SELLER shall make every effort to minimise the fraudulent use of any such credit card but the BUYER shall be held responsible for any debts incurred against the presentation of such credit card during the first ten days from the date of such BUYER's notification.
- 24.9 Any alteration to a credit card shall render it invalid.

25. APPLICABLE LAW AND ARBITRATION

- 25.1 The validity, construction and performance of this Agreement shall be governed by and interpreted in accordance with the laws of England and any dispute that may arise out of, or in connection with, this Agreement including its validity, construction and performance shall be determined by arbitration under the rules of the London Court of Arbitration (applicable to international arbitrations where appropriate) at the date hereof, which rules, with respect to matters not regulated by them, incorporate the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules.

26. INTERPRETATION

- 26.1 In this Agreement where the context admits:-
- (a) references to this Agreement include the Schedules hereto;
 - (b) references to Clauses, Articles and Schedules are references to clauses and articles in and schedules to this Agreement.
 - (c) references to the singular shall include the plural (and vice versa).
- 26.2 The headings and any sub-headings are inserted for convenience only and shall not affect the construction of this Agreement.

27. DEFINITIONS

- 27.1 For the purpose of this Agreement the following terms shall have the following meanings (as hereinafter defined), unless the context otherwise requires:

"Affiliate" means in respect of:

- (a) the BUYER, its holding company and any subsidiary (other than the BUYER) of BUYER's holding company; and
- (b) the SELLER, any other Shell Associate (as hereinafter defined).

For the purpose of this definition "holding company" and "subsidiary" have the meanings given to those expressions in s.736 of the Companies Act 1985.

"BUYER's Aircraft" means aircraft owned, leased or operated by or on behalf of the BUYER.

"Calendar" means the Gregorian calendar.

“Defuelling” means the removal of fuel from aircraft tanks irrespective of the circumstances or the quantities involved.

“Delegates” means associates, affiliates, representatives, sub-contractors, directors, officers, employees, agents or volunteers.

“Delivering Company” means for a listed Airfield the company designated in Schedule A for that Listed Airfield.

“Fuels” means Kerosine Type Jet Fuel, Widecut Type Jet Fuel, Aviation Gasolines and Methanol/Water Mixtures or any one or more of them.

“Fuel” means any one of the Fuels.

“IATA” means International Air Transport Association.

“LIBOR” means the one Month London Inter-Bank offered Rate as quoted by the National Westminster Bank p.l.c. at the 10am fixing on the first London banking day of the Month in which the overdue sum exists.

“Listed Airfield” means any one of the airfields listed in Schedule A.

“Month” means a Calendar month.

“Posted Airfield Price” means the price for Fuels quoted by the Delivering Company at a Listed Airfield.

“SELLER’s suppliers” means any body or person by whom directly or indirectly the Fuels to be purchased and sold hereunder are supplied to the SELLER.

“Shell Associate” means:-

(a) N.V. Koninklijke Nederlandsche Petroleum Maatschappij;

(b) the “Shell” Transport and Trading Company, p.l.c.;

(c) any company (wherever registered) which for the time being is directly or indirectly affiliated with either or both of the companies mentioned in sub-paragraphs (a) or (b) of this definition.

For the purpose of this definition a company is:-

- (i) directly affiliated with another company or companies if the latter hold(s) shares or their equivalent which control 20% or more of votes exercisable at a general meeting (or its equivalent) of such company;
- (ii) indirectly affiliated with a company or companies (the “parent” or “parents”) if a series of companies can be specified beginning with the parent(s) and ending with such company so related that each company or companies in the series, except the parent(s) is directly affiliated with one or more companies in the series.

