Privacy Statement

1 Use of Personal Information

1.1 We cannot extend credit without acquiring and using personal information.

1.2 We may collect and use your personal information for:

(a) our primary purposes, which include, but are not limited to, providing goods and services to you, obtaining your credit report, contacting your trade references, assessing your application for commercial credit, reviewing your credit terms, assessing your credit worthiness, assessing credit guarantees (current and prospective), reporting upon overdue payments, and collecting overdue payments due to us, and matters reasonably necessary in complying with your requests (together, **Primary Purposes**); and

(b) purposes other than our Primary Purposes.

1.3 If you sign and send to us:

(a) the Credit Application as a Customer; or

(b) the Deed of Guarantee and Indemnity as a Guarantor;

then:

(c) you will be providing personal information to us; and

(d) you are accepting the terms of this Privacy Statement.

2 Application of Privacy Statement

This Privacy Statement encompasses consents, notifications, and disclosures under, or in relation to, the *Privacy Act 1988* (Cth) (**Privacy Act**).

3 Specific consents

3.1 You consent to us, to the extent permitted by law, collecting, using, and disclosing your personal information for our Primary Purposes.

3.2 You also consent to us undertaking the below enquiries and disclosures pursuant to the following sections and items of the Privacy Act:

(a) obtaining a copy of your credit report from a credit reporting body for a commercial credit related purpose (item 2 of section 20F(1));

(b) obtaining a copy of your credit report from a credit reporting body for a credit guarantee purpose (item 3 of section 20F(1));

(c) obtaining a copy of your credit report from a credit reporting body for a trade insurance purpose (item 8 of section 20F(1));

(d) disclosing credit eligibility information about you to other credit providers (section 21J(1) or 21K(1)); and

(e) disclosing credit eligibility information about you to another entity and/or its professional legal or financial advisers where the recipient proposes to use that information for the purposes described in section 21N(3) of the Privacy Act (section 21N(2)).

3.3 You also consent to us collecting, using, and disclosing your personal information (including sensitive information), for purposes other than our Primary Purposes, including, but not limited to, internal management purposes, marketing (including direct marketing), and sales and business development purposes.

4 Disclosure to credit reporting bodies

4.1 You consent to us, to the extent permitted by section 21D of the Privacy Act, disclosing your credit information to any or all of the following credit reporting bodies and their successors and assigns.

(a) Equifax Australia: GPO Box 94, North Sydney NSW 2059, www.equifax.com.au, 13 8332.

(b) Creditor Watch: GPO Box 276, Sydney NSW 2001, https://creditorwatch.com.au, 1300 501 312.

(c) NCI: PO Box 3315, Rundle Mall SA 5000, https://nci.com.au, 1800 882 820.

(d) Illion: PO Box 7405, St Kilda Road, Melbourne VIC 3004, https://www.illion.com.au, 13 23 33.

(e) Experian: GPO Box 1969, North Sydney NSW 2060, https://www.experian.com.au, (02) 8907 7200.

4.2 Our credit reporting policy contains a statement of notifiable matters in accordance with section 21C of the Privacy Act and items 4.1 and 4.2 of the *Privacy (Credit Reporting Code) 2014* (Cth) (**Credit Reporting Code**).

5 Disclosure to third parties

5.1 You consent to us disclosing your personal information (including your credit information) to our subsidiaries, employees, agents, and related bodies corporate, past, present, the credit reporting bodies noted above, any trade credit bureau of which we are a member, your trade references, our insurance providers, the related bodies corporate of the preceding entities, and overseas recipients.

5.2 By reason of your consent to the disclosure to overseas recipients pursuant to clause 5.1 of this Privacy Statement, Australian Privacy Principle 8.1 will not apply to our dealings with your personal information.

6 Our privacy policy and credit reporting policy

6.1 A copy of our privacy policy and credit reporting policy can be obtained from our website (https://www.refuelaus.com.au/) or by making a request in writing directed to our privacy officer.

6.2 Our privacy policy and credit reporting policy contain information about how to access and seek correction of your personal information, or how to complain about a breach of the Privacy Act, the Credit Reporting Code, or the Australian Privacy Principles, and how we will deal with any such complaint.

Credit Facility Terms ("Credit Terms")

1 The effect of the Credit Application

1.1 We may extend you credit if:

(a) we receive a completed Credit Application from you on terms which are satisfactory to us; and

(b) we consider, in our sole discretion, that your application ought to be approved.

1.2 You acknowledge that any credit we may approve under clause 1.1 will be subject to these Credit Terms which (together with the Privacy Statement and the Terms of Trade (incorporated under clause 2)) are incorporated into the Credit Application.

1.3 If you wish to negotiate the terms of the credit facility or otherwise any terms incorporated in the Credit Application, you should respond to us marking up the terms you seek, and drawing those changes to our attention and obtain our agreement in writing.

2 Incorporation of our Terms of Trade

2.1 By applying for a credit facility with us, you:

(a) warrant that you have read and understand our Terms of Trade, which may be found at https://www.refuelaus.com.au/ and are available upon request at any time by email to credit@refuelaus.com.au;

(b) acknowledge that our Terms of Trade are incorporated into these Credit Terms and continue to apply to trade on your credit facility; and

(c) agree to be bound by our Terms of Trade.

3 Fuel Cards

3.1 If we approve your application, we will, at our sole discretion, issue you any Fuel Cards you have applied for.

3.2 From time to time, we may issue additional Fuel Cards at your request.

3.3 You acknowledge and agree that a Fuel Card is a charge card and not a credit card and all amounts charged using a Fuel Card will be charged to your Credit Facility

3.4 Each Fuel Card remains our property and must not be altered or defaced.

3.5 A Fuel Card:

(a) may only be used by the Cardholder and, where there is a Nominated Vehicle, may only be used in respect of that Nominated Vehicle;

(b) may only be used to purchase Goods and Services from us at our wholly owned and operated retail service stations and authorised service stations, subject to any limitations or markings specified on the Fuel Card (e.g. listed vehicle registrations only);

(c) may not be used outside the validity period stated on it;

(d) is not transferrable; and

(e) may not be used if we have temporarily suspended your Credit Account or closed your Credit Facility.

3.6 You must not allow a Fuel Card to be used for an unlawful purpose or by anyone other than a Cardholder.

3.7 If:

(a) we cancel a Fuel Card;

(b) you determine you no longer need a Fuel Card; or

(c) a Cardholder leaves your employment or ceases to be authorised to use a Fuel Card,

then you must immediately cut the Fuel Card in half and, if we direct you to do so, promptly return it to us.

3.8 If your Credit Account is closed, then you must immediately cut in half all Fuel Cards linked to your Credit Account and, if we direct you to do so, promptly return them to us.

4 Payment terms

4.1 Charges on your approved credit facility must be paid:

(a) fourteen (14) days from the end of the month when you were invoiced or charge (or such other terms as nominated by us in writing at the time we establish your credit facility); or

(b) the due date specified on Refuel Australia's invoice,

whichever date is earlier, and

(c) without deduction or setoff.

5 Unauthorised use of your credit facility

5.1 You are solely responsible for ensuring there is no unauthorised use of your credit account. You must keep details of your credit facility with us confidential, including your account number, and treat it like a banking PIN or password.

5.2 If you become aware that your credit facility is, or may be, the subject of unauthorised use, you must:

(a) notify us in writing as soon as possible via email to credit@refuelaus.com.au; and

(b) provide us with any information you have regarding the misuse or potential unauthorised use of your credit account.

5.3 You will be liable for charges that you have not authorised to your credit account unless you have notified us in accordance with clause 5.2.

6 Credit remains at our discretion

6.1 Your account will be ascribed a credit limit, which you must not exceed.

6.2 At our sole discretion we may:

(a) extend, or refuse, credit to you for any reason;

(b) provide you with credit in excess of your credit limit; and

(c) cease to provide further credit even if your credit limit has not been, or will not be, exceeded.

6.3 We may close your credit facility if you do not use it for twelve (12) months.

7 Variations

7.1 We may increase or decrease your account credit limit by written notice to you effective immediately.

7.2 If:

(a) we decrease your credit limit by giving notice pursuant to clause 7.1; and

(b) your credit facility would fall into default as a consequence by reason of that notice,

then we will not treat this as an event of default.

7.3 From time to time, we may otherwise amend our Credit Facility Terms with you, in which case:

(a) we will give you at least fourteen (14) days' written notice of the change; and

(b) your credit facility will be subject to those amended terms in respect of any further supplies made after the fourteen (14) day period has expired unless you have issued a written notice to us objecting to the varied terms within the fourteen (14) day period.

8 Default

8.1 Your credit facility will be in default if any of the below events occur.

(a) You fail to pay any sums to us when they fall due.

(b) Your account balance exceeds the amount we have identified as your credit limit and clause 7.2 does not apply.

(c) Any corporate entity that is a Customer or Guarantor is the subject of the appointment of administrators, liquidators, receivers, provisional liquidators or enters into an arrangement or compromise with creditors.

(d) Any individual person that is a Customer or Guarantor commits an act of bankruptcy.

(e) You have given us information in support of your credit account which is false or misleading.

(f) You breach an obligation under our Terms of Trade.

8.2 If your credit facility is in default, then:

(a) we may temporarily suspend your credit account;

(b) we may give you a notice requiring that all charges on your credit facility may, at our election, fall immediately due and payable, notwithstanding clause 4; and

(c) we may close your credit facility.

9 Direct debit arrangement

9.1 You acknowledge and agree that:

(a) as a condition of granting you a Credit Facility, we may require you to execute a direct debit authority; and

(b) we may from time to time debit the bank account or credit card nominated in any direct debit authority you have executed with all amounts you owe on or after the due date for payment of our invoice or statement (or if the due date does not fall on a business day, then on the following business day).

9.2 If your nominated bank account has more than one authorised signatory, then all authorised signatories must sign the direct debit authority.

9.3 If funds are not immediately available for payment in accordance with clause 9.1, we reserve the right to charge you an unpaid direct debit fee (in addition to any other amounts you owe).

9.4 You may:

(a) terminate the direct debit arrangement at any time by giving us sixty (60) days' prior notice in writing;

(b) stop payment of a particular debit by giving us sixty (60) days' prior notice in writing; and

(c) request that changes be made to the frequency of debits by contacting us and advising us of the requested change no less than ten (10) business days prior to the due date for payment detailed on our statement.

9.5 If you consider a debit has been made in error, you must notify us in writing as soon as practicable after you become aware there has been a suspected error.

10 Charge over your real and personal property

10.1 As security for the sums you owe, or may owe, us, you charge in our favour all of your estate and interest in:

(a) any real property (i.e. any house or land); and

(b) personal property (i.e. any other assets including for example and without limitation, any plant, equipment, vehicles, personal effects, and household items),

whether:

(c) such property is held in your own right or in your capacity as trustee;

(d) you own the property at present or later acquire it; and

(e) wherever it is situated.

10.2 You irrevocably appoint our company secretary from time to time as your duly constituted attorney to execute in your name a real property mortgage, general or specific security agreement, bill of sale, or consent to any caveat upon written notice and demand to you.

10.3 If you have previously entered into an agreement with us by which you have granted a charge, mortgage, or other security interest in respect of your property then those security interests will continue and will co-exist with the security interests created in these Credit Terms and will secure all of your indebtedness and obligations hereunder. We may, at our election and upon the provision of written notice, vary the terms of such previous charges, mortgages, or other securities to reflect these Credit Terms.

10.4 You acknowledge that:

(a) you have read and understood this clause 10; and

(b) this clause 10 is necessary to protect our legitimate interests including having regard to:

(i) the risk that retention of title and personal guarantees (if applicable in the Credit Application) may not in substance, provide adequate protection to us;

(ii) the terms of any credit we may approve under clause 1.1 are given on the basis that this clause 10 would apply, and if that were not the case, we would not have given the same credit terms; and

(iii) the risk of your insolvency given the nature of the industry in which you and we operate.

11 Waiver

A waiver of any provision of these Credit Terms will only be effective if made by the affected party in writing.

12 Entire agreement

12.1 You warrant that if you have entered into these Credit Terms in reliance upon any oral understanding or representation that you have written such matters on the Credit Application and brought them to our attention in accordance with clause 1.3.

12.2 Otherwise, these Credit Terms (together with all terms incorporated in the Credit Application):

(a) constitutes the entire agreement and understanding between the Parties in relation to its subject matter;

(b) excludes all implied terms; and

(c) supersedes all previous negotiations, understandings, representations, and warranties.

12.3 Notwithstanding clauses 12.1 and 12.2, where you have previously entered into a credit agreement with us (**Original Agreement**), these Credit Terms will constitute a variation of the Original Agreement whereby the terms the Original Agreement are deleted and replaced with these Credit Terms, unless the terms of the Original Agreement are otherwise expressly or implicitly preserved by these Credit Terms, in which case they will co-exist with these Credit Terms and, to the extent of any inconsistency, these Credit Terms will prevail.

13 Definitions

In these Credit Facility Terms, unless the context otherwise requires, the following definitions apply.

13.1 **Cardholder** means you and any person authorised by you from time to time to use a Fuel Card.

13.2 **Credit Facility** means a credit facility granted by us to you to acquire Goods or Services from us on commercial credit.

13.3 **Credit Account** means the credit account opened by us in your name to operate the Credit Facility.

13.4 **Fuel Card** means each “Refuel Local Card” or “Ampol Distributor Card” (as the context requires), each additional card, and each replacement card issued by us from time to time in relation to your Credit Account (a Fuel Card may or may not bear the name of the Cardholder and may be with or without a signature panel).

13.5 **Goods** and **Services** have the meaning given to these terms in our Terms of Trade.

13.6 **Nominated Vehicle** means, in relation to a Fuel Card, the vehicle (if any) specified on that Fuel Card.

Geraldton Fuel Company Pty Ltd - Terms of Trade ("Terms")

1 Application of Terms

1.1 These Terms govern our supply of Goods and Services to you, including supplies on a cash basis.

1.2 If you wish to negotiate these Terms with us then you should respond to this document, marking up these Terms and drawing those changes to our attention and obtain our agreement in writing.

1.3 It is not our practice to otherwise review terms and conditions on documents that you issue to us.

1.4 Unless we otherwise agree in writing, we do not accept, and will not be bound by, any terms or conditions included in, attached to, or referenced in, any other document you give to us like a purchase order.

2 Quotations

2.1 Each quotation that we issue:

(a) is an estimate only;

(b) is not an offer or obligation to supply any Goods or to perform any Services;

(c) is exclusive of GST;

(d) does not include the costs of delivering Goods;

(e) remains valid for acceptance for a period of twenty-four (24) hours from the time the quotation is issued, unless withdrawn by us before a contract for supply is formed; and

(f) contains a price on the basis that all Services are performed, and all Goods delivered, during our usual business hours,

unless the quotation states otherwise.

2.2 Quotations provided orally are subject to written confirmation.

2.3 A quotation may include additional terms or conditions, which will supplement these Terms.

2.4 Should you wish to have Services performed or Goods delivered outside our usual business hours please let us know as additional charges may apply.

3 Formation of contract

3.1 We are not obliged to supply any Goods or provide Services until after a contract for supply is formed.

3.2 A contract for supply is formed, and you have accepted these Terms, when:

(a) you have placed an Order with us; and

(b) we have received any deposit we have required from you in respect of the Order before progressing it; and

either we have:

(c) accepted your Order in writing; or

(d) supplied you with any Goods or performed any Services following receipt of your Order.

3.3 If you revoke an Order:

(a) prior to the formation of a contract for supply then:

(i) we will refund you any deposit you have paid in respect of that Order; and

(ii) you will not be required to pay any fee for the cancellation of the Order; or alternatively

(b) after the formation of a contract for supply then unless we are in breach of the contract for supply:

(i) you must pay all our reasonable costs associated with fulfilment of your Order; and

(ii) we may apply any deposit you have paid towards those costs.

4 Price

4.1 The price payable for the Goods or Services will be:

(a) the price agreed in writing; or

(b) (in the case of Petroleum Products) the price by our prevailing price as at the date the Petroleum Products are delivered; or

(c) (in all other cases) the price by our prevailing price list/rates as when you place your Order.

4.2 We may vary our price or rates by notice to you if you request:

(a) the Goods or Services be rendered outside our usual business hours;

(b) different Goods or Services to be supplied to the contract for supply; or

(c) that we delay provision of the Goods or Services for twenty-four (24) hours or more.

4.3 Where we vary the price or rates payable for the Goods or Services pursuant to clause 17.2, we will notify you of the new price/rates. Thereafter you may reject the new price/rates within seven (7) days and terminate the contract for supply without any cost or penalty to you, otherwise you agree that the price/rates will apply to the contract.

5 Delivery and risk

5.1 We will use reasonable endeavours to deliver the Goods at the time and place agreed for delivery. You will make arrangements necessary to take delivery of the Goods.

5.2 You acknowledge and agree that:

(a) unless the contract for supply expressly states otherwise, time in respect of delivery is not of the essence; and

(b) any timeframe or date for delivery is an estimate only and is not a contractual commitment.

5.3 Risk of loss, damage, or deterioration to the Goods passes to you, and delivery is deemed to occur, at the time:

(a) (in the case of Petroleum Products): at the time the Petroleum Product has passed into your vehicle, tank, or other storage equipment, or that of any third party at your request or direction; or

(b) (in the case of all other Goods):

(i) you or any third party on your behalf collect the Goods from us;

(ii) we or our nominated carrier deliver the Goods to the delivery location stated in your Order (or to such other location as agreed in writing); or

(iii) your nominated carrier takes possession of the Goods.

5.4 It is your responsibility to provide suitable, practical, and safe means of access and egress to the place agreed for delivery. If the site is deemed unsuitable or unsafe (at the delivery driver's sole discretion), then the delivery driver may:

(a) refuse to deliver the Goods and return the Goods to the point of despatch (in which case an additional delivery fee will apply to any subsequent delivery attempt); or

(b) deliver the Goods to the location nearest to the agreed place for delivery where delivery can be safely effected.

5.5 You agree to sign our delivery docket or consignment note or that of our nominated carrier as confirmation that you have received the Goods, and if appropriate, certify that you have received the Goods in apparent good order and condition in the quantity or volume you have ordered.

5.6 If you authorise us to deliver the Goods to an unattended location or to leave them outside the agreed place for delivery, we may deliver the Goods as requested at your risk.

5.7 If delivery or collection of the Goods is deferred:

(a) at your request; or

(b) due to you being unable or unwilling to accept delivery of the Goods (other than as a result of the Goods delivered not being in accordance with the contract for supply);

in circumstances where:

(c) we are ready to deliver the Goods and a delivery date has not been agreed; or

(d) the Goods are due to be delivered or collected on an agreed delivery date,

then you will pay to us:

(e) reasonable daily storage charges (which will continue to accrue until such time as the Goods are delivered or collected); and

(f) any costs associated with us or our nominated carrier attempting to re-deliver the Goods (where we or our nominated carrier has previously attempted to deliver the Goods).

5.8 You acknowledge and agree that:

(a) we may deliver the Goods in one or more lots and reserve the right to invoice you for pro rata progress in respect thereof; and

(b) the reading and printout of our micro-electronic totaliser or any other approved metering device or the signature of any person have your apparent authority will be prima facie evidence of quantity or volume of the Goods delivered.

6 Petroleum Products

6.1 You acknowledge and that Petroleum Products may be subject to shrinkage and evaporation and may be highly volatile, flammable, or dangerous.

6.2 You must:

(a) provide suitable and safe facilities for receiving the Goods;

(b) comply with all laws regarding the storage and use of the Goods (including environmental laws); and

(c) ensure that all Personnel engaged in handling the Goods always observe a safe system of work that complies with all relevant laws.

7 Payment terms

7.1 Unless you have a Credit Facility with us which is not in default:

(a) deposits we have requested must be paid before we commence

providing Goods and Services;

(b) you must pay for all Goods before they are despatched (in cash or cleared funds); and

(c) you must pay for all Services on a progressive hourly basis as performed.

7.2 Payment may be made by cash, cheque, electronic funds transfer, Visa, or Mastercard credit cards. We reserve the right to change the payment methods that we accept at any time.

7.3 We may charge a payment surcharge for applicable payment transactions equal to our reasonable cost of acceptance.

7.4 You agree to pay GST on all taxable supplies upon us issuing you a tax invoice relating to the taxable supply.

7.5 You agree to pay sums due to us free of any set off or counterclaim and without deduction or withholding.

8 Claims

8.1 Clauses 21.2 to 21.4 only apply if the contract for supply is not a Consumer Contract and not a Small Business Contract.

8.2 You must, within seven (7) days of the date of delivery:

(a) give us notice in writing, with particulars, of any Claim that the Goods delivered are not in accordance with the contract for supply (including any Claim for shortfall, incorrect supply, or damage to the Goods); and

(b) at our request, provide us with photographic evidence (to our satisfaction) of any alleged damage to the Goods.

8.3 You must notify us in writing of any Claim for non-delivery within seven (7) days of the date of the invoice which relates to the Goods the subject of your Claim.

8.4 If you fail to notify us in accordance with clause 21.2 and 21.3, then, to the extent permitted by law, the Goods are deemed to have been delivered in good condition and in accordance with the contract for supply.

9 Returns

9.1 We will accept the return of any Goods if:

(a) the Goods supplied do not conform with the contract for supply;

(b) the Goods are defective; or

(c) we are required by law to accept the return of the Goods.

9.2 At our discretion, we may accept the return of Goods if you change your mind if:

(a) you agree to:

(i) pay a handling and administration charge of:

(A) 20% of the purchase price of the returned Goods; or

(B) our costs for receiving the Goods, charged at our prevailing or standard rates; and

(ii) reimburse us for all costs we incur in connection with the return of those Goods (except for Goods we have incorrectly supplied or we agree are defective);

(b) the Goods are in substantially the same condition to the condition in which they were delivered; and

(c) the Goods were not specifically produced or procured at your request.

9.3 You indemnify and release us from any damage that occurs to any Goods in return transit. You should ensure that any returned Goods are insured against such damage.

10 Retention of title

10.1 Until such time as you have made payment in full (in cash or cleared funds) for any Goods we have supplied:

(a) title in the Goods does not pass to you and we retain the legal and equitable title in the Goods;

(b) you will hold the Goods as fiduciary and bailee for us and agree to store the Goods in such a manner as to enable them to be readily identifiable as our property;

(c) you undertake to not mix the Goods with similar goods;

(d) unless and until we notify you to the contrary, you will be entitled to sell the Goods in the ordinary course of your business (provided any such sale is at arm's length and on market terms) and will sell the Goods as our agent and bailee; and

(e) you undertake to hold any proceeds derived from the sale of the Goods on trust for us absolutely.

10.2 While title in the Goods remains with us, you permit us to enter upon any premises you occupy (or any premises any receiver, receiver and manager, administrator, liquidator, or trustee in bankruptcy of yours occupies) as your invitee to inspect the Goods and, when you are in default of payment of any invoice, to repossess any Goods in your possession, custody, or control.

10.3 Where we exercise our right of entry pursuant to clause 23.2, you agree that us doing so will not give rise to any Claim for trespass or similar action against us or our officers, employees, and agents.

10.4 Where we have retaken Goods into our possession, we have the right to sell or deal with those Goods, and, if necessary, sell any Goods bearing your name or trade mark, and you hereby grant us an irrevocable licence to do all things necessary to sell those Goods.

10.5 For the removal of doubt, our interest under this clause 23 constitutes a purchase money security interest for the purposes of the PPS Act.

11 Security interest

11.1 Unless you have obtained our prior written and fully informed consent, you undertake not to:

(a) register a financing change statement in respect of a security interest in our favour; or

(b) create, or purport to create, any security interest in the Goods (or any proceeds derived from the sale of such Goods), nor register, nor permit to be registered, a financing statement or financing change statement in relation to the Goods in favour of any third party.

11.2 You:

(a) waive your right to receive a copy of any verification statement in accordance with section 157 of the PPS Act; and

(b) agree that, to the extent permitted by the PPS Act:

(i) sections 95, 96, 117, 118, 120, 121(4), 123, 125, 126, 128, 129, 130, 132, 134, 135, 142, and 143 of the PPS Act do not apply and are hereby contracted out of; and

(ii) you waive your right to receive notices under sections 95, 118, 121(4), 127, 130, 132(3)(d), and 132(4) of the PPS Act.

11.3 We need not disclose information of the kind detailed in section 275(1) of the PPS Act, unless required by law.

11.4 Where we have rights in addition to those under Part 4 of the PPS Act, those rights continue to apply.

12 Particular Purpose

If you require any Goods for a particular purpose, you must advise us of that purpose prior to placing your Order and must obtain a written assurance from us that the Goods will meet your requirements. If you do not advise us of your requirements and we do not expressly warrant in writing that the Goods will be fit for your particular purpose, then you agree that you did not rely upon our skill or judgment in relation to the suitability of the Goods for that purpose.

13 Default

13.1 Clauses 26.2 to 26.4 apply if you fail to pay sums to us when they fall due.

13.2 We may charge you interest on the outstanding debt (including any judgment debt) at the rate of 15% per annum.

13.3 We may suspend or cease the supply of any further Goods or Services to you.

13.4 We may require pre-payment in full for any Goods or Services which have not yet been supplied.

14 Indemnity

14.1 If you default in the performance or observance of your obligations under any contract of which these Terms form part, then:

(a) we will take steps to mitigate our loss and act reasonably in relation to any default by you; and

(b) we will give you notice requesting payment for loss and damage occasioned in respect of those events and requesting that you remedy any breach within a reasonable time; and

(c) if that demand is not met then you indemnify us in respect of loss, damage, costs (including collection costs, bank dishonour fees, and legal costs on an indemnity basis) that we have suffered arising therefrom.

14.2 Your liability to indemnify us will be reduced proportionally to the extent that any fraud, negligence, or wilful misconduct by us or a breach of our obligations under contract has contributed to the Claim, loss, damage, or cost which is the subject of the indemnity.

14.3 Your liability to indemnify us is a continuing obligation separate and independent from your other obligations and survives the termination or performance of any contract of which these Terms form part.

15 Limitation of liability

15.1 No party is liable to the other party for any Consequential Loss, including under clause 27, however caused arising out of or in connection with any contract for supply of which these Terms form part.

15.2 While we will take reasonable endeavours to meet any estimated delivery date or estimated time for Goods and Services, you acknowledge and agree that we are not liable for any delay associated with meeting those estimated timeframes.

15.3 If the contract for supply is not a Consumer Contract or a Small Business Contract then, to the extent permitted by law, our liability is limited to:

(a) (in the case of a supply of Goods):

(i) us repairing or replacing the Goods; or

(ii) us paying you the cost of having the Goods repaired or replaced.

(b) (in the case of a supply of Services):

(i) us supplying the Services again; or

(ii) us paying you the cost of having equivalent Services supplied.

16 Termination

A party may, with immediate effect, terminate any contract for supply of which these Terms form part by notice in writing, if the other party:

(a) commits a material or persistent breach of these Terms and does not remedy that breach (if capable of remedy) within seven (7) days of the receipt of a notice (or such longer time as specified in the notice) identifying the breach and requiring its remedy; or

(b) has failed to pay sums due to the party within seven (7) days; or

(c) has indicated that it is, or may become, insolvent; or

(d) ceases to carry on business; or

(e) comprises an entity which is the subject of the appointment of receivers or managers; or

(f) comprises a natural person who:

(i) has committed an act of bankruptcy; or

(ii) has been made bankrupt;

(g) comprises a corporation which:

(i) enters into voluntary administration;

(ii) is subject to a deed of company arrangement; or

(iii) is subject to the appointment of liquidators or provisional liquidators.

17 Intellectual Property Rights

17.1 All right, title, and interest in the Intellectual Property Rights in and to all Goods supplied by us are, and will at all times remain, our property or that of the relevant manufacturer.

17.2 All improvements, derivatives, and modifications to the Intellectual Property Rights in and to the Goods (**Improvements**) vest in us immediately upon creation. You agree to assign to us all right, title, and interest in the Improvements as soon as they are created and undertake to do all things necessary to give effect to this clause 30.2.

17.3 You acknowledge and agree you have no right to use our Intellectual Property Rights, unless otherwise agreed in writing.

18 Confidentiality

18.1 You agree to keep confidential, and not use or disclose, other than for your internal business purposes, any Confidential Information provided to or obtained by you before or after your entry into a Contract.

18.2 The obligations of confidence imposed on you by clause 31.1 do not apply to Confidential Information that is required to be disclosed by any applicable Law or under compulsion of a court, Government Authority, or the rules of any securities exchange (as long as you disclose the minimum amount required to satisfy the Law or rules, provide us with prior notice in writing, and take reasonable steps to maintain the confidence of such Confidential Information) or that is in the public domain otherwise than as a result of a breach of these Terms or other obligation of confidence.

18.3 Clauses 31.1 and 31.2 survive the termination or performance of a Contract.

19 Trustees

19.1 If you are the trustee of a trust (whether disclosed to us or not), you warrant to us that:

(a) you enter into the contract for supply in both your capacity as trustee and in your personal capacity;

(b) you have the right to be reasonably indemnified out of trust assets;

(c) you have the power under the trust deed to enter into the contract for supply; and

(d) you will not retire as trustee of the trust nor appoint any new or additional trustee without first notifying us in writing and having the new or additional trustee sign an agreement on terms substantially the same as those governing your Credit Facility (where applicable).

19.2 You must give us a true and complete copy of the trust deed upon request.

20 Variation

We may amend these Terms in the future by notifying you in writing. The amended Terms will thereafter apply to each Order you place unless you earlier give us written notice in advance of placing a further Order.

21 Assignment

A party may only assign its rights under the contract for supply with the written consent of the other party.

22 Subcontracting

You acknowledge and agree that, due to the nature of the Goods and Services, we may be reasonably required to subcontract under these Terms, and we reserve our right to subcontract:

(a) the supply of any part of the Goods to be supplied; and

(b) the Services to be performed (or any part of those Services),

however, any subcontracting will not relieve us of any of our obligations to you.

23 Conflicts and Inconsistencies

If there is any conflict or inconsistency between any of the documents which together govern the relationship between the parties, it is agreed the order of precedence will be (highest to lowest):

(a) any additional terms or conditions contained in our quotation applicable to the supply of Goods or Services;

(b) any terms governing your Credit Facility; and

(c) these Terms.

24 Severance

If any part or term of our agreement with you (including any Credit Facility) is illegal, invalid, or unenforceable, it will be read down so far as necessary to give it a valid and enforceable operation or, if that is not possible, it will be severed from the contract and the remaining provisions will not be affected, prejudiced, or impaired by such severance.

25 Governing law and jurisdiction

25.1 Our relationship is governed by and must be construed according to the law applying in the State of Western Australia.

25.2 The parties irrevocably submit to the non-exclusive jurisdiction of the courts of the State of Western Australia with respect to any proceedings that may be brought at any time relating to our relationship.

26 Definitions

In these Terms, unless the context otherwise requires, the following definitions apply.

26.1 **Australian Consumer Law** means Schedule 2 to the *Competition and Consumer Act 2010* (Cth), as amended.

26.2 **Claim** includes a claim, notice, demand, action, proceeding, litigation, investigation, judgment, or award howsoever arising, whether present, unascertained, immediate, future, or contingent, whether based in contract, tort, pursuant to statute or otherwise and whether involving a third party or a party to a contract for supply.

26.3 **Confidential Information** includes:

(a) any information relating to our business and affairs;

(b) any information that is by its nature confidential;

(c) any information which is designated by us as confidential;

(d) any information that you know, or ought to know, is confidential; and

(e) all financial information, pricing information, and commercially valuable information of ours.

26.4 **Consequential Loss** includes any:

(a) consequential loss;

(b) loss of anticipated or actual profits or revenue;

(c) loss of production or use;

(d) financial or holding costs;

(e) loss or failure to realise any anticipated savings;

(f) loss or denial of business or commercial opportunity;

(g) loss of or damage to goodwill, business reputation, future reputation, or publicity;

(h) loss or corruption of data;

(i) downtime costs or wasted overheads; or

(j) special, punitive, or exemplary damages.

26.5 **Consumer Contract** has the meaning given to this term in section 23(3) of the Australian Consumer Law.

26.6 **Credit Facility** means an account we have opened for you on which we may, from time to time, extend you with additional time to pay for our Goods and Services and associated charges.

26.7 **Customer**, **you** means the person or other entity who has placed an Order with us for the supply of Goods or Services (or the person on whose behalf an Order is placed).

26.8 **Goods** means all goods supplied by us, as described on our quotation, invoice, or any other form issued by us.

26.9 **Intellectual Property Rights** means all industrial and intellectual property rights throughout the world, whether present or future, and whether protectable by statue, at common law or in equity, including rights in relation to copyright, trade secrets, know how, trade marks (whether registered or unregistered or whether in word or logo/device form), designs, patents and patentable inventions, including the right to apply for registration of any such rights.

26.10 **Order** means a written or oral order placed by you requesting that we provide Goods or Services.

26.11 **Personnel** means officers, employees, and agents engaged by each Party (but does not include the other Party) and, in the case of the Supplier, includes its subcontractors (and any employee of those subcontractors).

26.12 **Petroleum Products** means unleaded petrol, premium petrol, diesel, aviation fuel, liquified petroleum gas, solvents, biofuel, heating oil, and any other products which may be used in combustion engines or for the purpose of propelling motor vehicles.

26.13 **PPS Act** means the *Personal Property Securities Act 2009* (Cth), as amended.

26.14 **Services** means all services performed by us, as described on our quotation, invoice, or any other form issued by us.

26.15 **Small Business Contract** has the meaning given to this term in section 23(4) of the Australian Consumer Law.

26.16 **Supplier**, **we**, **us** means Geraldton Fuel Company Pty Ltd (ACN 002 844 162).

27 Interpretation

In these Terms, unless the context otherwise requires:

27.1 A time is a reference to the time zone of Perth, Australia unless otherwise specified.

27.2 $, dollar, or AUD is a reference to the lawful currency of Australia.

27.3 A party includes a reference to that person's executors, administrators, successors, substitutes (including a person who becomes a party by novation), assigns, and in the case of a trustee, includes any substituted or additional trustee.

27.4 A right includes a benefit, remedy, authority, discretion, or power.

27.5 The singular includes the plural and vice versa, and a gender includes other genders.

27.6 "In writing" or "written" means any expression of information in words, numbers, or other symbols, which can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

27.7 If a word or phrase is given a defined meaning, its other grammatical forms have a corresponding meaning.

27.8 Words such as "includes", "including", and "for example" are not words of limitation and are to be construed as though followed by the words "without limitation".

27.9 A term of an agreement in favour of two or more persons is for the benefit of them jointly and each of them separately.