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## AVIATION FUEL SUPPLY AGREEMENT

This aviation fuel supply agreement (hereinafter the "Agreement") is made on the 17<sup>th</sup> March 2009 by and between:

**ENI S.P.A. – Refining & Marketing Division**, an Italian company having its registered office at Piazzale Enrico Mattei, 1 – 00144, Rome, Italy, and its business office in Via Laurentina 449, 00142 Rome, Italy, registered with Companies Register of Rome, C.F. 00484960588 – P. IVA 00905811006 – R.E.A. RM n. 756453 (hereinafter "ENI" or the "Seller"), duly represented by [\*]

and

Civil Aviation Authority having its registered office in LETISTE PRAHA RUZYNE, 16008 Prague, Czech Republic, ICO CZ48134678 (hereinafter the "Buyer").

Seller and Buyer may be hereinafter referred to individually as the "Party" and collectively as the "Parties".

THE PARTIES hereby agree as follows:

### **1. Definitions**

The following terms, when capitalized, shall have the meaning defined hereinafter, unless the context otherwise requires:

<b>Buyer's Affiliate(s):</b>	the following companies:
<b>Buyer's Aircraft:</b>	the aircraft owned, leased, operated by or on behalf of Buyer [or Buyer's Affiliates].
<b>Deliverer:</b>	the entity in addition to Seller which, on behalf of Seller, performs Seller's supply and delivery obligations under the Agreement.
<b>Delivery Note:</b>	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 kilograms, litres or gallons, in accordance with Seller's normal practices, or any additional information the Parties may agree upon.
<b>Fuel:</b>	aviation jet fuel and AV GAS Aviation Gasoline 100 II
<b>Seller's Affiliate(s)</b>	any company controlled by the Seller. For this purpose control has the meaning set out in Article 2359 of the Italian Civil Code.

## **2. Scope of the Agreement**

The purpose of the Agreement is to define the terms and conditions under which the Seller undertakes to sell and deliver or cause to be sold and delivered to Buyer the Fuel and, contemporaneously, the Buyer undertakes to purchase, receive and pay for the Fuel.

## **3. Representation**

Buyer assumes the undertakings hereunder on its behalf and as agent for its Affiliates. Seller undertakes to deliver or procure the delivery of Fuel to Buyer's Affiliates which, in turn, undertake to accept delivery from the Seller or its Deliverer(s). Buyer shall be solely responsible to Seller for all Buyer Affiliates' obligations under this Agreement and for any matter, claim or dispute arising out of, or in connections with, this Agreement and its performance.

## **4. Duration**

This Agreement shall become effective, unless earlier terminated according to Clause "Early termination", as detailed on the location agreement (annex 1).

## **5. Quantities**

The total quantity of Fuel to be purchased by Buyer under this Agreement shall be the one indicated location agreement (annex 1).

Should Buyer require a quantity of Fuel exceeding the quantity set forth in location agreement (annex 1) Seller will make any reasonable efforts to satisfy Buyer's request, but with no obligation whatsoever to deliver the quantity exceeding the one indicated in location agreement (annex 1).

## **6. Specifications**

Seller warrants that the Fuel supplied shall meet the specification set forth hereunder:

Jet A-1 meeting JOINT FUELLING SYSTEM CHECK LIST for Jet A-1 latest issue specifications.

To the extent permitted by the applicable law and save in the event of Seller's gross negligence or wilful misconduct, Seller liability to Buyer, in respect of any breach of the warranties granted above, shall be limited in all events to the purchase price of the Fuel.

Supplier makes no representations or warranties of any kind, expressed or implied, including without limitation warranties of merchantability or fitness for a particular purpose of the Fuel, other than the conformity of the Fuel with the specifications set forth above.

Buyer shall have the right to obtain samples of the Fuel intended to be delivered to Buyer, to be taken by Seller or by Deliverer with Buyer having the right to be present. Buyer shall give Seller reasonable advance notice of its intentions to obtain samples. The taking of samples shall take place by a method and at a point to be agreed upon between the Parties.

## **7. Price and Price Adjustment Mechanism**

Fuel price shall be determined by applying the following mechanism:

Fuel prices to be effective from the first day of each month will be based on published previous month average of Platt's European Marketscan jet kero quotations as stated hereinafter plus the differentials quoted in the location agreement (annex 1).

Conversion factor to be used is 331 USG/MT.

Rounding up/down to 2 decimals.

Conversion factor from US Gallon to Litres = 3.78541 (0.00378541 cbm).

Differentials as per each airport are specified in the location agreement (annex 1).

## **8. Duties, taxes and charges**

Fuel prices are to be considered for duty free product delivered into-plane and net of airport fees that shall be added to get final prices.

Any and all airport fees paid by the Seller to any competent airport authority and entity shall be charged by the Seller to the Buyer. The airport fees shall be converted from local currency to Euro in accordance with the previous month average exchange rate between such currencies, as published by the European Central Bank.

Airports fees are specified in the location agreement (annex 1).

The amount of Airport fees shall be specified in Seller's invoices.

If Buyer is entitled to purchase any Fuel sold pursuant to the Agreement free of any taxes, duties or charges, Buyer shall deliver to Seller a valid exemption certificate for such purchase.

## **9. Invoicing and payment terms**

Invoices and payment terms are specified in the location agreement (annex 1).

If any payment due to Seller in Euros is not made by the due date, interests will accrue on the full amount outstanding at the rate of seven (7) percentage points above the interest rate applied by the European Central Bank to its most recent main refinancing operation, carried out before the first calendar day of the half-year in question ("the reference rate"), from the due date until the date of actual payment. For late payments in US\$, interests shall accrue on the full amount outstanding at the rate of four (4) percentage points above the US prime interest rate.

In case the Seller's invoices are not paid by the due date, Seller will have the right to suspend the Fuel supplies.

In case delivery of fuel is made to Buyer's Affiliates, Buyer agrees to be invoiced by Seller as the purchaser and to be considered responsible towards Seller for the payment of the relevant invoices.

Copy of the bank details of Buyer's payment (swift code and number of each invoice settled) shall be sent by e-mail to the Seller ([GIAC\\_RM@sofid.eni.it](mailto:GIAC_RM@sofid.eni.it), [paolo.ricci@eni.it](mailto:paolo.ricci@eni.it))

## **10. Delivery**

The Fuel shall be delivered by Seller into Buyer's Aircrafts tanks ("into-plane delivery") at the locations listed in the location agreement (Annex 1).

If Buyer's scheduled Aircraft arrives ahead of its scheduled time of arrival, or late, or is operating a regular non-scheduled flight, Seller will make any reasonable efforts to promptly refuel the Buyer's Aircraft.

Title to and risk of loss of the Fuel shall pass to Buyer at the time the Fuel passes the inlet coupling of the receiving aircraft.

Deliveries shall be made in accordance with all applicable laws and regulations, and the requirements established by the airport governing authority. Seller and Deliverer shall use and apply their standard quality control and operating procedures (as amended from time to time).

Except as otherwise agreed in writing by Seller or Deliverer, Seller or Deliverer shall not be obliged to perform delivery unless a representative of Buyer is present.

Seller shall provide one (1) copy of the Delivery Note or the other quantity of copies as necessary to comply with local requirements.

### **11. Complaints, claims**

Complaints as to short delivery or delays shall be notified to Seller at the time of delivery, followed by a written claim to be made within fifteen (15) after the delivery.

Complaints as to defects in quality or any other matter shall be notified to Seller as soon as practicable, followed by written claim to be made within thirty (30) days after delivery.

If the claim is not made within the aforesaid periods, respectively, it shall represent a waiver of the right to claim.

Unless otherwise agreed by Seller, a pending claim shall not entitle Buyer to delay or withhold payment of any portion of the face amount of any invoice.

### **12. Defuelling**

Buyer may request and Seller may agree upon a defuelling/refuelling from and into Buyer's Aircrafts.

The Seller shall carry out the activities above provided that they refer to Aircrafts already assigned to the Seller for fuelling and compatibly with the Seller's fuelling activity which has to be considered as a priority.

Seller's defuelling from Buyer's Aircrafts is subject to verification, by means of analysis to be carried out and paid by the Buyer, of the quality of the fuel to be defuelled. Prior verification of the quality of the fuel may be substituted, upon Buyer's request, with a different procedure, agreeable to the Seller, in order to speed up the process. Such alternative procedure shall, however, guarantee fuel quality controls.

The Fuel so unloaded shall be immediately replaced into Buyer's Aircrafts.

For carrying out defuelling/refuelling operations the Seller shall charge the Buyer the following amounts:

- Truck disposal: Euro 1.000,00 for each day or part of it;
- Differential: The same applied for each specific airport multiplied for the total volume defuelled and refuelled;

### **13. Fuelling/Defuelling with passengers on board or embarking or disembarking**

To the extent permitted by local regulations, into-plane delivery or removal of Fuel from the aircraft may be made at Buyer's request when there are passengers or other persons on board the aircraft or embarking or disembarking. In such event, Buyer shall be solely responsible 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 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.

Buyer shall indemnify, defend and hold harmless Seller or Deliverer and their directors, officers, employees and agents 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 fee) losses and expenses, caused by or arising out of into-plane delivery or removal of Fuel under this Clause, unless such injury or death arises from or has been caused by the gross negligence or wilful misconduct of the Seller or of the Deliverer.

#### **14. Insurance**

Seller has effected and shall maintain during the term of this Agreement a Refuelling insurance policy according to TARBOX agreement for US \$ 1,000,000,000 (one billion of US\$).

#### **15. Early termination**

In the event Seller withdraws its operation from or Buyer ceases its operation at any location mentioned in the Agreement for any reason, either Party shall have the right to terminate the Agreement as to such location. The terminating Party shall use its best endeavours to give thirty (30) days notice of such termination. The termination shall be effective no earlier than the date of written notice to the other Party.

In the event of a substantial change on the ownership or control of any of the Buyer's Affiliates, Buyer shall immediately notify Seller the occurrence of such change. Thereupon, the Seller shall have the choice, at its sole discretion, to terminate the Agreement as to the relevant location upon giving thirty (30) days prior written notice.

Each Party may terminate the Agreement, in whole or in part, by means of a written notice to the other Party and with immediate effect:

- A. In case of a material breach of the Agreement by the other Party, but only insofar the other Party has not cured its breach of the Agreement, if curable, within ten (10) days of receiving written notice of the default from the first Party;
- 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 liquidation of all or substantially all of its property is appointed.

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

Notwithstanding early termination, each Party shall fulfil all obligations accrued under the Agreement prior to the time the termination becomes effective.

#### **16. Notices and communications**

All notices, reports or other communications between the Parties given pursuant to this Agreement shall be in writing and delivered by courier, registered mail, facsimile, at the address of the receiving Party set forth below or to such different address as such Party may hereafter notify in writing to the other. Notice shall be deemed given on the date of actual receipt.

Upon request of a Party, the other Party shall confirm the receipt of any notice.

Computer generated messages with automatic facsimile transmission to the receiver shall be deemed valid without individual signatures by hand.

Seller's address:

ENI, Refining & Marketing Division  
Via Laurentina 449,  
00142 Rome,  
Italy  
Attn. to International Aviation Department

Buyer's address:

Civil Aviation Authority  
LETISTE PRAHA RUZYNE  
16008 Prague  
Czech Republic

### **17. Assignment and subcontracting**

Neither Party may assign its obligations under the Agreement in whole or in part without prior written consent of the other Party. Seller may however assign its obligations to its Affiliates without prior written consent of Buyer.

Seller may, without prior written consent of Buyer, subcontracting the performance of its obligations hereunder, in whole or in part, to a third party.

### **18. Non-disclosure**

The information contained in the Agreement is confidential between the Parties. Either Party may only disclose such information to any person outside its own organisation, its Affiliates or Seller's Deliverer/s to the extent necessary to perform the Agreement and upon the prior written consent of the other Party being obtained, which consent shall not unreasonably be withheld. However, each Party is allowed to disclose information to any governmental or supranational authority to the extent disclosure is legally compulsory.

### **19. Force majeure**

If a Party (the "Affected Party") is prevented, hindered or delayed from or in performing its contractual obligations (other than a payment obligation) hereunder by an event of force majeure:

- a) the Affected Party's obligations under this Agreement shall be suspended while the force majeure event continues to the extent that they are prevented, hindered or delayed;
- b) as soon as reasonably possible after the beginning of the force majeure event, the Affected Party shall notify the other Party in writing of the occurrence of the event of force majeure, the date on which such event began, and the effects of the force majeure on its ability to perform its obligations hereunder;
- c) the Affected Party shall make any reasonable efforts to mitigate the effects of the force majeure on the performance of its obligations hereunder;
- d) as soon as reasonably possible after the end of the force majeure, the Affected Party shall notify the other Party that the force majeure has ended and resume performance of its obligations hereunder.

If the event of force majeure continues for more than 15 (fifteen), starting from the day the force majeure starts, each Party may terminate this Agreement by giving not less than thirty (30) days' notice to the other Party.

### **20. Governing Law and jurisdiction**

This Agreement shall be governed and construed in accordance with the laws of Italy.

All disputes arising out of or in connections with this Agreement shall be finally settled under the Rules of the International Chamber of Commerce ("ICC Rules") by an Arbitral Tribunal appointed in accordance with said Rules. Arbitration proceedings shall take place in Rome and the language of the Arbitration shall be English.

### **21. Miscellanea**

Each of the Parties declares to have fully and freely negotiated this Agreement in all its Clauses and Annexes.

With reference to the performance of the activities under this Agreement, the Buyer declares to have reviewed and have knowledge of the contents of the document "Principles of Model 231" drafted by Eni S.p.A. in accordance with the legislation in force regarding the administrative liability of legal entities for offences committed by their directors, employees and/or agents. In this respect, the

abovementioned document has been made available on Eni's website [www.eni.it](http://www.eni.it) to Buyer. Buyer may also, at any time, request Seller to be provided with hard copies of the same.

The Annexes shall constitute integral and substantial part of this Agreement.

This Agreement contains all agreements, arrangements and stipulation between the Parties in respect of the supply of Fuel for the location(s) specified herein and supersedes all prior written agreements, arrangements and stipulations in respect of the same subject.

The provisions of the Agreement are severable and the invalidity of any provision in the Agreement shall not affect all other provisions, which will remain valid and binding

Modifications or amendments to the Agreement are only valid when expressly agreed upon in writing by the Parties.

In witness whereof:

**Eni S.p.A. – Divisione Refining & Marketing**

Signed on the 17<sup>th</sup> March 2009 in Rome

By

**Eni S.p.A.**  
**Divisione Refining & Marketing**  
**Aviation Sales Manager**  
(Gianluca Rossi)

For Buyer's acceptance:

Signed on

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By



Pursuant to articles 1341 and 1342 of the Italian civil code, Buyer hereby declares that he has fully read and understood the contents of this Agreement. Therefore the Buyer expressly accepts the provisions contained in the following articles: "Specifications", "Invoicing and payment terms", "Delivery", "Complaints, claims", "Fuelling/Defuelling with passengers on board or embarking or disembarking", "Early termination", "Assignment and subcontracting", "Non-disclosure", "Governing law and jurisdiction".

Signed on

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by



## Annex 1: Location Agreement

### 1. Quantities and Pricing

Location	Yearly Vol. Cubic Metres	Product	Fuel Price	ENI reg wkg
Prague (PRG)	Ad Hoc	Jet A-1	Jet A-1 PAP Price	24 hrs
Prague (PRG)	Ad Hoc	AV Gas	AV GAS PAP Price	24 hrs

### 2. Duration

This Agreement shall become effective, unless earlier terminated according to Clause "Early termination", from the 1<sup>st</sup> January 2009 and will expire on the 31<sup>st</sup> December 2010.

### 3. Invoicing and payment terms

Invoices for Fuel deliveries shall be issued two times per month in Euro and shall be paid (payee value) within 15 (fifteen) days from the invoice date.

Each payment shall be made in favour of Eni S.p.A., Divisione Refining & Marketing - Rome (Italy) by bank telegraphic transfer to:

BANCA INTESA BCI  
ACCOUNT NR: 003057540647  
CAB: 05093  
IBAN CODE: IT 24H0306905093003057540647  
SWIFT: BCITITMM729

### 4. Guarantee

Seller se reserve the right to require Buyer such guarantee in order cover its exposure.

In witness whereof:

**Eni S.p.A. – Divisione Refining & Marketing**  
Signed on the 17<sup>th</sup> March 2009 in Rome By

**Eni S.p.A.**  
**Divisione Refining & Marketing**  
**Aviation Sales Manager**  
(Gianluca Rossi)

For Buyer's acceptance:  
Signed on \_\_\_\_\_ in \_\_\_\_\_  
By \_\_\_\_\_

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