

MAISEY FUELS

TERMS AND CONDITIONS

RELATING TO THE SALE OF PETROLEUM PRODUCTS

These terms and conditions (**T&Cs**) to all sales of the Products by Maisey Fuels.

1. DEFINITIONS

Account Balance means the purchase price for Products which Maisey Fuels has delivered to the Customer and which has not been paid;

Business Day means days which are not Saturday or Sunday or a public holiday in Western Australia;

Customer means the person (including a company or partnership) to whom Maisey Fuels agrees to supply the Products;

Maisey Fuels means Offshore Logistics Pty Ltd (ACN 617 639 460) as trustee of the Maisey Family Trust (ABN 51 960 486 806) trading as “Maisey Fuels”; and

Products means fuel being petroleum products.

2. ORDERING AND PURCHASE

Each individual purchase of Products by the Customer from Maisey Fuels is a contract. Contracts can be made in one of the following ways:

- (1) By direct purchase from the bowser where the Customer offtakes a quantity of Products;
- (2) Where a Customer places an order for delivery which is accepted by Maisey Fuels.

In the case of a delivery the process will be as follows:

- (a) The Customer will request a pricing quote from Maisey Fuels. Maisey Fuels may provide a pricing quote by email, fax or by phone. Maisey Fuels may also publish a quote for products on its website. Quotes provided by Maisey Fuels or published on its website are referred to as “**Quote**”.
- (b) The Customer places an order with Maisey Fuels based on the Quote provided by Maisey Fuels (**Customer Order**). The Customer Order may be by phone, be in writing, by email, by fax and may also use the order form provided by Maisey Fuels;

- (c) Maisey Fuels may accept the Customer Order by phone, in writing, by email or by fax. If Maisey Fuels accepts the Customer Order then a contract will come into effect between the Customer and Maisey Fuels. Maisey Fuels may at its discretion decide not to accept a Customer Order.

The quantity of the Products to be delivered will be as in the Customer Order if it is accepted by Maisey Fuels (subject as provided in clause 3.6). If Maisey Fuels cannot supply that quantity of the Products it may specify a different amount but in that case the contract for the supply of the Products will only come into effect if the Customer accepts the alternative quantity. The Customer recognises that Maisey Fuels will be purchasing Products to meet the Customer's order and will be incurring liability to its own supplier.

Maisey Fuels may require that orders for the Products must be for a minimum quantity.

3. DELIVERY

- 3.1. Where Products are to be delivered the following provisions will apply.
- 3.2. The Customer Order will specify the place of delivery.
- 3.3. Maisey Fuels will make delivery in accordance with its delivery schedule (which may be changed). Maisey Fuels may provide an indicative date for delivery (**Indicative Delivery Date**) but the Customer agrees and acknowledges that this is not binding. If there is a delay in delivery beyond 5 Business Days following any Indicative Delivery Date provided by Maisey Fuels, Maisey Fuels must advise the Customer and the Customer may (within 24 hours after the notice of the delay) cancel the order in writing or email delivered to Maisey Fuels advising it of the expected delay.
- 3.4. Maisey Fuels may make delivery of the Products by such means of delivery such as tankers or other containers as Maisey Fuels considers appropriate.
- 3.5. The Customer must:
- (a) ensure that Maisey Fuels has access to the Customer's premises between 6.00am and 6.00pm for the purpose of making the delivery;
 - (b) ensure that the Customers' premises are safe;
 - (c) have a storage tank which have receive and store the Products. The storage tank must have an access point or valve which can connect to Maisey Fuels' tanker and which Maisey Fuels may use to transfer the Products to the Customer's storage tank; and
 - (d) comply with all applicable laws relating to the storage of Products on its premises.



Maisey Fuels will not be liable if the Customer fails to comply with these obligations.

- 3.6. The quantity of the Products may vary by +/- 5%. The Customer will pay for the quantity delivered.
- 3.7. Maisey Fuels will provide a delivery docket at the time of delivery. The Customer must sign the delivery docket if requested by Maisey Fuels. The delivery docket shall, in the absence of fraud or manifest error, (to the extent permitted by law), be conclusive evidence of delivery and the amount of Products delivered. The delivery docket and signature on the delivery docket may be on paper or in electronic form. If Maisey Fuels does not obtain a signed delivery docket this does not relieve the Customer of the obligation to pay.
- 3.8. Maisey Fuels may make delivery if the Customer is not on the premises.

4. PRICE

- 4.1. Where a Customer offtakes the Products from the bowser the price shall be that quoted at the bowser.
- 4.2. Where a delivery is made to the Customer, subject as provided below, the price will be that provided in the Quote provided by Maisey Fuels.
- 4.3. The Customer understands that the price of the Products fluctuates according to the market and the prices at which Maisey Fuels acquires the Products for re-supply may fluctuate. If prior to deliver the price at which Maisey Fuels acquires the Products varies, Maisey Fuels may at least 48 hours prior to delivery give notice to the Customer that the price of the Products to be paid by the Customer will change (**Price Change Notice**). If Maisey Fuels gives a Price Change Notice to the Customer the price of the Products will change to the price in the Price Change Notice. The Customer may within 24 hours of receiving the Price Change Notice terminate the order. If Maisey Fuels has given a Customer a Price Change Notice but has not received a response, Maisey Fuels may at its discretion require the Customer to confirm in writing, by facsimile or email that the Customer accepts the revised price in the Price Change Notice before Maisey Fuels delivers the Products..

5. RISK

Risk in the Products passes to the Customer when the Products are offloaded from Maisey Fuels' tanker at the Customer's premises.



6. PAYMENT OF PURCHASE PRICE

- 6.1. Unless Maisey Fuels has approved a sale of Products on credit, Products must be paid for on or before delivery or offtake at the bowser. Where Maisey Fuels and the Customer have agreed to the supply of Products on credit using the Application for Credit used by Maisey Fuels the terms in the Application for Credit will apply. Where Maisey Fuels has agreed to provide Products on credit and an Application for Credit has not been signed by the Customer and Maisey Fuels the following provisions will apply.
- 6.2. The Account Balance must be paid no later than 14 Days following the date of the invoice from Maisey Fuels (**Due Date**).
- 6.3. (1) Where the Customer obtains the Products from Maisey Fuels' premises using the white card issued to the Customer, the invoice will be issued on the Friday of the week in which the Products are offtaken. If it is possible that the Products offtaken on a Friday may appear in the invoice issue the following week;
- (2) Where delivery of Goods is made to the Customer's premises, the invoice will be issued on the day of delivery.
- 6.4. Invoices may be delivered by email. If the invoice is issued later than as set out in (1) or (2) above it must still be paid within 14 Days.
- 6.5. Time is of the essence for the payment of any Account Balance by the Due Date.
- 6.6. Interest accrues on any amount not paid by the Due Date at a rate of 3% per annum above the Cash Rate published by the Reserve Bank of Australia from time to time from the Due Date to the date of payment of the outstanding amount.
- 6.7. Where the Applicant has failed to pay the Account Balance on the Due Date, without limiting its other remedies, Maisey Fuels may suspend delivery of the Products (even if the Products have been paid for).

7. PPSA

- 7.1. Maisey Fuels remains owner of the Goods until the Applicant has paid in full the price of the Products. The Applicant grants Maisey Fuels a Security Interest over all the Products supplied by Maisey Fuels as security for the payment of all monies payable to Maisey Fuels by the Applicant in respect of the supply of the Products or otherwise.
- 7.2. The Applicant must cooperate with Maisey Fuels, including by providing information which Maisey Fuels requires to enable Maisey Fuels to register and maintain its Security Interest.



7.3. The Applicant:

- (a) consents to Maisey Fuels registering a Security Interest on the Personal Property Securities Register under the PPSA in relation to the Goods and the Applicant will provide all assistance reasonably required to facilitate this; and
- (b) waives the right to receive notice of a verification statement pursuant to section 157 of the PPSA in relation to any registration on that register.

7.4. Any exercise of Maisey Fuels' rights in accordance with clauses 7.3 or 7.4 will not release the Applicant from any liability or obligation it may have in respect of these T&Cs and the Applicant will continue to be liable for any amount owed under these T&Cs less any amount actually received or recovered by Maisey Fuels.

7.5. **PPSA** means the *Personal Property Securities Act 2009* (Cth) and **Security Interest** has the meaning defined in the PPSA.

8. WARRANTIES

Maisey Fuels does not give any warranties regarding the Products beyond those which are implied by law and which cannot be excluded. The Customer confirms that it has satisfied itself that the type of Product which it has ordered is suitable for its intended purposes.

9. LIABILITY

- 9.1. Maisey Fuels shall not be liable for any deterioration, damage or loss to the Product which arises because of conditions in the storage tank or other place of storage on the Customer's premises.
- 9.2. To the extent permitted by law, where a warranty relating to the Products has not been complied with the liability of Maisey Fuels shall be limited to either of the following (at the discretion of Maisey Fuels):
 - (a) Re-supply of the relevant Products; or
 - (b) Refund of the purchase price in respect of the relevant Products.
- 9.3. Where the contract formed between the Customer and Maisey Fuels is **not** a Consumer Contract or a Small Business Contract (as defined in the Australian Consumer Law comprised in the Competition and Consumer Act 2010 (Cth):
 - (a) Maisey Fuels shall not be liable for any consequential losses, loss of profit or other economic loss arising from breach of contract or negligence, except to the extent that actions of Maisey Fuels are deliberate and wilful, but this limitation shall not apply to death or personal injury; and



- (b) Without limiting any other limitation of liability (including in clause 9.2) losses of the Customer for which Maisey Fuels shall not exceed the price of the Products.

10. DISCREPANCIES

Subject as provided by law, Customers must notify Maisey Fuels within 5 Business Days of delivery of any discrepancy in quantity or quality of the Products and give Maisey Fuels the opportunity to inspect and take example of products.

11. FORCE MAJEURE AND SHORTAGES

11.1. Maisey Fuels will not be liable for any failure or delay in complying with its obligations under these T&Cs or any contract with the Customer where Maisey Fuels arising out of any matter which is beyond the reasonable control of Maisey Fuels including: fire; explosion; destruction of its stock; accident; road conditions; inclement weather; breakdown in machinery (provided that Maisey Fuels has undertaken reasonable maintenance); shortage or unavailability of supply of Products; change of law or government action (**Force Majeure Event**). Where a Force Majeure Event occurs Maisey Fuels shall notify the Customer as soon as practicable and shall also advise the Customer of the expected duration of the Event of Force Majeure. If the Event of Force Majeure which prevents Maisey Fuels performing its obligations beyond 10 Business Days after the Indicative Delivery date the Customer may by notice to Maisey Fuels cancel the order.

11.2. The Customer acknowledges that Maisey Fuels obtains the Products from its own supplier. Where there is a shortage in supply which prevents Maisey Fuels being able to meet all orders in full (other than because Maisey Fuels has failed to pay its own supplier), Maisey Fuels may at its discretion withhold or suspend all or part of an order or reduce the amount of Product supplied pursuant to an order or cancel an order. Where there is a shortage in supply of products Maisey Fuels may elect to supply part but not all of an order. Maisey Fuels shall be entitled to decide at discretion whether it will reduce supplies on a customer by customer basis.

12. GST AND TAXES

Any expression used in this clause 12 and which is defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the same meaning in this clause 11.

Unless otherwise expressly stated, all amounts stated to be payable by the Customer under these Conditions are exclusive of GST (the Customer must pay GST). Prices at the bowser are quoted inclusive of GST. If GST is imposed on any supply made under of in accordance with these Conditions, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable on or for the taxable supply. Payment of the additional amount will be made at



the same time as payment for the taxable supply is required to be made in accordance with these T&Cs, subject to the provision of a tax invoice by the supplier to the recipient.

The Customer must pay all taxes, duties and imposts in relation to the sale of the Products.

13. NOTICES

Any notice to be given under these Conditions will be sufficiently delivered if:

- (a) delivered or sent by prepaid mail to the recipient's last known address;
- (b) sent by facsimile, where the sender's facsimile machine confirms successful transmission of the entire notice; or
- (c) sent by e-mail, where confirmation is provided by the recipient that the message has been read. The email may be sent to the email specified in the Schedule or any other email of which the relevant Party notifies the other. Emails sent after 5.00pm shall be deemed to have been sent at 9.00am on the next Business Day.

14. GOVERNING LAW

These T&Cs and contracts to which they apply are governed by the laws of Western Australia and the courts of Western Australia.

