



## Terms of Service

1. These terms and conditions ("Terms and Conditions") govern transactions involving the aviation related services ("Services") that EVO Jet Services, Ltd., A Hong Kong Company ("Company") performs or arranges for user (hereinafter referred to as "Client," "Customer," or "Operator"), from time to time, at the request of the Client. These Terms and Conditions are updated periodically by Company and current versions supersede any and all prior terms and conditions promulgated by Company. Terms and Conditions may be modified at any time solely by Company, and shall automatically become effective upon posting to the Website (as defined below).
2. In order to provide the Services, Company may use from time to time information, data or technology provided or licensed to Company by third parties. Such third parties shall be third party beneficiaries of all rights of Company and of all duties owed by the Client to Company.
3. Each request for Services made by an air crew member, or an aviation department representative of Client who contacts Company to arrange for the procurement of Services, represents a commitment by Client to pay for Services received at Company's then current Price List. A request for Services may be oral or written and may be transmitted in any media. Company's record of requests for and provision of Services will be presumed correct.
4. Unless otherwise agreed to in writing by the Parties, payment is due within fifteen (15) days after receipt of electronic invoice. Amounts equal to any and all applicable taxes, however designated, incurred as a result of or otherwise in connection with Services will be added to any charges payable by Client. A service fee equal to two (2%) percent per month will be charged for any invoices past due or at such lesser rate as may be required by law. Unless disputed in writing by Customer within 10 days of invoice receipt, invoices shall be considered correct and accepted by Customer. Queries regarding charges for services or goods provided by 3<sup>rd</sup> parties will be sent to the 3<sup>rd</sup> party in question for more details. If Company has paid the 3<sup>rd</sup> party prior to notification by Customer of disputed charge, Customer is responsible to pay Company for entire amount, subject to a credit or refund by Company once 3<sup>rd</sup> party refunds charges. No disputes of 3<sup>rd</sup> party charges shall relieve Customer of its obligation to pay undisputed portions of any invoice on time.
5. Client consents to the Company arranging the provision of any of the Services directly to the client by third-party Suppliers ("Suppliers") or by entities under common control with Company ("Affiliates"). Company shall not be responsible for the performance of Services delegated to Suppliers or Affiliates.
6. The operation of aircraft switches, valves and fuel quantity indicators is the responsibility of the Client. If the Client requests that a Supplier operate these controls, then the indemnity below shall apply.
7. The Client is liable for and shall indemnify Company and its respective employees and agents from and against all actions, causes of action, claims, demands, losses, costs, damages, liabilities and expenses which they or any of them suffer or incur resulting from personal injury, including fatal injury



or disease to, or loss of or damage to the property of any person whatsoever (including the parties hereto) arising out of or in connection with the refueling operations described above. The Client shall further indemnify the Supplier and its respective employees and agents from and against all actions, causes of action, claims, demands, losses, costs, damages, liabilities and expenses which they or any of them suffer or incur resulting from personal injury, including fatal injury or disease to, or loss of or damage to the property of any person whatsoever (including the parties hereto) arising out of or in connection with the refueling operations described above, unless caused by the gross negligence of the Supplier.

8. Company's sole and exclusive standard of performance for Services shall be a good faith undertaking, on a commercially reasonable basis, to arrange for the requested Services. THE PRECEDING IS COMPANY'S ONLY WARRANTY CONCERNING THE SERVICES AND ANY RESULTS OR WORK PRODUCT, AND IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES. IN JURISDICTIONS THAT DO NOT RECOGNIZE A DISCLAIMER OF LIABILITY FOR DAMAGES, CLIENT AGREES THAT COMPANY'S LIABILITY UNDER CLAIMS ARISING FROM SERVICES SHALL BE LIMITED TO THE AMOUNT PAID BY CLIENT FOR THE SERVICES GIVING RISE TO THE CLAIM OR THE DAMAGING INCIDENT.

9. The remedies of these Terms and Conditions are the sole and exclusive remedies of Client to any claims arising out of causes of action related to the Services.

10. Client's exclusive remedy for any claim arising out of Services shall be for Company, upon receipt of written notice, to use commercially reasonable efforts to cure the breach at its expense or, at Company's election, return of fees paid to Company for the work related to the breach.

11. The foregoing shall not limit Client's payment obligations for Services rendered. These allocations of liability represent the agreed and bargained-for understanding of the parties and Company's compensation for the Services reflects these allocations.

12. Company, Affiliates and Suppliers shall never be liable for any delays or failures in performance due to circumstances beyond their control.

13. The failure of Company or Client to insist upon strict performance of any provision of these Terms and Conditions shall not constitute a waiver of, or estoppel against asserting, the right to require performance in the future. A waiver or estoppel in any one instance shall not constitute a waiver or estoppel with respect to a later breach.

14. In the event that there shall be any dispute arising out of or in any way relating to Services, Company and Client agree to first use their reasonable best efforts to resolve such dispute among themselves, with or without mediation. If Company and Client are unable to resolve such dispute among themselves, such dispute shall be submitted to binding arbitration as follows: (a) if the Client is domiciled within North America or South America, then in San Francisco, County of San Francisco, California; and (b) if



the Client is domiciled outside of North America or South America, then in Hong Kong, China. Arbitration will be under the auspices of, and pursuant to the rules of, the American Arbitration Association's Commercial Arbitration Rules as then in effect, or such other procedures as the parties may agree to at the time, before a tribunal of a single. Any award issued as a result of such arbitration shall be final and binding between the parties, and shall be enforceable by any court having jurisdiction over the party against whom enforcement is sought. A ruling by the arbitrator shall be non appealable. The parties agree to abide by and perform any award rendered by the arbitrator. If either Client or Company seeks enforcement of the terms of these Terms and Conditions or seeks enforcement of any award rendered by the arbitrator, then the prevailing party (designated by the arbitrators) to such proceeding(s) shall be entitled to recover its costs and expenses from the non prevailing party, in addition to any other relief to which it may be entitled. Either Client or Company may cause an arbitration proceeding to commence by giving the other party notice in writing of such arbitration. Client and Company covenant and agree to act as expeditiously as practicable in order to resolve all disputes by arbitration. The arbitration proceeding shall be held in English.

15. If any of these Terms and Conditions is held by any court of competent jurisdiction to contravene, or to be invalid under, the laws of any political body having jurisdiction over this subject matter, that contravention or invalidity shall not invalidate the entire Agreement. Instead, these Terms and Conditions shall be construed as reformed to the extent necessary to render valid the particular provision or provisions held to be invalid, consistent with the original intent of that provision and the rights and obligations of the parties shall be construed and enforced accordingly, and these Terms and Conditions shall remain in full force and effect as reformed.

16. THESE TERMS AND CONDITIONS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF HONG KONG. THE CLIENT IRREVOCABLY SUBMITS TO THE JURISDICTION OF THE HONG KONG AND ITS COURTS. CLIENT WAIVES IMMUNITY WITH RESPECT TO PROCEEDINGS TAKEN BY COMPANY TO ENFORCE THESE TERMS AND CONDITIONS AND TO ENFORCE ANY JUDGMENT OBTAINED IN CONNECTION WITH THESE TERMS AND CONDITIONS, IN ANY JURISDICTION.

17. Client agrees that Company does not have control over the submission of invoices by Suppliers. Consequently, all Services incurred by Client are the sole responsibility of Client irrespective of the time elapsed between delivery of those Services and request for payment by Suppliers for Services.

18. The Client releases and covenants not to sue Company and will, at its own expense, defend any action and hold Company harmless from and against all claims, liabilities, losses, expenses, fees and damages arising from actions, or inactions, of the Client involving Services and from any loss of or damages to property, or injury to any person arising out of the performance of the Services unless solely caused by the gross negligence or willful misconduct of Company, its officers, servants and employees.



19. Client represents and warrants that Client carries aircraft liability insurance covering bodily injury to passengers. To the extent of the Client's agreement to indemnify and hold harmless Company hereunder, the Client agrees that all liabilities arising out of the Services shall be insured by Client.

20. The Services and deliverables provided by Company are limited to the sole and exclusive internal use of Client. Client may not in any manner, transfer, resell or disclose any deliverables, in any form whatsoever, prepared or provided by Company, nor allow any third party to access or to use any deliverables of Services.

21. No proceeding or suit may be brought against Company upon any claim of the Client for Services unless written notice of the claim has been delivered to Company within ninety (90) days of the date of the occurrence giving rise to the claim. No action may be instituted against Company within a period of six (6) months in length after presentation of the claim or after a period ending two (2) years after the date of the presentation of the claim.

22. Client shall not, directly or indirectly, export, release or disclose any information, data, materials or technology deliverables of the Services to any third party outside of the United States without first ensuring that such export or release does not violate the United States export control laws and regulations, and without first obtaining from the United States Department of Commerce the requisite authority, if necessary, to effect such export or release.

23. Customer assumes sole responsibility for the results, use and consequences of any computer software (object code or source code), databases, documentation, inventions, analyses, studies, recommendations, reports, plans, results, data compilations and other media, materials, objects, information and intellectual property produced as a result of the Services provided and/or delivered by Company, its employees, agents and subcontractors, in the course of providing the Services, including without limitation the use of any data link, planning, analytical or predictive tool ("Work Product"). Unless otherwise expressly provided in a separate written Statement of Work executed by both the Company and Client, all Work Product shall be the exclusive property of Company and shall not be deemed a "work made for hire" within the meaning of the copyright laws of the United States and any similar laws of other jurisdictions. Company hereby grants to Client a limited, personal, non-transferable and non-exclusive license to access and use the Work Product for Client's internal purposes. The foregoing license shall automatically terminate upon the termination or expiration of all of Company's granted rights in the Work Product.

24. The information, data, text, software (object code and source code), video, messages or other material presented to Client ("Content") on the website hosted at [www.evo-jet.com](http://www.evo-jet.com) ("Website"), and any affiliated websites that may be contained therein, are copyrighted under various law and may not be used without the written permission of Company. All Content is owned by Company and various third parties. Nothing contained on the Website should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any of the Content without the written permission of Company or



such other party that may own the Content. Any copying, distribution, retransmission or modification of Content or Work Product, whether in electronic or hard copy form, without the express prior written permission of Company is strictly prohibited. Client agrees to not: (i) sublicense, assign, translate, rent, lease, lend, resell for profit, distribute or otherwise assign or transfer the Content, Work Product, or access to the Website to others; (ii) decompile, reverse engineer, disassemble, modify, reduce the Website or Work Product to source code form or create derivative works based upon the Website, the Work Product, or any part thereof; (iii) merge the Website, Work Product, or Content with another program or create derivative works based on the Website or Content; (iv) remove, obscure, or alter any notice of the copyright or other propriety legends on the Website, Work Product, or Content; (v) disable any licensing or control features of the Website or Work Product; (vi) use, or allow the use of, the Website, Work Product, or the Content in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (vii) introduce into the Website or Work Product any virus or other code or routine, including without limitation any virus or other code or routine intended to disrupt or damage the Website, alter, damage or delete any Content, or retrieve or record information about the Website or its users; or (viii) otherwise act in a fraudulent, malicious or negligent manner when using the Website or Work Product.

25. Client is prohibited from using the Website to gain unauthorized access, directly or indirectly, to Company's computer systems or a third party's computer systems. Client shall not interfere with another user's use or enjoyment of the Website. Company reserves the right, in its sole discretion, to take action that it deems appropriate for violations of this Agreement. To the extent required to do so by law, Company will fully cooperate with any law enforcement authorities or court order requesting or directing Company to disclose information regarding users of the Website. Access to the password-protected areas of the Website is strictly limited. Client may not obtain unauthorized access to the password protected areas of the Website, or to any other protected materials or information, through any means not intentionally made available to Client by Company for Client's specific use. By using the Website, Client represents and warrants that (a) all registration information Client submits is truthful and accurate; (b) Client will maintain the accuracy of such information. Client is solely responsible for maintaining the confidentiality and security of Client's user account and Client accepts full responsibility for any use of Client's user account. Sharing Client's user name or password with third parties violates this Agreement. Company is not obligated to inquire as to the authority or propriety of any use of or action taken under Client's user account, and Company is not responsible for any loss to Client that arises from such use or action. Client shall notify Company immediately of any actual or suspected loss, theft or unauthorized use of Client's password. The Website is controlled and operated by Company from its offices. Company makes no representation that the Content is appropriate or available for use in other locations and other countries. Those who choose to access the Website from other locations or other countries do so on their own initiative and are responsible for compliance with local laws in that territory, if and to the extent that local laws are applicable. Any unauthorized or illegal use of any images on the Website may violate international copyright laws, trademark laws, the laws of privacy and publicity, and communications regulations and statutes. Recognizing the global nature of the Internet,



Client agrees to comply with all local rules regarding online conduct and acceptable content. Specifically, Client agrees to comply with all applicable laws regarding the transmission of technical data exported from the United States or the country in which Client operates.

26. Company may discontinue providing the Website, or any part thereof, with or without notice. Client acknowledges and agrees that Company may immediately deactivate or delete any Content at any time without prior notice. Company may suspend or terminate Client's user account or other use of the Website if Client is not in compliance with this Agreement or any other agreement between Client and Company. Company may terminate Client's user account and other use of the Website when Client is no longer a customer, or after Client is in default of payment to Company. Company shall not be liable to Client, or any third-party, for any termination or suspension of Client's access to the Website. Client understands that if Client is dissatisfied with the Website or the Content, Client's sole and exclusive remedy is to discontinue using the Website, and receive a pro-rata refund of any pre-paid amounts that Client has paid to access the Website.

27. Nothing contained on the Website should be construed as granting any license or right to use any Trademark on the Website without the written permission of Company. Unauthorized use of the Trademarks, or any other Content is strictly prohibited.

28. Client agrees to indemnify and release Company and its affiliates from and against any and all liabilities, expenses (including attorney's fees) and damages arising out of claims resulting from Client's use of the Content, including, without limitation, any claims that if the allegations were true would constitute a breach of this Agreement.

29. For the duration of an Agreement by and between Company and Customer, Customer shall maintain insurance that covers their flight operations, including, without limitation aircraft hull and liability insurance covering bodily injury to passengers and other persons, and property damage. Company shall be entitled to the benefit of such insurance to satisfy Customer's indemnification obligations to Company. Customer waives subrogation rights as far as permitted by insurance policy.

30. NEITHER COMPANY, NOR ANY OF ITS SUBSIDIARIES, NOR ANY PROVIDERS OF WEATHER SERVICES OR FLIGHT PLANS SHALL BE LIABLE FOR ERRORS, DELAYS, OR INTERRUPTIONS IN PROVIDING SUCH SERVICES, ERRORS IN JUDGMENT, OR ANY OF THEIR OWN ACTS OR OMISSIONS, INCLUDING THEIR OWN NEGLIGENT ACTS OR OMISSIONS. COMPANY AND ITS SUBSIDIARIES AND PROVIDERS SHALL HAVE NO RESPONSIBILITY FOR AND HEREBY EXPRESSLY DISCLAIM ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, IN CONNECTION WITH THE PROVISION OF ANY GOODS AND SERVICES HEREUNDER. FURTHER, CUSTOMER ACKNOWLEDGES THAT ALL SERVICES PROVIDED HEREUNDER ARE ADVISORY IN NATURE AND WENT AGREES IT HAS A DUTY TO AND SHALL REVIEW AND VERIFY THE ACCURACY AND CORRECTNESS OF ALL WEATHER, FLIGHT PLANNING, AND OTHER SERVICES SUPPLIED TO TT PRIOR TO USE OR RUNG.



31. IN NO EVENT WILL COMPANY OR ANY OF ITS AFFILIATES BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR OTHER DAMAGES ARISING OUT OF THE USE OF THE WEBSITE, THE WORK PRODUCT, OR THE CONTENT, INCLUDING WITHOUT LIMITATION, LOST PROFITS, BUSINESS INTERRUPTION OR LOSS OF PROGRAMS OR OTHER DATA. IN NO EVENT SHALL COMPANY'S CUMULATIVE AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO CLIENT'S USE OF THE WEBSITE, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE GREATER OF THE AMOUNT PAID BY CLIENT FOR THE ACCESS TO THE WEBSITE OR WORK PRODUCT GIVING RISE TO THE CLAIM. COMPANY ALSO ASSUMES NO RESPONSIBILITY, AND SHALL NOT BE LIABLE FOR, ANY DAMAGES TO, OR VIRUSES, WORMS OR SIMILAR ELECTRONIC DESTRUCTIVE ITEMS THAT MAY INFECT CLIENT'S COMPUTER EQUIPMENT OR OTHER PROPERTY ON ACCOUNT OF CLIENT'S ACCESS TO, USE OF, OR BROWSING IN THE WEBSITE, CLIENT'S DOWNLOADING OF ANYTHING FROM THE WEBSITE, OR CLIENT'S USE OF THE WORK PRODUCT. THE LIMIT OF SUPPLIERS' OR AFFILIATES' LIABILITY (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY IN TORT OR BY STATUTE OR OTHERWISE) TO THE CLIENT CONCERNING PERFORMANCE OR NON-PERFORMANCE OF SERVICES, OR IN ANY MATTER RELATED TO SERVICES, SHALL NOT IN THE AGGREGATE EXCEED THE FEES PAID BY CLIENT WITH RESPECT TO THE PARTICULAR SERVICE AT ISSUE.

32. THE CONTENT AND THE WORK PRODUCT ARE PROVIDED WITHOUT ANY WARRANTIES OR REPRESENTATIONS AS TO THE ACCURACY, COMPLETENESS OR TIMELINESS OF SUCH CONTENT OR WORK PRODUCT. COMPANY ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY ERRORS OR OMISSIONS IN THE CONTENT OR WORK PRODUCT. COMPANY RESERVES THE RIGHT TO MODIFY OR CHANGE THE CONTENT OR WORK PRODUCT WITHOUT NOTICE, AND MAKES NO COMMITMENT TO UPDATE THE CONTENT. WITHOUT LIMITING THE FOREGOING, EVERYTHING ON THE WEBSITE IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. FURTHER, COMPANY MAKES NO WARRANTY THAT (I) ACCESS TO THE WEBSITE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (II) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE WEBSITE WILL BE ACCURATE OR RELIABLE, OR (III) ANY ERRORS IN THE WEBSITE WILL BE CORRECTED.

33. The Website may contain external links to other websites not affiliated with Company. Such links are meant solely for the user's convenience. Company has no control over, and is not responsible for the content found on external websites. Links to such third party websites do not constitute sponsorship, endorsement or approval of such websites or the contents thereof. If Client decides to access any third party website linked to the Website, Client does so entirely at its own risk and Company accepts no liability for any information that may be contained within the external websites.